No. 18-8013

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Paul Pieczynski — PETITIONER
(Your Name)

vs.

Wells Fargo Bank — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Appeals Ct Third Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Paul Pieczynski
(Your Name)

462 Carverton Road
(Address)

Wyoming, Pennsylvania 18644
(City, State, Zip Code)

570 814-5171
(Phone Number)

QUESTIONS PRESENTED

If one is entitled to update a land patent, is there a time of day, time of year, season, weather event, or anything that would bar the update?

Did the land patent lose its legal authority? If so when?

If a land patent does lose it legal authority is it nun pro tunc?

Does treaty Law and Constitutionally secured Rights fall under federal jurisdiction?

Do court procedures, rules and codes carry superiority to treaty Law and Constitutionally secured Rights and negate the force and effect of a patent?

If the land patent has legal authority can any lesser court rule on the force and effect of the land patent?

Does a color of title sheriff deed carry superiority to a land patent?

Should the people of these united States of America be sanctioned even criminally sanctioned for updating, perfecting a land patent?

Is the following citation reliable?
The Court is bound by the supremacy clause of the Constitution to uphold the treaty making your Patent a statutory limitation throughout the land. Wineman v. Gastrell 54 FED 819, 2 U.S. App. 581 (1892)

Is this citation reliable?
Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958). "No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it."

If a land patent maintains its' lawful authority and the people can be sanctioned for updating a patent, ought not public servants and attorneys be sanction for attempting to eviscerate the patent, violating their oath?

CASES TABLE OF AUTHORITIES Pages

LIST OF PARTIES

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

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts**:

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Aug 30, 2018.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Sept 24, 2018, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

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

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Treaty of Paris was signed between Britain and America on September 3, 1783, and quickly ratified by Congress. It provided for; The recognition of American independence . The establishment of American boundaries between the Atlantic on the east to the Mississippi River on the west, and from the 49th parallel and Great Lakes on the north to the 31st parallel on the south (or everything east of the Mississippi except the Florida's and New Orleans). This is the establishment of Pennsylvania land. page 8

U.S. Constitution page 8, 10, 13,14,19

Article I,

Section 10, clause 1.The Contract Clause appears in the United States Constitution,. The clause prohibits a State from passing any law that "impairs the obligation of contracts" or "makes any thing but gold and silver coin a tender in payment of debts".

Article IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged

from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New states may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4.The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence

U.S. Constitution - Article 6

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, 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; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States

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

Amendment X

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.

STATEMENT OF THE CASE

The issue being brought to the Supreme Court of the united States is a possessory claim to a land patent. The Respondent has brought an ejectment action to the State Court and the Petitioner moved the action to the District Court. The District Court ruled no jurisdiction and Petitioner appealed to the Federal Appellate Court. The appellate court also ruled no jurisdiction and denied rehearing. The Courts ruling conflicts with the Supreme Court rulings, the U. S. Constitution, treaty Law and the intent of Congress.

> "Being the absolute legal title to land, the land patent, derived from the U.S. Constitution, makes the United States of America a party of interest in any attack on that title in courts of law. The only court of original and proper jurisdiction is the Supreme Court of the United States. The lesser federal courts cannot rule on the force and effect of the patent. They must abide by the legislative intent" [quoting David Johnson, secretary, Oakland Citizens for Justice, quoting corpus juris secundum].

Rather than dismiss the case, which is what the Petitioner was asking of the Court, the Court took jurisdiction to remand the case back to the State. State may have jurisdiction if the matter was a landlord v. tenant issue, a property line or easement dispute, oil or gas lease etc. The U. S. Supreme Court has ruled that a possessory claim to a land patent is federal jurisdiction in Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 676, (1974). The irony is the District Court relied on this case to assert no federal jurisdiction. Explained below.

History: The State Court ordered a foreclosure and sheriff sale despite the title to the land being a "land patent." Eventually the Petitioner went to the District Court with a "Motion to Void." The Respondent failed to answer the Motion and after about five months the District Court ordered the Respondent to respond. Around the same time the Respondent commenced an ejectment action in the State Court. Petitioner moved the ejectment in plenty of time and attempted to join the action with the Motion to Void. The District Court than invoked Rooker-Feldman on the Motion to Void and in a footnote of that order returned the ejectment action and said it had to come as a separate complaint. By the time the Petitioner moved the ejectment action again, days have run and it was four days late. In the second removal to federal court the Petitioner forgot to check mark the $75,000 block on the civil cover page. Even though the amount is mentioned in the Petitioners brief, the attorney for the Respondent stated that Petitioner failed to establish the amount in controversy without checking the block.

In Rules for Removal 1446 3(B) it states:

> 3(B) If the notice of removal is filed more than 1 year after commencement of the action and the district court finds that the plaintiff deliberately failed to disclose the actual amount in controversy to prevent removal, that finding shall be deemed bad faith under paragraph (1).

Respondents' attorney had called the Courts attention to the lack of check mark in which the Court relied on. That is an attempt by Respondent's attorney to cloud or prevent disclosure of the amount. That is deemed bad faith. The amount is the amount regardless. The District Judge Mariani signed both

Orders, the Motion to Void and the Ejectment and returned the first removal. The Court knows the amount in controversy and is entitled to rely on the previous matter and again it is addressed in the Petitioner's brief. Rule 1446 3(B) addresses removal more than one year after commencement of the action. If a case can be moved one year later, what is the big deal with the four days, which inconvenienced no one? The same Court and Judge granted the Respondent much consideration when Respondent failed to respond to the Motion to Void for months. The Judge even ordered Respondent to respond and allowed three extra weeks. Months and three weeks compared to four days. This Supreme Court knows that court procedures can be waved. That is elementary.

The Courts are focused on codes, rules and procedures rather than Law and the Constitution. The District Court addressed the land patent and relied on some erroneous opinions of other Courts. The Appellate Court ignored the land patent. In light of the land patent, the issues addressed above are inconsequential because the land patent is the trump card protected by treaty and the supremacy clause of the Constitution. The Petitioner came to the Court to defend the land patent which is superior title and its superiority not changed or vaporized by statue and code.

> Wineman v. Gastrell, 53 FED 697, 2 US App. 581 (1892) "The court is bound by the supremacy clause of the Constitution to uphold the treaty making your Patent a statutory limitation throughout the land."
>
> In Edgar v. MITE Corp., 457 U.S. 624 (1982), the Supreme Court ruled: "A state statute is void to the extent that it actually conflicts

> with a valid Federal statute". In effect, this means that a State law will be found to violate the Supremacy Clause when either of the following two conditions (or both) exists:
> 1. Compliance with both the Federal and State laws is impossible
> 2. State law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.

The Issue. The Petitioner is in possession of the said property in this instant matter and has perfected the original patent from March 16, 1812.

This is notice of Our Pre-emptive Right to possess Our land pursuant to the Declaration of Independence [1776], Law of Nations, Treaty of Peace with Great Britain [8 Stat. 80], Treaty of Paris [1793], An Act of Congress [3 Stat. 566, April 24, 1824], The Homestead Act [12 Stat. 392, 1862] and 43 USC sections 57, 59, and 83. This is Our formal Declaration that this process is lawfully executed and completed, being effective Nunc Pro Tunc, from .....

> The Grantee/Assignee is mandated, pursuant to Article VI Sections 1, 2, 3, Article IV Section 1 Clause 1 and 2, Section 1 Clause 8 and 2; Section 4; the 4th, 7th, 9th, and 10th Amendments [United States Constitution 1789-91], and numerous legislated positive laws, to update the Land Patent by acknowledgment, taking delivery, acceptance, taking possession, occupying, and bringing forward the land patent into the grantee/assignee's name. This is the only lawful method that a Perfect Title can be held in one's name. For an explanation see Wilcox v. Jackson 13 PET. U.S. 498, 101.264.

An over- sized certified copy of the original patent along with the entire update was delivered to the Middle District Court of Pennsylvania. The Clerk signed off as having seen and held the patent. The Clerk reproduced it to 8 ½ x 11 for court requirements. The original patent is available with a day or two notice if necessary. The Petitioner never signed away rights to the patent. There is no

dispute about the patent during a public notice period or in this instant matter. The perfected updated patent is recorded at the Luzerne County Recorder of Deeds office, although the recording is not required. A certified copy of the land patent is evidence in all courts. 43 USC 59 where originals would be evidence. Section 57 covers the states of Oregon and California. Section 58 covers Louisiana. 43 USC 83 covers the evidentiary effect of certified land patents for all states. All the courts in the United States must take judicial notice of these federal patents and their evidentiary effect under these federal statutes.

> 43 U.S.C. § 83 - U.S. Code - Unannotated Title 43. Public Lands
> § 83. Transcripts of records as evidence.
> Transcripts of the records in the district land offices, when made and duly certified to by the Secretary of the Interior or such officers as he may designate for individuals, shall be admitted as evidence in all courts of the United States and the Territories thereof, and before all officials authorized to receive evidence, with the same force and effect as the original records.

The Luzerne County Sheriff placed a sheriff's deed on top of the Petitioners' patent. The land patent derives from Treaty Law and U.S. Constitution is backed by the intent of Congress and is superior to any color of title. Deeds and sheriffs deeds are color of title.

> Safford v. Stubbs 117 ILL. 389 (1886) "Sheriffs deeds also are colors of title"
>
> Dempsey v. Burns, 281 Ill. 644, 65 (1917) "A warranty deed or deed of conveyance is a color of title."
>
> Joplin Brewing Co. v. Payne, 197 Mo. 422, 94 s. W. 896 (1906) court said, "In fact, any instrument may constitute color of title when it purports to convey the title to the land, as well as the land itself; although it is void as a muniment of title."

"Muniment" means document serving as evidence of inheritances, title to property, etc. Webster's Dictionary, 2nd Ed. 1972.

A foreclosure may fall under state jurisdiction however; a foreclosure action is not the same as an ejectment action. An ejectment is a separate action and attacks the title. A number of property disputes as discussed in this writing may also fall under state jurisdiction but the force and effect of the land patent, being in the private, falls with the jurisdiction of the united States Supreme Court.

> [Klais V. Danowski, 337 Mich. Reports 1964, Michigan Supreme Court] held that, based on the supreme law of the land, patents to land were not cut off by the subsequent creation of the state and that the state has no jurisdiction on the patented lands.
>
> Summa Corp. v. California, 466 US 198 (1984). The land is secured by patent under the Guadeloupe Hildalgo Treaty. The treaty falls under the supremacy clause of the Constitution, which proclaim that Treaties are the supreme law even over a State's foundational Constitution.
>
> The Supremacy Clause Article VI, section 2 of the U. S. Constitution which reads; "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, 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."

There is no public interest served in this ejectment action. No state, county or town is looking for water rights to build a dam, levee or bridge. There is no interest for a military base, easement, railroad, highway, etc. The only question is who is holding superior title. The patent is exclusive rights and states so within

the four corners of the document. The party holding the land patent is entitled to possession and that is the Petitioner in this instant matter. Respondent cannot prove title and the Petitioner did not sign away any rights to the land patent. The Petitioner, a natural individual sovereign Pennsylvanian in these united States of America, holds title by nature.

REASONS FOR GRANTING THE PETITION

Decision by the District Courts and Appellate Courts are in conflict with the U. S. Supreme Court. The courts are also misapplying protections afforded to the people of these united States of America through treaty and the constitution.

Because of a lack of understanding by the courts of the process to perfect a land patent it has led to the sovereign people of these united States of America being criminalized and sanctioned for the exercise of a secured constitutional Right and Rights granted by treaty. Evidence of this is in the following opinion by District Justice William C. Lee. The Middle District Court of PA relied on a Judge Lees' ruling in Hilgeford v. Peoples Bank which was approximately two months previous to Nixon v. Individual Head of St. Joseph which is also a Judge Lee ruling. Judge Lee relies on his own ruling two month later in Nixon v. Individual.

Judge Lee writes in Nixon v. Individual Head of St. Joseph Mortg. Co., 612 F. Supp. 253 (N.D. Ind. 1985).

> The court wishes to reiterate its warning in Hilgeford that the filing of lawsuits based upon land patents which purport to grant a land patent unto one's self will draw immediate and severe sanctions from this court. The identical language of the "land patent" in this case and in the Hilgeford case suggest to this court that some party is responsible for the broad dissemination of the obviously false and frivolous legal concepts which have led to this suit and the suit in Hilgeford. If in fact someone has provided the plaintiff here with these spurious materials and arguments, the court notes that the plaintiff would have a solid claim for damages in the amount of the sanctions issued here for the misrepresentations which resulted in this frivolous lawsuit. The judicial waste occasioned by the continuous dissemination of these incorrect legal concepts will continue to draw

> the swift response of this court. The court hopes that this clear signal will discourage others from following such false prophets.

Notice Judge Lee is saying anyone disbursing frivolous materials and arguments is a false prophet and individuals damaged by the use of these materials have a claim to damages.

The sovereign people of these united States of America have relied on Supreme Court rulings, treaty Law, legal writings, the Constitution, the four corners of the Land Patent document, the motivation and intent of the founding fathers and the intent of congress. Does the Supreme Court agree with Judge Lee and support a law suit against the authors and signers of these documents?

Land patent derive from treaty Law and the Constitution. The will and intent of congress regarding land patents has never been repealed. Land patents are protected by the Supremacy Clause Article VI, section 2 of the U. S. Constitution and Article I, section 10 of the U. S. Constitution "no state shall impair the obligation of contract."

> The Supremacy Clause Article VI, section 2 of the U. S. Constitution; "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, 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 Supreme Court of the united States of America must address two rulings that conflict with treaty Law, the Constitution, U.S. Supreme Court rulings and

the intent of congress. Judge William C. Lee ruled on two cases approximately two months apart in 1985. The first was Hilgeford v. Peoples Bank and the second was Nixon v. Individual Head of St. Joseph Mortg Co. Although Judge Lee maybe correct in some parts of his opinion much of it is rooted in emotion and ignorance of the law. He loses sight of the 10th Amendment, summarized says anything not enumerated is left up to the people. Judge Lee states that once a land patent is granted the government extinguished its title to the land and the title is in the private. Judge Lee eventually contradicts what he correctly claims but provides no law to substantiate his contradiction. Without providing the law Judge Lee invalidates the process to update the one and only patent that can ever be issued on the land. He has no basis for expressing his opinion contrary to law and sanctioning the people of these united States of America. No law exists to provide any credibility to Judge Lees' opinion. It is not the people's fault that the founding fathers desired property ownership free from government or other attacks. It is not the people's fault that a patent exists in the historical record of their property. It is not the people's fault that there is such a thing as a color of title instrument. It not the people's fault that a land patent is superior title to the warranty deed. It is not the people's fault that no law exists that prevents the people from embracing and perfecting the patent. It is not the people's fault that the U.S. Supreme Court has ruled that a patent is superior title. It is the people's fault that they are allowing public officials to disregard their Rights secured by the Constitution to which attorneys, judges, sheriffs and public servants take an

oath to protect and defend.

A typical garden variety ejectment generally falls in the state jurisdiction; however, the indestructability of the land patent and the attack on it, has changed this ejectment action to federal subject matter jurisdiction.

> 28 U.S. Code § 1331 - Federal question. The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.
>
> 28 U.S.C. § 1441 (b). Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties.
> (e) The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim

The District Court cited the following cases which at times have made erroneous and sometimes patently frivolous interpretations. Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 676, (1974); Hilgeford v. Peoples Bank, 776 F.2d 176, 178 (7th Cir. 1985) and DeBiasse v. Chevy Chase Bank Corp, 144 Fed. App's x 245, 247 (3rd Cir. 2005)

Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 676, (1974);

U.S. Supreme Court Justice White noted;

> "*Accepting the premise of the Court of Appeals that the case was essentially a possessory action, we are of the view that the complaint asserted a current right to possession conferred by federal law, wholly independent of state law." "In the present case, however, the assertion of a federal controversy does not rest solely on the claim of a right to possession derived from a Federal Grant of Title whose scope will be governed by state law. Rather, it rests on the not*

> *insubstantial claim that federal law now protects, and has continuously protected from the time of the formation of the United States, possessory rights to tribal lands, wholly apart from the application of state law principles which normally and separately protect a valid right of possession." The Supreme Court held that there is federal subject matter jurisdiction for possessory land claims brought by Indian tribes based upon aboriginal title, the Nonintercourse Act, and Indian treaties.*

Of course this ruling involved the Indian nation. All Land Patents derive from treaty Law and are constitutionally protected and the same Rights are vested. The District Court relied on the dissenting opinion in the case which said this finding does not open the door of the federal courts to garden variety ejectments. Again, this instant matter is a possessory claim. This is not a landlord v. tenant ejectment, property line or easement dispute. There is no public interest served in this matter to justify the evisceration of the land patent.

The courts are not recognizing the difference between the actual ruling of the Supreme Court and a notice that all land issues are not federal.

DeBiasse v. Chevy Chase Bank Corp, 144 Fed. App's x 245, 247 (3rd Cir. 2005)

The Third Circuit held,

> it appears from DeBiasse's filings that he intends to claim what amounts to a fee simple in his land, a claim that does not raise a federal question. DeBiasse raises no challenge to the original grant, but only to the foreclosure in response to his default on a loan. Foreclosure is a contractual matter, governed by state law. See N.J. Stat. Ann. §§ 2A:50-53 to 50-68. Thus, no federal question exists.

The Court states here that Debiasse raised no challenge to the original grant. The inference is if Debiasse did raise a challenge to the original grant than federal

jurisdiction may have been invoked. The land patent doesn't estoppel a foreclosure action which is a different action from an ejectment action. The land patent protects in an ejectment action. This case is erroneously applied.

Hilgeford v. Peoples Bank, 776 F.2d 176, 178 (7th Cir. 1985)

District Judge William C. Lees' opinion in Hilgeford;

> "These provisions allow the United States to grant title to public land to private individuals, thereby creating private title in the patent holder, and extinguishing title in the United States. The "patent" involved here is not a grant by the United States; it is a grant by the plaintiffs. The "patent" here is not a grant to some other holder so as to pass title on to another party; it is a self-serving document whereby the plaintiffs grant the patent to themselves."

Judge Lee here acknowledges that the patent may be passed to someone else. This is obvious since it states on the patent "to heirs and assigns forever". (The years 1913, 1933 and 2018 are all in the forever time frame). However, Judge Lee doesn't understand that to convey the "updated patent" to some other party one must first perfect the patent (bring it forward) in order to convey an update. Otherwise one would just be conveying a deed and that receiving party would have to perfect or update the patent into their name.

The patent was overlaid by a PUBLIC VENUE DEED and no law can be found allowing this to occur. Judge Lee overlooks this aspect. If and when the patent is perfected it needs to be updated by an heir or assign and they would have to have possession of the property. That would ultimately look like a self-serving document to anyone not understanding the process to perfect the patent.

"He signed a patent to himself" will continue to be the mantra from the misguided courts following Judge Willian C. Lees' opinion in Hilgeford. Further explanation.

In Hilgeford v. Peoples Bank Judge Lee goes on and states;

> "The blatant insufficiency of the "patent" is evident when it is compared to the copy of a land patent attached to the plaintiffs' "Motion Barring Action of Ejectment." That copy, which is apparently of the original land patent for part of the property which is the subject matter of this cause, bears the signature of the President of the United States by his appointed Secretary of the Interior. It is clearly a grant from the United States to a private citizen (one Reuben Montgomery). Plaintiffs' "land patent" is obviously insufficient when compared to this valid patent."

Once the Patent was granted, it was granted. By Judge Lee's own admission the patent exists and the government relinquished <u>all</u> rights. It is not the creation or the granting of a new patent to oneself. Judge Lee stated above; *"Plaintiffs' "land patent" is obviously insufficient when compared to this <u>valid</u> patent."* This is Judge Lees' admission that the Hilgeford's are updating the **<u>valid</u>** Patent. Judge Lee doesn't realize he just proclaimed it valid and then goes on to eviscerate it. The process is not creating a self-serving document. The original or a certified copy of the original patent would reside behind the perfected update of patent. This is not a new patent but an update. A simple explanation would be if one bought patent rights to a product. A new patent wouldn't be issued, you would just own the patent rights to make the product.

According to Article. IV, Sec. 3, clause. 2 of the Constitution only Congress has the power to change or dispose of the patent. The authority was not given to

Judge Lee, only to Congress.

> Art. IV, Sec. 3, clause. 2 gives the Congress the power "to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States...."

The acceptance of the Deed is part of the process. In the deed the property owner is signing for the PUBLIC VENUE UPPER CASE NAME and signing for the sovereign natural individual in the private venue. When the courts have seen these two signatures they follow Judge Lees' erroneous opinion and make the same frivolous claim that "he signed a land patent to himself." The courts don't know or maybe are ignoring the difference between the two venues. The Petitioner tried everything to explain the difference in the venues but, a read of the Report and Recommendation it is clear the Court didn't understand. Land Patents are exclusive rights and in the private. One just has to ask how one would maintain exclusive vested Rights with two titles floating around. It is an erroneous opinion not even rooted in common sense or the law and patently frivolous.

Judge Lees' opinion and perspective mutilates the definitions of Patent, Update, Non Pro Tunc, the Constitution and the Doctrine of Relationship Back. Judge Lee undermines the lawful mandate to perfect the patent and many Supreme Court rulings and he doesn't consider the fact that the government relinquished all rights to the patent in the private venue not public like the INCORPORATED COURTS.

> The Grantee/Assignee is mandated, pursuant to Article VI Sections 1, 2, 3, Article IV Section 1 Clause 1 and 2, Section 1 Clause 8, 2;

Section 4; the 4th, 7th, 9th, and 10th Amendments [United States Constitution 1789-91], and numerous legislated positive laws, to update the Land Patent by acknowledgment, taking delivery, accepting, taking possession, occupying, and bringing forward the land patent into the grantee/assignee's name. This is the only lawful method that Perfect Title can be held in our names. For explanation see Wilcox v. Jackson 13 PET. U.S. 498, 101 ED. 264.

Statute 249 The Doctrine of Relationship Back
The doctrine of relation is applicable to public land transactions under a federal patent. When necessary to give effect to the intent of the statute or to cut off intervening claimants, the patent is deemed to relate back to the time of the inception of the patentee's claim to the land. When the doctrine applies, the last proceeding which consummates the conveyance of the public land is held to take effect by relation back as of the day when the first proceeding was had. This relation back is also effective in favor of persons to whom the claimant has assigned or transferred rights in the land before the issuance of the patent.

Sanford v Sanford, 139 US 642. In case of ejectment, where the question is who has the legal title, the patent of the government is unassailable. As an assignee, whether he be the first, second or third party to whom title is conveyed, shall loose none of the original rights, privileges or immunities of the original grantee of the land patent. No state shall impair a private contract, U.S. Constitution Article 1, section 10.

In Hilgeford v. Peoples Bank, 776 F.2d 176, 178 (7th Cir. 1985) the Court goes on to say;

Under Federal Rule of Appellate Procedure 38, we may award damages, including attorney's fees, and costs if an appeal is both frivolous and an appropriate case for the imposition of sanctions. See Trecker v. Scag, 747 F.2d 1176, 1179 (7th Cir.1984), cert. denied, 471 U.S. 1066, 105 S.Ct. 2140, 85 L.Ed.2d 498 (1985); Reid v. United States, 715 F.2d 1148, 1154-55 (7th Cir.1983). The conclusion that this appeal is frivolous seems inescapable. The drafting and recordation of the Declaration of Land Patent was a blatant attempt by the Hilgefords to circumvent the Bank's mortgage and improve their title. The district court informed them twice within a month's time that this device did not improve their title or form the basis for federal

> jurisdiction. On appeal, the Hilgeford's have completely failed to support their claim of jurisdiction by citing relevant authority or by refuting the district court's analysis.

Even though the Hilgeford's may not have supported their jurisdiction claim in argument, Judge Lee gave a frivolous and erroneous explanation of the process the Hilgeford's completed to perfect the patent. The jurisdiction claim is in the four corners of the land patent itself in which Judge Lee proclaimed as valid while ruling as if it wasn't valid. No law can be found mandating that the patent be converted to a deed or that one is not allowed to update the patent. If there is one Judge Lee doesn't cite it. Again, Judge Lee ignores this fact and sanctions the Hilgeford's for exercising a right supported by and secured to them and the people of these united States of America through the Constitution, treaty Law Supreme Court rulings, and the intent of congress.

Approximately two months later District Judge Lee rules again in Nixon v. Individual Head of St. Joseph's Mortgage Co. 612 F. Supp. 253 (N.D. Ind. 1985). Judge Lee claims the two cases are identical except in name and cites his Hilgeford ruling.

> Nixon v. Individual Head of St. Joseph's Mortgage Co. 612 F. Supp. 253 (N.D. Ind. 1985)
> This case bears more than a passing resemblance to another case recently decided by this court. In Hilgeford v. Peoples Bank, Portland, Indiana, 607 F.Supp. 536 (N.D.Ind.1985), this court dismissed sua sponte a case based upon an alleged "land patent" drafted by the plaintiffs. The land patent in the Hilgeford case and the land patent in this case are identical in every aspect except for the names and property description contained in each. In Hilgeford, this court held that an action based upon a land patent drafted by a party in order to give that party rights within property is a legal nullity. The patent cannot support federal jurisdiction because it is a

> patently obvious attempt to create superior title in land through personal fiat. Any pro se litigant who can read or write knows that one cannot give oneself better title to land by simply saying so on a piece of paper.

The land patent, patently is a superior title and it is a piece of paper. The Constitution, Declaration of Independence and the Bill of Rights are pieces of paper. To believe what Judge Lee is saying one would also have to ignore the four corners of the document, the definition of patent and the lawful mandate to update a patent. Again, the valid patent already exists and this is indisputable and admitted by Judge Lee in Nixon v. Individual Head of St. Joseph

> As this court said in Hilgeford, "the court cannot conceive of a potentially more disruptive force in the world of property law than the ability of a person to get `superior' title to land by simply filling out a document granting himself a `land patent' and then filing it with the Recorder of Deeds. Such self-serving, gratuitous activity does not, cannot and will not be sufficient by itself to create good title." 607 F.Supp. at 538. It is therefore obvious that this case must fail because the basis of the [612 F.Supp. 255] case — the "land patent" — cannot provide an adequate legal basis upon which plaintiff can claim any interest in the mortgaged property.

The above and below opinions here conflict.

> [Hughes V. Miller's Mutual Fire Insurance co., 246 s.w. 23 (1923)] "it is the largest estate in land that the law will recognize, a fee simple estate still exists even though the property is mortgaged or encumbered"

There is no law making a land patent a legal nullity.

Although it might feel emotionally good Judge Lees' opinion has no lawful backing. One time the Petitioner heard a judge say something to the effect---if a judge feels good every time he makes a decision, he is probably not doing his job. Judge Lee also states in Hilgeford;

> "the court cannot conceive of a potentially more disruptive force in the world of property law than the ability of a person to get `superior' title to land by simply filling out a document granting himself a `land patent' and then filing it with the Recorder of Deeds"

The grant was given by the U. S. government and is the intent of our founding fathers. This is not the Petitioner's fault that the founding fathers didn't like being subjected to a kings will and emotion which led them to create such a document. The people of these united States are the beneficiary of their sacrifice. Our founders risked their lives, their families lives and their fortunes to establish an idea, a concept, a dream of freedom and liberty. They desired to pass it on to generation after generation forever. They said so in the land patent---"forever"---. The land patent appears to be designed to be a destructive force against the forces of the banks and government. Jefferson said banks are dangerous. In a May 28th 1816 letter to John Taylor, Thomas Jefferson's wrote in the closing sentence; "*And I sincerely believe, with you, that banking establishments are more dangerous than standing armies.*" Armies are a pretty destructive force.

A brief look at back the last eight to ten years. The Massachusetts Supreme Court has overturned nearly five years' worth of foreclosures that displaced the people and families of that state. Armies displace people and families. In Nevada almost an entire development was foreclosed and most of the homes destroyed. Thousands more across the country have been foreclosed and eventually destroyed Armies also destroy buildings. In Florida people were lined up for blocks trying to save their homes from foreclosure. Banks using deceptive, fake documents to create misdirection. Armies use misdirection in war strategy. The

banks have created millions of properties with clouded titles. Armies don't do that. The banks have been the most destructive force in the world of property law, not the founders' land patent document and the first conveyance of title to the land to the people in these united States of America.

The sovereign people of these united States of America have had their Rights and due process trampled on by misguided and frivolous opinions expressed in a good number of cases. The people have been sanctioned and criminally sanctioned as evidenced and documented in Hilgeford and in the following Illinois Appellate Court Report below.

> ASS'N, 153 Ill. App.3d 605 (1987) case on page 608 ; (3) in addition to the theories relied upon by the trial court, plaintiffs' claim of superior title is unsupported by any Illinois case law and has been rejected when raised in the Federal courts; and (4) attempts to gain superior title by the filing of land patents have been met by criminal sanctions.

The people have a right to protect and defend their life, liberty and property. The land patent is a lawful document to defend one's property. The judge and attorney take an oath to the constitution to defend the peoples' Rights. If they work against those Rights, that is treason against the sovereign people. Judge Lee ignored the Law and expressed an opinion outside of the law. Doesn't that disqualify his capacity and void his rulings?

The following cases were relied on in Hilgeford v. Peoples Bank. None are properly relied on pertaining to ejectments. They are not possessory claims. The courts clam onto any case where a patent exists and no federal jurisdiction is

proclaimed.

JOY v. CITY OF ST. LOUIS 201 U.S. 332 (1906).

> As this land in controversy is not the land described in the letters patent or the acts of Congress, but, as is stated in the petition, is formed by accretions or gradual deposits from the river, whether such land belongs to the plaintiff is, under the cases just cited, a matter of local or state law, and not one arising under the laws of the United States.

The river gradually deposited soil and created land. The created land was not under the letters patent. Not appropriately relied on by Judge Lee, it's outside of the patent.

SHULTHIS v. McDOUGAL. BERRYHILL v. SHULTHIS 225 U.S. 561 (1912)

> To sustain the contention that the suit was one arising under the laws of the United States, counsel for the appellants point out the statutes (Acts March 1, 1901, 31 Stat. 861, c. 676; June 30, 1902, 32 Stat. 500, c. 1323; April 26, 1906, 34 Stat. 137, c. 1876, § 22) relating to the allotment in severalty of the lands of the Creek Nation, the leasing and alienation thereof after allotment, the making of allotments to the heirs of deceased children, and the rights of the heirs, collectively and severally, under such allotments; but the bill makes no mention of those statutes or of any controversy respecting their validity, construction or effect. Neither does it by necessary implication point to such a controversy. True, it contains enough to indicate that those statutes constitute the source of the complainant's title or right, and also shows that the defendants are in some way claiming the land, and particularly the oil and gas, adversely to him; but beyond this the nature of the controversy is left unstated and uncertain. Of course, it could have arisen in different ways wholly independent of the source from which his title or right was derived. So, looking only to the bill, as we have seen that we must, it cannot be held that the case as therein stated was one arising under the statutes mentioned. As was said in Blackburn v. Portland Gold Mining Co., supra, a controversy in respect of lands has never been regarded as presenting a Federal question merely because one of the parties to it has derived his title under an act of Congress.

Above it states that the controversy is uncertain and unstated. The matter is about a lease for the oil and natural gas under the property. This case is inappropriately relied on by Judge Lee.

STATE OF WISCONSIN, State of Wisconsin v. Baker 698 F2d 1323 (1983)

> The suit before us is not to decide what property rights in navigable lakes Wisconsin acquired when it was admitted to the Union in 1848. For that matter, defendants concede that when Wisconsin became a state it acquired the rights it asserts in this suit. Rather, the State claims that it continues to hold in trust for the public the same property rights it acquired in 1848 and that defendants are infringing those rights. That claim "arises under" federal law, however, only if federal law continues to govern property rights in the beds and waters of navigable Wisconsin lakes. It does not. The grant of statehood to Wisconsin was a grant both of property rights and of sovereign power. In 1848 the United States conveyed to Wisconsin property interests in navigable waters and the power to determine by its own laws the future course of ownership of those interests. "After a State enters the Union, title to the land [under navigable waters] is governed by state law."

This is a case not about ownership of land but rather if the federal or state government govern the waterways in Wisconsin. Another case improperly relied on. The Petitioner can go on and on with such cases where the claim was made that no federal jurisdiction exists. Thank God there is a page limit. These cases are misapplied.

The following are some case citation the Petitioner has relied on including many more in a "Memorandum of Land Patents" in the record in the Middle District Court of Pa.

> Moore v. Robbins, Ill. 96 U.S. 530, 24 L.Ed. 848. The issuance of a patent divested the government of all authority and control over the land;
>
> Raestle v. Whitson, 582p. 2d 17-0, 172 (1978). Land Patent is the highest evidence of title and is immune from collateral attack.
>
> [Hooper et.al.v.Scheimer, 64 US. (23 how.) 235 (1859)]. "I affirm that a patent is unimpeachable at law, except, perhaps, when it appears on its own face to be void; and the authorities on this point are so uniform and unbroken in the courts, federal and state, that little else will be necessary beyond a reference to them."
>
> [Walton v. United States, 415 f2d 121,123 (10th cir. (1969)] "a patent, once issued, is the highest evidence of title, and is final determination of the existence of all facts,"
>
> Fenn v Holme, 21 Howard 481 (1858). "The plaintiff in ejectment must in all cases prove the legal title to the premises in himself, at the time of the demise laid in the declaration, and evidence of an equitable title will not be sufficient for a

recovery. The practice of allowing ejectments to be maintained in state courts upon equitable titles cannot affect the jurisdiction of the courts of the United States."

Langdon v Sherwood, 124 U.S. 74 (1888): Carter v Ruddy, 166 US 493 (1897). "In federal courts, the rule that ejectment cannot be maintained on a mere equitable title is strictly enforced, so that ejectment cannot be maintained on a mere entry made with a register and receiver, but only on the patent, since the certificates of the officers of the land department vest in the locator only equitable title. This rule prevails in the federal courts even when the statute of the state in which the suit is brought provides that a receipt from the local land office is sufficient proof of title to support the action."

Should one of the sovereign people of the united States of America stand on the Constitution, treaty Law, Supreme Court rulings, the intent of congress and other legal writings of which one is the beneficiary and defend their property, which one has the right, against a sheriff and his troops, (whom took an oath of office), which party would be considered the perpetrator? Would it not be treason to violate the sovereign people's Rights secured by Treaty and the Constitution? The definition of treason according to Merriam-Webster; the offense of attempting by overt acts to overthrow the government of the state to which the offender owes allegiance or to kill or personally injure the sovereign or the sovereign's family.

Miranda v. Arizona, 384 U.S. 436, (1966). "Where rights secured by the Constitution are involved, there can be no rule making or legislation, which would abrogate them."

United States v. Bishop, 412 U.S. 346 (1973). "If you've relied on prior decisions of the Supreme Court you have a perfect defense for willfulness."

CONCLUSION

The people ought not be criminally sanctioned because they did something the U. S. Constitution protects. The Court must consider the sword cut both

ways. John Adams, a founding father, gave direction to the Court and to the people who love this great Republic. *"The two enemies of the people are criminals and government, so let us tie the second down with the chains of the Constitution so the second will not become the legalized version of the first."* John Adams 2nd president of the United States It is incumbent on the united States Supreme Court to defend the Constitution of the unites States, laws and documents that protect the God Given Rights of the people of these united States of America from attacks by public servants and others.

The petition for a writ of certiorari should be granted.

Date: 17th December, 2018

Respectfully submitted,

private American National