

19-8148

NO. _____

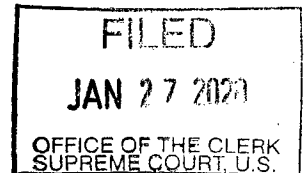
ORIGINAL

In The
SUPREME COURT OF THE UNITED STATES

BRENT DOUGLAS COLE, Petitioner

v.

UNITED STATES OF AMERICA, Respondent.



On petition for writ of certiorari to the

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

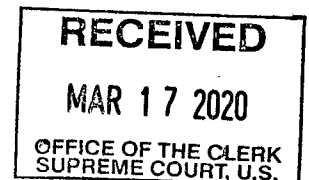
From Appeal No. 19-10019

PETITION FOR WRIT OF CERTIORARI

PETITIONER: BRENT D. COLE, Reg. No. 71911-097
P. O. BOX 1000 (FCI OXFORD)
OXFORD, WI 53952

PROPRIA PERSONA,

A living breathing man.



QUESTIONS PRESENTED

A "Case" is "a suit instituted according to the regular course of judicial procedure." Muskrat, 219 US at 356-7. It must be instituted lawfully to arise under the Constitution. The judicial Power of the United States under Art. III, § 2, cl. 1 does not extend beyond this. -- California first commenced prosecution for acts that occurred solely within its territorial jurisdiction. Federal prosecution was subsequently commenced concurrently by an information for the same.

- 1) Was the Federal court without jurisdiction because the cause did not constitute a Case, the court exceeded its authority, or venue?
- 2) Did the Appeals court perform its duty to examine jurisdiction?

The Northwest Ordinance (N. O.), Art. 2 is a Treaty requiring that inhabitants shall always be entitled to the benefits of the writ of habeas corpus, proceedings according to the course of the common law, and not be subjected to excessive or cruel and unusual punishments. -- The Petitioner was taken from California's custody in jail without the necessary writ ad prosequendum into a different jurisdiction to be tried before the state's process rendered its function.

- 3) Did California fail to perform its duty to protect COLE from harm?
- 4) Was the necessary process evaded or the N.O. Art. 2 breached?

Cal. P.C. §§ 25400 and 25850 declare the exercise of Second Amendment right to be crimes. The Petitioner was bound to the state to stand trial for keeping arms lawfully owned by him when he had injured no one and done no wrong. --

He attempted lawfully to enforce and protect Constitutionally guaranteed rights as statutory Attorney General by challenging constitutionality of the statutes that he was charged with, and issuing appointment clause challenges.

- 5) Is original Jurisdiction of all Cases affecting the Petitioner vested in this supreme Court by Art. III, § 2, cl. 2 because he is a public Minister and/or while he was acting in that official duty?
- 6) Is original Jurisdiction necessarily exclusive? (See supra p. 10).
- 7) Did 18 USC § 3132 amend the Constitution by statute?

California court declared the Jury must be charged with deciding constitutionality of the statutes involved. COLE asserts it is a legal duty of the judge.

- 8) Is the duty to decide constitutionality incumbent upon the judge?

An officer must be acting lawfully within the bounds of his authority and inform the person whom they attempt to arrest that they are under arrest and the authority therefor in order for the arrest to be lawful. -- COLE contends the BLM Agents suddenly engaged in an unannounced force and arms attempt to arrest him while they were engaged in an amiable conversation. This was an attempt to arrest for custodial detention using bullets COLE contends constitute a war crime.

- 9) Was the attempted arrest illegal or a Fourth Amendment violation?

QUESTIONS PRESENTED

Both state and Federal prosecutions were instituted for the same act for charges, essentially the same in their characters, concurrently. Governments contend that they are two entirely distinct "sovereignties", each entitled in their own right to punish and prosecute the same person for the same act, under the laws of each, for charges essentially the same in their characters, and it does not violate the bar to double jeopardy because they are two separate sovereigns.

-- Petitioner contends the sovereignty is vested in one people, who have granted each government an authority to exercise a portion of the people's sovereignty.

10) Was the bar to double jeopardy violated?

There is no express provision within 18 USC § 111 that preempts state law from being applicable. All acts in question were committed without the territorial jurisdiction of the United States and within California's. 18 USC § 13 thus does not apply. Petitioner contends that Art III, § 2, cl. 3, the Sixth and Tenth Amendments, under territorial law make California law the applicable law.

11) Is California law the applicable State's law in this instance?

The Separation Of Powers Doctrine prohibits exercising powers vested in a different branch of Government. Officials of the Executive Branches of the State of California and the Federal Government met on July 9, 2014 regarding the California prosecution of the Petitioner in case no F14-00267. --

The evidence shows that they colluded, made judicial decisions in secret that they would apply the laws of the United States and change the venue, and employ judicial officers to effect those decisions which disregarded law and venue facts.

They conspired to hold COLE in California's custody until their judicial decisions were effectuated, at which time they would nolle prosequi the state prosecution and remove COLE into federal jurisdiction to be tried on federal charges and reinstitute the state charges if the removal attempt failed.

12) Did the actions of Executive Branch and/or Judicial Officials constitute prosecutorial vindictiveness, prosecutorial misconduct, selective prosecution, criminal acts, seditious conspiracy, violation of Oath, violation of Separation of Powers, or violation of perfect obligation?

13) How best should the wrong be righted and the wrongdoers pursued?

The Fifth Amendment requires that "No person shall be held to answer for a ... infamous crime, unless on a presentment or indictment of a Grand Jury, ...; nor be deprived of life, liberty, or property, without due process of law;"

-- COLE was held to answer for an infamous crime, without bail, on the hearsay only complaint of FBI Agent FORRISTEL, commenced in violation of 18 USC § 3261(b).

14) Was the cause commenced in violation of Fifth Amend. and/or statute?

15) Did the Jan. 3, 2019 Order infer a final decision not to recuse?

QUESTIONS PRESENTED

Cruel and unusual and excessive punishments are prohibited by the Eighth Amendment and by the Treaty formed by the Northwest Ordinance, Art. 2. --

COLE contends that serious bodily injury was not inflicted upon either of the officers involved in the shooting pursuant to 18 USC § 1385(h)(3); and despite the invectives and declarations of the judge at sentencing as a rationale for the sentence of death by incarceration his alleged facts were not found by jury and the accused was given no notice or opportunity to rebut those claims. The imposed sentence was excessive, cruel, and unusual. The facts require lenity.

- 16) Did the sentence imposed violate the Eighth Amendment or Treaty?
- 17) Was the trial a sham and/or the court organized only to convict?

Counsel was imposed by the appeals Court in no. 15-10459 against his expressed wish to plead and manage his own cause personally. Counsel has failed/refused to withdraw when requested to do so and the USCA 9th Circuit refuses to allow COLE to dismiss imposed counsel and refuses to allow him to have locus standi or be heard for any reason or on any issue. Imposed Counsel continues to block the Petitioner's Motion to recall mandate. Application was filed in this court, but this court has refused to dismiss Counsel and dismissed Petition for writ of mandamus to enforce the right to be heard and right to dismiss unwanted counsel.

- 18) What is the proper remedy for dismissing unwanted counsel?
- 19) Does the imposition of two sentence enhancements of 18 USC §§ 111(b) and § 924(c) in this instance violate the double jeopardy bar?

Appeals were filed in appeal nos. 15-10313 and 19-10019 and scheduling orders were issued in both cases. The district court continued to proceed in no 2:14-cr-00269 in exercising jurisdiction disregarding the fact that the jurisdiction properly lay with the court of appeals until the appeal was dismissed or remanded. COLE asserts that he was prejudiced by his documents and court papers being seized and destroyed and concealment of the ORDER issued in 19-10019 which denied his motion for a new trial under Rule 33.

- 20) Did the district court proceed in the absence of jurisdiction?

The perjured Affidavit of FBI Agent FORRISTEL was proffered to the court March 1, 2019 in the Government's Opposition to the Petitioner's Rule 33 Motion. COLE asserts that the perjury reveals the pattern of deception and concealment of witnesses and evidence since before the medical responders arrived at the scene of the shooting. It was used to justify denial of the motion for a new trial and to falsely claim that there existed no evidence of a witness being handcuffed at the crime scene when the first uninvolved law enforcement arrived.

- 21) Does the proffering of the perjured Affidavit constitute fraud on the court and/or prosecutorial misconduct?

LIST OF PARTIES

The following is a list of parties to the above captioned case:

BRENT DOUGLAS COLE VS. UNITED STATES OF AMERICA

On petition for writ of certiorari to the United States Court
of Appeals For The Ninth Circuit from appeal no.19-10019

In The SUPREME COURT OF THE UNITED STATES

1) The United States of America: Service to Attorney for Respondent:

Solicitor General of the United States
Room 5614, Department Of Justice
950 Pennsylvania Avenue N.W.
Washington D. C. 20530

2) The State Of California is a necessary party to determine the
relevant facts. Service is therefore made on the A.G. and the

Governor of the State: Additional Respondent:

i)

Governor Of The State Of California
State Capitol Building
Sacramento, CA 95814

ii)

Attorney General Of California
1300 "I" Street
Sacramento, CA 95814

Petitioner: Brent D. Cole, Reg. No. 71911-097
P.O. BOX 1000
OXFORD, WI 53952

TABLE OF CONTENTS

QUESTIONS PRESENTED i - iii
LIST OF PARTIES iv
TABLE OF CONTENTS v
TABLE OF CITED AUTHORITIES vi
TABLE OF CITED CASES vii

CITATIONS OF THE OPINIONS BELOW 1
CONCISE STATEMENT OF THE BASIS FOR JURISDICTION 1
THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, AND RULES 2

CONCISE STATEMENT OF THE CASE 3 - 12
Argument 13 - 27
Conclusion 28 - 30
Relief Requested 31

APPENDICES

APPENDIX A -- Text of Authorities Cited I - IX
APPENDICES 1 - 5 ORDERS and Rulings of the courts below
APPENDIX # EVIDENCE

- 6 - 8 Open Records Act Documents From Nevada County D.A.
9 Docket Sheet from USDC Eastern Dist. of CA, No. 2:14mj212
10 Minutes From Felony Conference Nolle Prosequi, No. F14-267
11 Minutes from hearing in absentia COLE DISMISSING M14-388
12 Oath of Office and Affidavit removed from court file
13 MEMORANDUM from P.D. and Clerk's letter 2/25/19 about doc.
14 Photo "COLE 01394" from USAO file of Officer's bullets
15 Affidavit of FBI Agent Forristel submitted March 1, 2019
16 Police Report # 9 of Andrew Liller proving perjury
17 Docket sheet of Appeal no. 19-10019 Ninth Circuit
18 Docket sheet excerpts on appeal no 15-10459 9th cir.
19 Docket sheet excerpts of USDC no. 2:14cr269 U.S. v COLE
20 Felony Complaint, State case no. F14-000267 June 25, 2014
21 Misdemeanor Complaint, State case no M14-000388 Jan. 27, 2014
22 ORDER March 14, 2019, LEXIS 41847 U.S. Dist. dismissing Mtn.
23 Letter Oct. 10, 2019, OPRA response RE: CHP investigation

APPENDIX A CONTENTS

THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, AND ORDINANCES PAGE
Northwest Ordinance, Art. 2; Art. I, §§ 8 excerpts, and 9, U.S. Const. . . . I
Art. II, §§ 3 and 4; Art. III; and Art. IV, § 1, U.S. Constitution II
Art. IV, § 4; and Art. VI; Amendments 2, 4, 5, 6, 8, 10, and 14 §1 III
Excerpts of M14-000388 filed in ECF 116 7/2/15 no. 2:14-cr-0269-GEB . . IV-VI
Civil Rights Act of 1871 § 1982; 1 Stat. 23, § 3; 5 USC § 3331; §§ 1756 et seq.
of Title XXIV 1873-1874; 1 Stat. 91, ch. 20, § 34 VI
18 USC §§ 2, 3, 4, 6, 7 VII
18 USC §§ 1621, 3161; 1 Stat. 73, ch 20, § 33 VIII
Judiciary Act of 1789: 1.Stat. 73-93, ch. xx, §§ 1, 25, 35 IX

APPENDICES 1-5 -- ORDERS of the courts below
APPENDICES 6-16 -- Evidence of Conspiracy, Perjury, Fraud, Sedition, and Treason
APPENDICES 17-21 -- Docket sheets, Criminal Complaint state case no. F14-0267,
Misdemeanor Complaint case no. M14-0388,
APPENDIX 22 is U.S. Dist. LEXIS 41847, March 14, 2019 ORDER DENYING MOTION
APPENDIX 23 is Response Letter from CA CHP Public Records Unit RE: Concealed Recs.
PETITION FOR WRIT OF CERTIORARI - Page v - COLE v U.S.

TABLE OF CITED AUTHORITIES

	Pages
The Northwest Ordinance, July 13, 1787, Art. 2	4, 16, 20
U.S. Constitution, Art. I, § 8, (crim. auth.) cl. 6, 10, 14, 17, 18	13, 19, 22
§ 9, cl 2	4
§ 9, cl 8	11
Art. 3 and 4	
Art. III, § 1 - Judicial Power structured	1, 8
§ 2, cl. 1 - "Cases" and "Contraversies"	4, 14, 15, 17, 20
§ 2, cl. 2 - Original Jurisdiction	1, 4, 10, 26
§ 2, cl. 3 - Trial of crimes in State committed	1, 4, 6, 8, 19
§ 3, cl. 1 - Punishment of Treason	6, 20, 21, 22
Art. IV, § 1 - Full Faith and Credit	12
§ 4 - Republican Form of Government	12
Art. V - Amendments to the Constitution, processes	12, 26
Art. VI - Prior Engagements, Requisit of Oath	15

UNITED STATES STATUTES

Title XXIV, § 8 Deeming the taking of lawfully born arms larceny	22, 26
§ 1982 requiring prosecution of offenders	10, 17, 22
Title XIX, §§ 1756 et seq. - The requisits of Oath	6
18 USC § 3261(b) - bars commencement of federal prosecution	12
§ 3041, § 3161 - Speedy Trial Act Requires Indictment Quashed	4, 20, 24
§§ 6, and 1961(10) - Agency and Statutory Authority	3, 25
§ 7 - Territorial Jurisdiction of the U.S Defined	4, 6, 26
§ 13 - Assimilation Act Laws of States Adopted	4, 6, 20, 23
§ 111	4, 22, 23
§§ 241 and 242 Conspiracy to Deprive and Deprivation	6, 16, 17
§§ 371 abd 372 Conspiracy to commit Offense, etc.	6, 16, 17, 24
§§ 1201 and 1201(c) - Kidnapping, Conspiracy	6, 24
§§ 1621 and 1622 - Perjury and Subornation of Perjury	7, 18, 27
§§ 2181 and 2183 - Treason and Seditious Conspiracy	6, 15, 17
§ 1512(c)	3, 6, 25
§ 1001 Fraud and False Statements	15, 16, 18, 27
§ 2441 War Crimes	3, 7, 22, 26
§ 3501	24
§ 3231 - Supplanted the terms of Art. III, § 2, cl. 2	12, 26
§ 3261(b) - Prohibition of commencement of prosecution	28
Title 28 USC §§ 2241 et seq.	4, 20
§ 1291	1
§ 1254	1
§§ 47, 144, 455	

AMENDMENTS TO THE CONSTITUTION

Second Amend.	10, 16	Eighth Amend.	10, 16
Fourth Amend.	10, 16	Ninth Amend.	10, 16
Fifth Amend. 10, 13, 14, 16, 20, 24		Tenth Amend.	6, 10, 16
Sixth	6, 10, 16, 20	Fourteenth Amend	10, 16, 24

TABLE OF CITED CASES

	Pages
1) Ableman v Booth, 21 How 506, 523-524 (1859)	19
2) Abney v United States, 431 US 651, 658-659 (1977)	10,
3) Ames v Kansas, 111 US 449, 464 (1884)	10, 26, 30
4) Ashcroft v Iqbal, 556 US 662, Headnotes 2 and 3	16
5) Bordenkircher v Hays, 434 US 357m 363 (1978)	13
6) Brecht v Abrahamson, 507 US 619, 633-635 (1993)	19-20
7) Caprone v Van Norden, 2 Cranch 126, 2 LED 229	21
8) Carbo v United States, 364 US 611, 614-618 (1961)	15, 20, 21
9) Charles River Bridge v The Warren Bridge et al.,	13, 19
10) Chisholm v Georgia, 2 Dall 419, 471, 1 LED 440 (1793)	13, 19
11) Covell v Heyman, 111 US 176, 182 (1884)	14, 15
12) Daimler A.G. v Bauman, 571 US 117, 2014 US LEXIS 644	21
13) Dibella v United States, 369 US 121, 126	10
14) District of Columbia v Heller, 2008 US LEXIS 5268	18
15) Dynes v Hoover, 20 How 65, 80-81, 15 LED 838	9, 30
16) Edwards v Aguillard, 482 US 578, 587 (1987)	8
17) Ex parte Watkins, 3 Peters 193, 204, 7 LED 650	21
18) Fox v Ohio, 5 Howard 410, 12 LED 213	13
19) Granis v Ordean, 234 US 385, 394 (1914)	9
20) Hagan v Lucas, 10 Peters 400, 403 (18??)	15
21) Hazel-Atlas Glass Co. v Hartford-Empire Co. (1944)	17
22) Kline v Burke Const. Co., 260 US 226, 229 (1922) 6, 19, 21, 29	6, 19, 21, 29
23) Muskrat v United States, 219 US 346, 356-357 (1911)	8
24) Poindexter v Greenhow, 114 US 270, 303 (1885)	16
25) Ponzi v Fessenden, 258 US 254, 260-261 (1922)	14
26) Price v Dewhurst, 8 Sim 279, 302 (1837)	22
27) Shaffer v Heitner, 433 US 186, 197 (1977)	14
28) Pulham v Osborne, 17 How 471, 476 (1855)	14
29) South Carolina v Regan, 465 US 367, 397	10, 30
30) Stewart v United States, 2018 US Dist LEXIS 219386:6	17
31) Sumner v Mata, 449 US 539, n2 (1981)	3
32) Taylor v Carryl, 20 How 583, 595 (1858)	14
33) United States v Armstrong, 517 US 456, 465 (1996)	11
34) United States v Mauro, 436 US 340, 355 (1978)	21
35) United States v Scott, 437 US 82, 99 (1978)	15
36) United States v Will, 449 US 200 216 (1980)	15
37) Wellness Int'l Network, Ltd. v Sharif, 2015 US LEXIS 3405	9
38) City of ERIE v PAP'S A.M., 529 US 277, 306 (2000)	29
39) Kalamazoo County Rd Comm'n v Delon, 2015 US LEXIS 5	29
40) Steel Co. v Citizens For Better Env., 523 US 83, 102 (1998)	29
41) Williamson et ux. v Berry, 8 Howard 495, 541, 12 LED 1170	30

CITATIONS OF OPINIONS BELOW

APPENDIX 1: The April 25, 2019 ORDER says, "See 28 USC § 1291" and:

"[W]e dismiss this appeal from the district court's January 3, 2019 order for lack of jurisdiction."

APPENDIX 2: The October 30, 2019 ORDER states without explanation:

"The motion for reconsideration en banc is denied on behalf of the court."

APPENDIX 3: The November 7, 2019 MANDATE effects the April 25 ORDER.

APPENDIX 4: The February 14, 2019 ORDER states without explanation:

"[T]he district court's January 3, 2019 order is not appealable ... within the collateral order doctrine."

APPENDIX 5: The January 3, 2019 ORDER of the trial court ordered the January 5, 2017 stay lifted and granted a two month extension of time to file an opposition to the motion. It implicitly asserted that judge BURRELL would continue to refuse to adhere to the requirements of the law or recuse himself to maintain control of the proceedings in which he had a personal stake in the outcome and would assure that there would be no due process accorded to the Petitioner.

CONCISE STATEMENT OF THE BASIS FOR JURISDICTION

(i) The April 25, 2019 ORDER is in want of this Court's review.

(ii) The October 30, 2019 ORDER denied rehearing.

(iii) The Constitution Article III vests the judicial power of the United States in this Court and the inferior Courts established by Congress, the Judges only to hold their Offices during good Behavior. Section 1. This Court has original Jurisdiction over all Cases affecting public Ministers under § 2, cl. 2 which includes this case. Art. III, § 2, cl. 3 vested exclusive jurisdiction of the crime in the State in who's jurisdiction the crime is alleged to have occurred.

(iv) 28 USC § 1254(1) is believed to confer jurisdiction.

THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, AND RULES
INVOLVED IN THE CASE: TEXT IN APPENDIX A

CONSTITUTION OF THE UNITED STATES

	Page
Article (Art.) I, § 8 excerpts, and § 9, clauses (cl.) 2	I
Art. II, § 3 excerpt	II
Art. III	II
Art. IV, § 1, and § 4	II - III
Art. VI	III
Amendments: II, IV, V, VI, VIII, IX, X, and XIV	III

TREATIES

The Northwest Ordinance (1787), Article 2	I
Title XXIV. Civil Rights Act of 1870 (31 May, c. 114, s.9, v.16)	IV
Title XIX (Revised Statutes) 1873-1874 §§ 1756 et seq,	V- VI

UNITED STATES STATUTES

The Judiciary Act of 1789 (1 Stat., ch. xx,) § 33 and § 35 .VIII-IX

Title 28 United States Code (28 USC) §§ 47, 144, 455, 1254(1),
1291, 2241-2243,

Title 18 USC §§ 2, 3, 4, 6, 13, 111, 241, 242, 372, 1201, 1512(c), VII
371, 1621, 1622, 1623, 2381, 2383, 3041, 3161(b), 3231, 3501, 1961(10),
and 7. 18 USC § 3261(b) prohibited the commencement of this cause.

5 USC § 3331: requires statutory construction: Title XIX §§ 1756 et seq.

18 USC § 3231 is contested for abridgement of Art. 5, U.S. Const.

Officers violated 18 USC § 2441 during the attempted arrest.

Federal Rules of Criminal Procedure (F.R.Crim.P.) RULES 4, 5, 16,
and 32 were violated.

CONCISE STATEMENT OF THE CASE

It is this Court's duty to assure the jurisdiction of the district court is not exceeded. Sumner v Mata, 449 US 539, n2, 66 L Ed 2d 722 (1981). The appeals court's dismissal sanctioned the trial court proceeding outside its venue without jurisdiction or judicial inquiry when it was prohibited by law from proceeding.

The law plainly allowed COLE to bear arms in a wilderness area populated with problem bears removed from the Parks. His doing so was used as a pretext to assault and destroy him, concealing the real state of affairs: California had instigated a maleficent prosecution in violation of Art. I, § 10, cl. 1 using Bills of Attainder in its zeal to abrogate the right of the People guaranteed by the Second Amendment by legislating the exercise of that right to be a crime. COLE was charged therewith and unlawfully bound to the state forced to sojourn. He filed "Cross-Complaint: An Information In The Nature Of Quo Warranto" in M14-0388 Feb. 19, 2014 as statutory Attorney General pursuant to 18 USC §§ 6, and 1961(10). The Superior Court Of California County Of Nevada refused to consider the pleading and refused to permit any challenge to the constitutionality of the statutes under which he was charged claiming that any such challenge would have to be submitted to the jury for determination during the trial. It is an issue the judge must determine before trial by judicial decision and unlawful to charge the jury with. COLE filed "ANSWER WITH BILL OF EXCEPTIONS and Affidavit in support" in open court June 5, 2014. It was ordered to be part of the court file, and D.A. Jessie Wilson ORDERED to respond by June 25, 2014. No response was made. It must be held true.

June 25, 9 days later, COLE was assaulted and shot repeatedly with bullets that constitute a war crime under 18 USC § 2441 by a Federal Bureau of Land Management (BLM) agent and a California Highway Patrol officer (CHP) in a wilderness area without a warrant purportedly being arrested for "custodial detention". The ANSWER and Affidavit were removed from the court file in violation of 18 USC § 1512(c). COLE was charged with assaulting officers and attempted murder without a judicial examination of any witness, incarcerated by the State without bail.

PETITION FOR WRIT OF CERTIORARI - PAGE 3 OF 31 - COLE v U.S.

COLE was held in solitary confinement in State custody, nos. F14-0267 and M14-0388, while the prosecution promulgated calumny throughout news media to vilify.

Federal prosecution was instituted Sept. 18, 2014 violating the bar to double jeopardy and Fifth Amendment due process requirements by using an Information and bypassing the necessary writ ad prosequendum, 28 USC §§ 2241(c)(5)- 2243, in breach of the Northwest Ordinance, Art. 2 (N.O.), and violating Art I, § 9, cl. 2, U.S. Const. The cause was not brought lawfully before the cognizance of the court nor according to the regular course of judicial procedure, so does not comport with Art. III, § 2, cl. 1, U.S. Const., as a "Case" to which judicial Power extends. The district court was without jurisdiction. Its judgment and sentence are void.

COLE is a public Minister pursuant to Art. III, § 2, Cl. 2, U.S. Const., and ipso facto, this Court has original Jurisdiction of this Case, which was lawfully brought before this Court's cognizance by the regular course of judicial procedure.

The trial court was prohibited from exercising its jurisdiction to impair or defeat the prior exclusive jurisdiction of the state under territorialism, the Sixth and Tenth Amendments, and Art. III, § 2, cl. 3, U.S. Const. The exclusive criminal jurisdiction of the state is controlling because the venue is within the State and pursuant to 18 USC §§ 7 and 13 the venue is without the United States territorial jurisdiction and its laws are not applicable unless there is an express provision in a federal statute that preempts the State's law from applying. There exists no such provision in 18 USC § 111 and § 13 does not assimilate it.

California State and the Federal Governments' Executive Branch Officials met on July 9, 2014 in the Nevada County Sheriffs Office (NCSO), wherein they colluded and conspired to hold COLE in state custody until some future date when they would "turn the prisoner over" to federal agents to be taken into Federal jurisdiction and tried on federal charges without notice, citation, or lawful process for removing a prisoner from one jurisdiction into a different one to be tried. They would nolle prosequi the state charges and circumvent U.S. laws, including 18 USC §§ 3041, 3060, and 3161(b), judicial officers effectuating.

PETITION FOR WRIT OF CERTIORARI - PAGE 4 OF 31 - COLE v U.S.

June 14, 2014 a Federal Bureau of Land Management (BLM) Agent, TAD PULTORAK, attempted illegally to arrest the Petitioner, COLE, without a warrant or probable cause to believe that he had committed a crime and without informing him that he was being arrested or the cause for arrest while engaged in an amiable conversation with him. PULTORAK's sudden, unannounced, unprovoked force and arms attempting to arrest for custodial detention during this amiable exchange of question and answers incited a police involved shooting in which COLE was shot five times, mortally wounded, and the two officers fired seventeen (17) bullets at COLE within about 10 seconds of his stating, "Yes, I am" to the question, "Are you armed?". COLE had made no threats or provocations, and had announced his approach, stated his intention to fetch property that belonged to him, and been told by PULTORAK, "Okay. Come on up into the clearing." COLE contends that PULTORAK lured him into an ambush treacherously with intent to provoke a violent altercation, then used that question as a pretext to violently assault and shoot him while his gun was still in its holster before he had reached for it to draw it.

COLE was flown to Sutter Roseville Hospital, underwent major surgery, and was interrogated in the Intensive Care Unit (ICU) while heavily sedated. He was arrested without a warrant and incarcerated by the State of California in the ICU on or about June 17, 2014. On June 25, 2014 COLE was charged by a hearsay only complaint written by the Assistant District Attorney ANNA FERGUSON without a judicial examination of any witness. COLE was charged with assault on two officers with a deadly weapon and attempted murder, held without bail to stand trial in Nevada County. State jurisdiction attached.

PETITION FOR WRIT OF CERTIORARI - PAGE 5 OF 31 - COLE v U.S.

Judge BURRELL's purpose for refusing to recuse himself and retaining control over the cause is to defend the July 9, 2014 Executive Branch Conspiracy, conspirators, and the nefarious "judicial decisions" made by the prosecutors and effectuated by him under color of office without regard to fact, law, rights, or detriment to the United States and judicial system. He used the power of his agency, knowing he was without jurisdiction, in furtherance of the conspiracy, to reduce the judicial process to a sham organized solely to convict and impose a machiavellian sentence according to the will of the Executive Branches. He used the court's power to conceal the truth, wrongfully convict, and prevent COLE from discharging any duties of his office under the United States. Mr. BURRELL made himself the chief principal of the conspiracy. All of which constitutes criminal violations of 18 USC §§ 2, 3, 4, 241, 242, 371, 372, 1201(c), 1512(c), 2381, 2384, Title XIX §§ 1756 et seq. and Art. III, § 3 of the U.S. Constitution.

To impose by legal authority is to levy. To resist the authority of one's government or act in disobedience is to rebel, which adheres to, aids, and comforts the enemies thereof and satisfies the elements of treason and sedition.

The trial court was prohibited from exercising its jurisdiction to impair or defeat the prior exclusive jurisdiction of the state. See Kline v Burke Const. Co., 260 US 226, 229, 67 LED 226 (1922). The Tenth Amendment reserves general policing power to the states. The Sixth requires crimes be tried in the State's lawful venue under its law, as does Art. III, § 2, cl. 3, U.S. Const. Territorialism requires that the place of injury dictates which state's law will be applied. 18 USC § 7 determines it was without the venue of the United States and § 13 does not apply, so as BLM lands are not ceded, venue and exclusive jurisdiction is state.

APPENDIX 6 is the Docket Sheet, case no. F14-0267 of the Nevada County District Attorneys Office (NCDA). It is positive proof of the JULY 9, 2014 Meeting and evinces its purpose. P. 1, 7/9/14 entry. CHP Sgt. Whiting and Lt. Amswald sought a statement from Clifford Newell (D.A.) that no (state) criminal charges

PETITION FOR WRIT OF CERTIORARI - PAGE 6 OF 31 - COLE v U.S.

(would be filed) vs CHP or BLM officers. P. 2, 8/27/14 entry. The 9/18/14 entry notes that AUSA Mike McCoy "to file indictment tomorrow." Then the 9/25/14 entry notes, "FTA - in fed custody. Per AUSA case DMOP in favor of indictment (without prejudice) close file". [DMOP appears to mean "Dismiss Other Prosec."]

APPENDIX 7 is the letter of Sept. 12, 2019 acknowledging the July 9, 2014 meeting was held at NCSO and giving a list of the Invitees from NCSO.

APPENDIX 8 is the Email, Sept. 18, 2014, from FBI agent FORRISTEL to state D.A. Anna FERGUSON with No. 14-mj-212 Arrest Warrant, Criminal Complaint, and Affidavit without an averment of personal knowledge and insufficient ipso facto.

APPENDIX 9 is the Docket Sheet for 2:14mj212 evincing due process violations.

APPENDIX 10 is the minutes of the court hearing, in absentia COLE, issuing a nolle prosequi of case no. F14-0267 at the prosecutor's request to dismiss.

APPENDIX 11 is the minutes of the court hearing dismissing case no. M14-0388 in absentia COLE on May 25, 2018, 3½ years after being "turned over to the Feds".

APPENDIX 12 is COLE's Oath of Office and the June 4, 2014 Affidavit filed in open court June 5, 2014 with "ANSWER..." and removed from the court's file.

APPENDIX 13 is the MEMORANDUM of P.D. Jody Schutz documenting that the 6/5/14 ANSWER and Affidavit were removed from the court file by August 14, 2014; and the court Clerk's letter, Feb. 25, 2019 establishing that said docs are not there.

APPENDIX 14 is a close up picture of the bullets used by officers involved in the shooting. It is from the USAO's file Bates stamped "COLE_01394" evincing both officers were violating 18 USC § 2441 by their actions, not lawfully engaged in the performance of lawful duties, evidencing denial of the equal protection.

APPENDIX 15 is the Affidavit of FBI Agent FORRISTEL that was proffered March 1, 2019 in USDC Eastern District of California, no. 2:14-cr-00269-GEB, as Exhibit B of the GOVERNMENT'S CONSOLIDATED OPPOSITION TO DEFENDANT'S MOTION. It is not dated and is a perjury intended to defraud the court revealing a pattern of fraud.

APPENDIX 16 is Sup. Report no. 9, "COLE_01042-43" proving FORRISTEL's perjury.

PETITION FOR WRIT OF CERTIORARI - PAGE 7 OF 31 - COLE v U.S.

"It is the duty of the courts to distinguish a sham secular purpose from a sincere one." Edwards v Aguillard, 482 US 578, 587 (1987).

Cole's initial appearance in U.S. District Court Eastern District of California was in no. 2:14-mj-00212-EFB, but is recorded as being in no. 2:14-00269-GEB on September 25, 2014 (USDC Eastern), Document (ECF) 174 Filed 02/23/16 showing:

"MR. GALLOWAY: Your Honor, he does qualify [for counsel]. He's informed me that he would like legal assistance but does not wish to be represented by anyone. And one clarification, he's just been charged by way of complaint at this point." (Reporter's Transcript (RT), pp. 3 of 9, lines (L.) 1-4).

"THE COURT: That is true, and I apologise for misspeaking. It is a complaint that I'm going to be talking to you about. I haven't had a request for self-representation." (L. 4-7). [No notice or citation was given.]

.... "... if you decide ... to represent yourself, you can make a motion,
.... Do you understand that, Mr. Cole? (L. 18-22).

"THE DEFENDANT: I understand. Basically I'm relying on the Judiciary Act of 1798, Chapter 20, Section 35 that I have the right to manage my own case and to the assistance of counsel." (P. 3, L. 25- p.4, L. 1-3).

"THE COURT: There are -- well, I'm not going to For the moment, in order to make sure that I'm protecting your rights for the purposes of this proceeding, I'm going to appoint the Office of the Federal Defender to represent you right now. ..." (P. 4, L. 4-9).

"THE COURT: So we'll come back to court next week so that I can talk to you further after you've had a chance to maybe meet with Mr. Galloway and talk some more about it. All Right? (P. 4, L. 13-16).

THE DEFENDANT: Okay." (L. 17).

The Petitioner was never again afforded even this much of an opportunity to be heard by himself in defense of the allegations against him and contends:

1st: The cause was not brought before the cognizance of the court lawfully by one of the parties "according to the regular course of judicial procedure". Consequently, it does not amount to a "Case" or a "Controversy" by "the express terms of the Constitution" and the "judicial Power" conferred by Article III, § 2 of the Constitution of the United States "does not extend" to it. See MUSKRAT v UNITED STATES, 219 US 346, 356-357, 55 LED 246 (1911).

2nd: The state's exclusive jurisdiction over a crime committed exclusively within its exclusive territorial jurisdiction barred federal charges. § 2, cl. 3.

APPENDIX 17 is the Docket Sheet, appeal no. 19-10019, USCA 9th Cir.

APPENDIX 18 is Docket Sheet excerpts, appeal no. 15-10459, USCA 9th Cir.

APPENDIX 19 is Docket Sheet excerpts, U.S. dist. court no. 2:14-cr-00269-GEB.

3rd. The institution of both a state and a Federal prosecution for the same act for essentially the same character "offense", assault in this instance, violates the bar to double jeopardy as the People are the sovereignty of the U.S.

4th. COLE was denied the "fundamental requisit of due process of law [] the opportunity to be heard." GRANIS v ORDEAN, 234 US 385, 394 (1914).

"[T]he court which acts without,..or which having jurisdiction disregards the rules of proceeding [is] enjoined by the law for its exercise, so as to render the the case coram non-judice." DYNES v HOOVER, 20 How 65, 80, 15 LED 838; WELLNESS INT'L NETWORK, LTD. v SHARIF, 191 L Ed 2d 911, 935, 945, 951, 135 S Ct 1932, 1955, 1964, 1969, 2015 US LEXIS 3405.

The lower courts denied COLE his right to self-represent, and to be heard by forcing Counsel upon him to "represent" and entitled to force their will upon him, and refusing to allow counsel to be dismissed, denying fundamental fairness.

COLE filed for a mandamus in this Court in attempting to enforce his right to be heard: No. 18-5579 docketed Aug. 13, 2018 and denied Oct. 1, 2018, US LEXIS 5073, 139 S Ct 282. COLE also filed APPLICATION TO DISMISS COUNSEL in this Court which was denied. See appeal no. 15-10459, DktEntry 111 filed 08/03/2018 (Apx. 18).

COLE is still attempting to get Counsel to withdraw as she is preventing his MOTION TO RECALL MANDATE, Dkt 118, as the 9th Circuit courts deny locus standi to parties upon whom they have forced counsel. There exists no means to dismiss.

5th. The exclusive criminal jurisdiction of the state attached upon filing and serving criminal charges for the shooting incident involving the BLM agent: APPENDIX 20, FELONY COMPLAINT filed June 25, 2014, Case no. F14-000267 by Information after a warrantless arrest, without judicial examination of any witness; and APPENDIX 21, MISDEMEANOR COMPLAINT filed January 27, 2014 without a judicial examination of any witness after a warrantless arrest for having lawfully exercised his second Amendment right to keep arms.

6th. Cole asserted he is a public minister Feb. 19, 2014 and June 5, 2014 in the ANSWER D.A. Wilson was ordered to respond to, but did not. Original Jurisdiction is therefore vested in this supreme Court in this instance pursuant to Art. III, § 2, cl. 2, U.S. Const. The courts must hold the allegations to be true and construe them in favor of the petitioner. It is necessarily exclusive jurisdiction. AMES v KANSAS, 111 US 449, 464, 28 LED 482, 4 S Ct 437 (1884); SOUTH CAROLINA v REGAN, 465 US 367, 397, 79 L Ed 2d 372, 104 S Ct 1107. The federal district court lacked jurisdiction over the Petitioner's person.

The Jan. 3 2019 ORDER is a final decision that the judge who has heard and decided every issue and the cause, wantonly proceeded in the absense of venue and jurisdiction and has failed to establish venue facts or show jurisdiction: He, who has a personal stake in the outcome of the proceedings, will continue to preside and control the proceedings. It is a separate and paramount issue and a final decision that Congress has made reviewable. The effect of the ORDER will be irreparable by any subsequent appeal and immediate appeal has been allowed from such when that is the case. DIBELLA v UNITED STATES, 369 US 121, 126, 7 L Ed 2d 614, 82 S Ct 654 (1962). See ABNEY v U.S., 431 US 651, 658-59 (1977).

The Petitioner contends that he was subjected to lawless violence perpetrated by law enforcement officials violating the law of the land under color of law and has been deprived of his liberty, property, and life as he knew it without due process of law, and has been denied the equal protection of the laws in violation of the Second, Fourth - Sixth, Eighth - Tenth, and Fourteenth Amendments.

The Courts are required to institute prosecutions "against all persons violating the provisions of chapter seven of the Title "CRIMES"", now 18 USC, but have failed or refused to take cognizance of such when brought to their attention. Title XXIV. Civil Rights, § 1982 (31 May 1870, c. 114 s. 9, v. 16, p. 142). The USCA 9th Cir. has so far departed from, and sanctioned such a departure from customary and regular judicial procedure as to call for exercise of Jurisdiction. PETITION FOR WRIT OF CERTIORARI - PAGE 10 OF 31 - COLE v U.S.

COLE contends that this was a selective-prosecution effectuating a conspiracy contrived for reasons forbidden by the Constitution.

"[7b][8] In order to dispel the presumption that a prosecutor has not violated equal protection, a criminal defendant must present "clear evidence to the contrary." ... [7c] The claimant must demonstrate that the federal prosecutorial policy "had a discriminatory effect and that it was motivated by a discriminatory purpose." United States v Armstrong, 517 US 456, 465 (1996).

APPENDIX 22 is 2019 U.S. DIST. LEXIS 41847, ORDER filed March 14, 2019 dismissing COLE's rule 33 motion while the jurisdiction properly lay in the appeals court, no. 19-10019. Appdx. 1 arguably remanded the jurisdiction to the trial court on April 25, 2019. No service of process was given to COLE of this ORDER to injure him by concealing the abuse of discretion to deprive him of an appeal. The dismissal was based on a perjured affidavit, Appdx. 15, proved to be perjury by Appdx. 16, which reveals the pattern of fraud and concealment perpetrated ab inito.

APPENDIX 23 is the October 10, 2019 letter from the CHP Public Records Unit, acknowledging that they are in possession of the records of the separate CHP investigation into the Officer Involved Shooting on June 14, 2014. The wanton concealment of the relevant material evidence in this prosecution is shown by the facts that neither the USAO or court imposed Counsel made any attempt to obtain the initial statements, reports, or results of the separate CHP investigation or of either of the Officers involved with the shooting, but concealed them from the jury, the accused, and the record. In fact they are still being withheld.

If there be any doubt that this concealment and suppression of evidence is wanton and contrived, it is dispelled by the concealment of the private investigation of Robert Beresford who interviewed the witness that was handcuffed at the crime scene when the first uninvolved law enforcement arrived. P.D. Schutz had investigator Beresford retained and provided the results of that investigation to Counsel Toney in October 2014. Counsel TONEY concealed the investigation and all results to abet the prosecution's use of perjured testimony to convict.

The effect is to grant a Title of Nobility by denying equal protection of the Laws in violation of Art. I, § 9, Cl. 8 and the Fourteenth Amendment.

The Government claims "jurisdictional error" was raised and "has been

previously litigated and decided" by either the trial court or appeals court.

(ECF 211, 3/14/2019) See Appdx. 22, pp. 2-3. No prove-up or citation was

given. COLE denies there has been any jurisdictional showing or claims

litigated. This claim was reargued then delared true by judicial fiat

without prove-up. This practice is revealed by the last sentence: P.5: "For the stated reasons, Defendant's motions for a new trial are denied."

The U.S.A.O violated Art. IV, §§ 1 and 4 by claiming Federal jurisdiction in

this cause. They were not required to prove up their claim or state authority.

Territorialism requires place of injury determines which states law will

be applied by examination of venue facts under 18 USC § 7 in this instance;

which holds, was without the territorial jurisdiction of the United States,

within California's, and 18 USC § 3261(b) is applicable; It prohibits

commencing a prosecution against a person who has been or is being

prosecuted for the conduct constituting such offense except on approval

of the Attorney General or the Deputy Attorney General, which function

may not be delegated. That authorization was not obtained in this

instance. So, the proceedings and prosecution commenced against COLE

by Magistrate Brennan in no. 2:14mj218 on 9/18/2014 were prohibited.

ARGUMENT

"To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort." Bordenkircher v Hays, 434 US 357, 363, 98 S Ct 663, 54 L Ed 2d 604 (1978).

"[A]t the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country;" Chisholm v Georgia, 2 Dall 419, 471, 1 LED 440 (August term of 1793).

"The sovereignty belongs to the people of the State... and the Legislature possesses those attributes of sovereignty, and those only, which have been delegated to it by the people of the state under its constitution." The Charles River Bridge v The Warren Bridge et al., 11 Peters 420, 644, 9 LED 773.

This Court made plain that the sovereignty belongs to the people whether the dead hand be the United States or one of the several states due to the ancient principle of *morte main*. A dead hand may be permitted to exercise a portion of the sovereignty, but the sovereignty must have its source in man. When both the United States and one of the several states charge a person for the same act it violates the bar to double jeopardy. There is only one sovereignty in the United States of America, the People. Erroneous precedents claiming otherwise are based on the fallacy that two dead hands are two distinct "sovereignties". This is claimed to have been established by Fox v Ohio, 5 Howard 410, 12 LED 213:

"The power conferred upon Congress by the fifth and sixth clauses of the eighth section of the first article of the Constitution of the United States ... does not prevent a State from passing a law to punish the offense of circulating counterfeit coin of the United States. [5 Howard 411] The two offenses of counterfeiting the coin, and passing counterfeit money are essentially different in their characters."

On July 9, 2014 state and Federal Executive Branch Officials met and conspired to have COLE held in state custody until some future date when justice gets thwarted by by-passing due process requirements and Speedy Trial Act, then "turning him over" to be tried on Federal charges and dismissing the ruse state cause. They made judicial decisions as to venue and which States' law governed with the foreknowledge that co-conspirators in the judicial branch would perform the overt acts required to effect the judicial decisions of the prosecutors without regard to facts or law or the rights of the accused or States. They pre-arranged a sham trial before a prejudiced judge employing virtually every artifice and privation.

On September 18, 2014 the Fifth amendment bar to double jeopardy was violated by the Federal prosecution being instituted for the same act while the state prosecution was still ongoing and COLE was in state custody. The Supreme Court of the United States has repeatedly held that, "No such case can exist." Covell v Heyman, 111 US 176, 182, 28 LED 390 (1884); Pulliam v Osborne, 17 How 471, 476, 15 LED 154 (1855); Taylor v Carryl, 20 How 583, 595, 15 LED 1028 (1858). The Government attempts to argue that it only applies to property, but that is not so.

" Jurisdiction was defined by the "principles of public law" that regulate the relationships among independent nations. The first of those principles was "that every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory." The second was "that no State can exercise direct jurisdiction and authority over persons or property without its territory." [Story, Confl. L. ch.2 Wheat. Int. L., pt. 2, ch. 2. ("the laws of one state have no operation outside of its territory, except so far as is allowed by comity; and that no tribunal established by it can extend its process beyond that territory so as to subject either persons or property to its decisions. "Any exertion of authority of this sort beyond this limit," <* pg. 569> says Story, "is a mere nullity and incapable of binding such persons or property in any other tribunals." Story, Confl. L. sec. 539." Pennyoy v Neff, 95 US 714, 722-723, 24 LED 565 (1878))]."
Shaffer v Heitner, 433 US 186, 197, 53 L Ed 2d 683, 97 S Ct 2569 (1977).

"One accused of crime has a right to a full and fair trial according to the law of the government whose sovereignty he is alleged to have offended, but he has no more than that. He [and the prosecution] should not be permitted to use the machinery of one sovereignty to obstruct his trial in the courts of the other, The chief rule which preserves our two systems of courts from actual conflict of jurisdiction is that the court which first takes the subject-matter of the litigation into its control, whether this be person or property, must be permitted to exhaust its remedy to attain which it assumed control, before the other court shall attempt to take it for its purpose....

" The forbearance which courts of co-ordinate jurisdiction, administered under a single system, exercise toward each other, whereby conflicts are avoided by avoiding interference with the process of each other, is a principle of comity, with perhaps no higher sanction than the utility which comes from concord; **but between state courts and those of the United states, it is something more. It is a principle of right and of law, and, therefore, of necessity. It leaves nothing to discretion or mere convenience.**" [Bold emphasis added]... The Heyman Case concerned property, but the same principle applies to jurisdiction over persons,...." Ponzi v Fessenden, 258 US 254, 260-261, 56 LED 607 (1922).

"The principle which defines the boundries of jurisdiction between the judicial tribunals of the States and of the United States...[a]nd speaking of the procedure in cases of habeas corpus,... the Chief Justice continues: "But after the return is made and the state judge or court judicially apprised that the party is in custody under the authority of the United States [or any State], **they can proceed no further. They then know that the prisoner is within the dominion and jurisdiction of another**

government, and that neither the writ of habeas corpus nor any other process issued under state authority can pass over the line of division between the two sovereignties. He is then within the dominion and exclusive jurisdiction of [that State]. [Bold emphasis added.] No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and any attempt to enforce it beyond these boundaries is nothing less than lawless violence." Covell v Heyman, 111 US 176, 182-184, 28 LED 390 (1884).

A most injurious conflict of the power to decide would almost certainly arise between two Governments' courts if a deciding legal action of the one Government's court could be extorted or a stipulated decision demanded on property or a person which had been seized by the other Government's court, which is demonstrated by this instance of effectuation of the July 9, 2014 conspiracy. COLE was "deprived of his 'valued right to have his trial completed by a particular tribunal.'" U.S. v Scott, 437 US 82, 99, 57 LED 2d 65 (1978).

"A most injurious conflict of jurisdiction would likely often to arise between the federal and the State courts, if the final process of the one could be levied on property which had been taken by the process of the other. ... **No such case can exist**; property once levied on remains in the custody of the law, and it is not liable to be taken by another execution, in the hands of a different officer; and especially by an officer acting under a different jurisdiction. [Bold emphasis added.]" Hagan v Lucas, 10 Peters 400, 403, 9 LED 470 (18??) [The dates are removed from the reporters].

The Executive Branch Officers of the two governments colluded to dictate to both Federal and State courts what stipulated "judicial decisions" they would declare. Federal and State judges violated their Oaths and the criminal laws of the United States and abused their Offices to use the power of the courts to effect the July 9, 2014 conspiracy of the Executive Branches of the two Governments. See Appendices 6-16 as an offer of proof of fraud, treason, and seditious conspiracy.

"Whenever a judge acts where he/she does not have jurisdiction to act, the judge is engaged in an act or acts of treason." United States v Will, 449 US 200, 216, 101 S Ct 471, 66 L Ed 2d 392, 406 (1980).

"[T]he writ ad prosequendum was necessary to remove a prisoner in order to prosecute him in the proper jurisdiction wherein the offense was committed. ... [Blackstone] recognized the customary issuance of the writ ad prosequendum by a jurisdiction not the same as that wherein the prisoner was confined." Carbo v United States, 364 US 611, 614-618, 5 L Ed 2d 329, 81 S Ct 338 (1961).

The logic of the collateral-order doctrine does not apply as prejudice caused by not deciding the claim of right to an impartial judge first may vitiate all subsequent proceedings. Denial of the appeal to enforce a paramount right may constitute the removal of all remedy for the enforcement of that right and thereby the right itself. See POINDEXTER v GREENHOW, 114 US 270, 303, 29 LED 185 (1885). See also ASHCROFT v IQBAL, 556 US 662, 173 L Ed 2d 868, Hdnts. 2 & 3.

Judge BURRELL proceeded to sentencing without jurisdiction on 8/28/15 when jurisdiction was properly in the Ninth Circuit Court of Appeals until 11/20/2015. (See ECFs 153, 165, and 100 filed 6/15/2015.) COLE served notice of said jurisdiction 7/2/15, ECF 110, and 7/29/15, ECF 135. The proceeding was intentionally prejudiced by failure to submit the addendum required by F.R.Crim.P. Rule 32 (g) and (i)(1)(A) &(C). The accused was prejudiced by denial of requests for transcripts, auxiliary services, and advisory counsel. See ECFs 108, 109, 123, and 149. (See Appendix 14, no. 2:14cr269).

COLE contends he was subjected to lawless violence, traduced, deprived of liberty, property, due process, privilege, and entitlements to bail, proceedings according to the course of the common law, the benefits of the writ of Habeas Corpus, in breach of the Northwest Ordinance (N.O.), Art. 2. He was denied the equal protection of the laws under the 14th Amendment and virtually every right guaranteed by the Bill of Rights. The record was silenced and the truth and facts concealed through fraud on the court. The structural error of a biased judge vitiated completely.

Judge BURRELL has abused his office to protect and effect the July 9, 2014 conspiracy as the chief principal, including the judicial decisions of the Executive Branches.

"No fraud is more odious than an attempt to subvert the administration of justice. [H]ow best the wrong should be righted and the wrong doers pursued[?]" Hazel-Atlas Glass Co. v Hartford-Empire Co., 322 US 238, 251, 88 LED 1250 (1944). Stewart v United States, 2018 US Dist. LEXIS 219386: 6.

Judge BURRELL's purpose for retaining control over the cause is to defend the nefarious judicial decisions and conspiracy devised by numerous Executive Branch Officials of the California State and Federal Governments on July 9, 2014 at the meeting in the Nevada County Sheriffs Office (NCSO). The object of said conspiracy was to set up a device whereby the judicial process would be reduced to a sham and the court organized only to convict and impose a machiavellian sentence according to the will of the Executive Branch without regard to law or facts which would prevent COLE from discharging any duties of his office under the United States. They effectuated this conspiracy, which constitutes crimes under 18 USC §§ 2 3, 4, 241, 242, and 372.

Persons entrusted with the Power and Agencies of the United States and the State of California violated their Oath to uphold the law and defend the Constitution of the United States by using the power and force of their Offices to oppose the legitimate authority of the United States and to prevent the righteous execution of the laws of the United States; and did thereby impose their will.

To impose by legal authority is to levy. War is a state of hostility, conflict, or antagonism. Attempting to effect said conspiracy levies war against the United States. It adheres, gives aid, and comfort to the enemies of the United States. It constitutes treason. 18 USC § 2381, It is seditious conspiracy under 18 USC § 2383. Cognizance is required: 31 May 1870, c. 114, s. 9, v. 16, p. 142, § 1982. (Title XXIV).

Because the cause was not brought before the court by the regular course of judicial proceedings, the cause does not, and can not, constitute a "Case" under Article III, § 2, cl. 1 of the U. S. Constitution. Judicial Power does not extend to it. The district court was barred thereby from having subject matter jurisdiction. The judgment and orders of the trial court are void.

"22. The inherent right of self defense has been central to the Second Amendment right. ... [¶] 23. Rational-basis scrutiny is a mode of analysis the United States Supreme Court has used when evaluating laws under constitutional commands that are themselves prohibitions on irrational laws." District Of Columbia v Heller, 171 L Ed 2d 637, 2008 US LEXIS 5268.

COLE has been incarcerated for more than five years, sentenced to death by incarceration for an alleged crime that did not occur for which no corpus delicti exists. No impartial investigation was done. Ab inito, it was decided that COLE would be charged for crimes and convicted to protect the officers involved with the shooting. No ballistics analysis or gunpowder residue test was conducted or permitted in the FBI/NCSO investigation, especially on COLE's clothing because either would prove that the Government's claims are false and both involved officers' testimonies are perjuries. They are contrary to the evidence and physically impossible because the injuries inflicted on COLE by a vertical wound could only have been inflicted from within a few feet and the bullet strike mark in the roadway at the spot where he stood prove the BLM Agent shot him before he attempted to draw his gun and it is admitted that the CHP Officer had already drawn his gun and targeted COLE before the first shot was fired. Agent FORRISTEL's perjured affidavit was filed in the Government's Opposition March 1, 2019, Appendix 15, and is proved to be perjury by Appendix 16, Liller's Report p. 2. It demonstrates the perjury and fraud on the court that has been pervasive in this cause throughout. The Counsel, J. Toney, forced upon COLE by the court, concealed Beresford's investigation, including his interview with witness Christopher DONEGAN, who was handcuffed in the roadway at the top of the "camp" clearing long before the first uninvolved law enforcement or medical personnel arrived. Toney had it OCT. 2014:

The CHP did a separate investigation, and CHP records department admits it is in their records, including HARDIN's initial statement and initial interview, findings and conclusions of the investigation, and his initial report. It is still being withheld from the accused and no appointed attorney ever sought it. The trial court refused to allow any auxiliary services, esp. forensic experts.

PETITION FOR WRIT OF CERTIORARI - PAGE 18 OF 31 - COLE v U.S.

1) Art. III, § 2, cl. 3, U.S. Const. requires that, "Trial shall be held in the State where the said Crimes shall have been committed;" which in this instance is solely within the exclusive territorial jurisdiction of the state of California. BLM lands are not ceded to the United States. The Tenth Amendment reserves the powers not specifically deligated to the United States to States or to the people, which include the sovereignty and:

"The States possess primary authority for defining and enforcing the criminal law." Brecht v Abrahamson, 507 US 619, 633-635 (1993).

"[A]t the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country;" Chisholm v Georgia, 2 Dallas 419, 471-472, 1 LED 440 (August term, 1793).

"The Sovereignty belongs to the people of the State... and the Legislature possesses those attributes of sovereignty, and those only, which have been delegated to it by the people of the State under its constitution." The Charles River Bridge v The Warren Bridge, et al., 11 Peters 420, 644, 9 LED 773.

The sovereignty must reside in man and cannot be vested in a dead hand under the principle of morte main and nature of sovereignty. Territorialism and the principles of jurisdiction determine what the proper venue is and which laws will apply to a criminal cause. The Federal Courts were precluded from the exercise of jurisdiction in this cause by the prior exclusive jurisdiction doctrine and territorialism. See KLINE v BURKE CONST. CO., 260 US 226, 229, 67 LED 226.

"No judicial process, whatever form it may assume, can have any lawful authority outside the limits of jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." ABLEMAN v BOOTH, 21 How 506, 523-4, 16 LED 169 (1859).

The United States has no authority to legislate criminal laws which preempt the valid laws of the State within its exclusive jurisdiction that fall outside of the specifically enumerated bounds of Article I, § 8. There exists only one sovereign and that is the people. The governments are delegated attributes of that to exercise.

The Sixth Amendment requires all criminal prosecutions shall be by a jury of the State and district wherein the crime shall have been committed and territorialism that the venue determines which State's law applies to an alleged crime. The Tenth Amend. reserves Powers not delegated to the States or people including police Powers, so: "The States possess primary authority for defining and enforcing the criminal law." Brecht v Abrahamson, 507 US 619, 633-635 (1993). Art. III, § 2, cl. 3 mandates "Trial shall be held in the State where the said crimes shall have been committed;", which in this instance was exclusively within California's jurisdiction. 18 USC § 13 does not apply as BLM land is not ceded. The state first exercised jurisdiction over the cause. Venue is out of the territorial jurisdiction of the U.S. and exclusively the State's.

2) The Treaty formed by the Northwest Ordinance (N.O.), Art. 2, was violated in many ways including COLE's entitlement to the benefits of the writ of habeas corpus by circumvention of the necessary process, the writ ad prosequendum for removing a prisoner into a different jurisdiction for trial. 28 USC §§ 2241(c)(5)-2243. Carbo v United States, 364 US 611, 614-618, 5 L Ed 2d 329 (1961).

3) The cause was not brought lawfully before the cognizance of the court by one of the parties according to the regular course of proceeding and can never be a "Case" by the express terms of Art. III, § 2, cl. 1 and the Judicial Power can not extend to it. The purpose for the ruse of having the State hold COLE in custody was to violate due process and 18 USC §§ 3060, 3161(b), and judicial examination requisits such as sufficiency of probable cause for warrantless arrest. The Fifth Amend. requirement for indictment was abridged.

"It is the duty of the court to see if they have jurisdiction, for the consent of the parties cannot give it; and if they decide a case of which they have no jurisdiction, it is the error of the court. The decision is void because coram non iudice." CAPRONE v VAN NORDEN, 2 Cranch 126, 2 LED 229.

"If the jurisdiction does not appear upon the face of the proceedings, the presumption of law is, that the court had not jurisdiction and the case was coram non iudice; in which case no valid judgment could be rendered." Ex parte Watkins, 3 Peters 193, 204, 7 LED 650.

"[J]urisdiction was defined by the "principles of public law" that regulate the relationships among independent nations. The first of those principles was "that every State possesses exclusive jurisdiction and sovereignty over persons or property within its territory." The second was "that no State can exercise direct jurisdiction and authority over persons or property without its territory." Shaffer v Heitner, 433 US 186, 197, 53 L Ed 2d 683, 97 S Ct 2569 (1977)." DAIMLER AG v BAUMAN, 571 US 117, 2014 US LEXIS 644.

"[W]here the jurisdiction of the state court has first attached, the federal court is precluded from exercising its jurisdiction over the same res to defeat or impair the state court's jurisdiction. The forbearance which courts of coordinate jurisdiction ... exercise ... between state courts and those of the United States is a principle of right and law, and therefore of necessity. It leaves nothing to discretion or mere convenience. ... [A]nd when one takes into its jurisdiction a specific thing, that res is as much withdrawn from the judicial power of the other To attempt to seize it by a foreign process is futile and void. ... "And the same rule applies where a person is in custody under the authority of the court of another jurisdiction." Ponzi v Fessenden, 258 US 254, 66 LED 607, 42 Sup. Ct Rep 309 ...". KLINE v BURKE CONSTRUCTION CO., 260 US 226, 229-230, 67 LED 226 (1922).

"[T]he writ ad prosequendum was necessary to remove a prisoner in order to prosecute him in the proper jurisdiction wherein the offense was committed. ... [Blackstone] recognized the customary issuance of the writ ad prosequendum by a jurisdiction not the same as that wherein the prisoner was confined." CARBO v UNITED STATES, 364 US 611, 614-618, 5 L Ed 2d 329 (1961). See United States v Mauro, 436 US 340, 355, 56 L Ed 2d 329 (1978).

The Constitution, Art III, § 2, cl. 3 mandates, "Trial shall be held in the State where the said crimes shall have been committed;...." which makes the venue a matter of law determined by territorialism. The United States of America had not locus standi to bring the cause before the federal court to be heard. There was no affirmative showing of jurisdiction, so the cause was coram non iudice.

Federal Courts were precluded from exercising jurisdiction. The Executive branches, state and Federal despite that prohibition, conspired to make judicial decisions disregarding law, justice, and Oath, to impose their will, abetted by judges, to effectuate their criminal plot to the injury of COLE and Rule of Law.

"Whenever it is manifest that justice has been disregarded, the court is bound to treat the decision as a matter of no value and no substance."
Price v Dewhurst, 8 Sim 279, 302 (1837).

Art. I, § 8, cl. 6, 10, 17, and 18 with Art. III, § 3 specifically enumerate the police Powers of the United States. When a party in a proceeding in a U.S. court alleges that the criminal laws of the United States were violated, the judge is duty bound to consider the validity and veracity thereof, to inquire into such and perform the appropriate act or refer to the appropriate agency if merited under the Civil Rights Act § 1982, 31 May 1870, c. 114, s. 9, v. 16, p. 142 and the Fourteenth Amendment, because to do otherwise denies that person "the equal protection of the laws". Judge BURRELL demonstrated his prejudice by refusing to consider the allegations of criminal acts committed at the Jan. 30, 2015 in camera hearing made by COLE and refusing to abide by F.R.Crim.P. RULE 16 to conceal evidence of those alleged crimes, denying him equal protection of law. COLE contends he is being punished for defending himself against an unwarranted seizure and assault on his person using force and arms without informing him that he was being arrested or the authority for attempting to arrest him illegally. It is now claimed that the illegal attempted arrest was because the BLM Agent wished to detain COLE for custodial detention, and that it was lawful for the officers to use lethal force to arrest if they were frightened by COLE bearing arms in a wilderness area populated with the problem bears that were removed from State and Federal Parks. The jury was instructed in secret that, in essence, it is the law that officers were within their rights and COLE had no right to defend. This is in essence directing the jury to presume mens rea, a crucial element of §111, which was not alleged in the indictment or at trial. Imposed counsels refused to raise the issue or challenge the allegation that officers were lawfully engaged in performance of duties. They were stealing property, had no warrant, had loaded ammunition into their guns that violates 18 USC § 2441, and under Title XXIV § 8 1871 they must be deemed to have committed larceny.

The BLM land where the Federal BLM Agent attempted arrest without a warrant and instigated the shooting was within the exclusive territorial jurisdiction of the state of California and not ceded. The Assimilative Crimes Act, 18 USC § 13, is not applicable. Does 18 USC § 111 preclude application of the state's law? Does the state law apply because it was within its exclusive jurisdiction? Does charging both under state and federal law for the same crime for the same act violate the bar to double jeopardy? Does charging under state law preclude charging under 18 USC § 111?

On July 9, 2014 a meeting was held at Nevada County Sheriffs Office (NCSO), wherein State and Federal Officials colluded to have the State hold COLE in custody solely to be turned over to the Federal Government for prosecution on Federal charges at a future date. APPENDIX 6 is the Docket Sheet of the Nevada County District Attorneys Office (NCDA) for case no. F14-000267 in Superior Court Of California County of Nevada, DA Log no.: 14-06-031256, Agency: CHP. The p. 1, 7/9/14 entry evidences a meeting held at NCSO's Office. Evidence suggests that it was attended by AUSAs McCoy and Coppola, FBI Agent Forristel, NCDA Anna Ferguson, Randall Billingsley, Thomas Swisher, NCSO Russell Greene, Daniel Sanders, BLM Josiah Andrews, Kynan Barrios, CHP Matt Whiting, and probably others. On p. 2 the 9/18/14 entry shows that AUSA McCoy was to file an indictment the next day. Then the 9/25/14 entry states that "per AUSA COLE was in Federal Custody" and that the State D.A. was directed to dismiss the charges in no. F14-000267 without prejudice in favor of the federal indictment. This documents an overt act in furtherance of the conspiracy.

APPENDIX 7 is a letter from NCSO and listing of Invitees that evidences that the meeting was actually held at their Office July 9.

APPENDIX 8 is an email from FBI Agent FORRISTEL to State D.A. Anna FERGUSON, Cc To: Attendees of the 7/9/2014 meeting with the Arrest warrant, Criminal Complaint, and Affidavit of FORRISTEL in 2:14mj212.

APPENDIX 9 is the Docket Sheet for 2:14mj212 evidencing that the writ ad prosequendum was bypassed, how it was done, and that the proceedings were not the regular course of judicial procedure.

APPENDIX 10 is the minutes of the court hearing in no. F14-000267 of the nolle prosequi in absentia COLE because he was previously "Turned over to the Federal Government per the jail" dated September 25, 2014. It evinces that there was no lawful judicial process for removing the prisoner from one jurisdiction to another to stand trial on criminal charges, that no notice or citation was given, and that the necessary writ ad prosequendum was willfully circumvented. Also, that both State and Federal prosecutions were instituted at the same time for the same act for the same alleged crime in violation of the bar to double jeopardy and due process. Fifth and Fourteenth Amendments, 28 USC §2241, 18 USC §§ 372, 1201, 3161(b), 3501, and other law were violated. The conspiracy effected.

APPENDIX 11 is the minutes of the Court hearing dismissing no. M14-000388 in absentia COLE, without notice of the hearing being given more than three and a half years later, on May 25, 2018. This is the charge upon which COLE was being held without bail. It was instituted January 26, 2014 and concealed by the federal courts. It proves that COLE is a public Minister who had been lawfully engaged in the performance of duties as a statutory Federal Officer when the shooting incident was instituted by PULTORAK. The ANSWER filed by COLE was ordered to be part of the record.

COLE proffered and served his "ANSWER WITH BILL OF EXCEPTIONS And Affidavit in support" on June 5, 2014 in open court, where it was ordered to be part of the court file and the District Attorney, Jessie Wilson, was ordered to respond by June 25, 2014. It challenged constitutionality of the statutes under which COLE was charged and the legality of the court's procedures under the law. The legal pleading and affidavit were removed from the court file and apparently destroyed. No attempt was ever made to respond. COLE asserted his privilege to proceed as Statutory Attorney General of the United States under 18 USC §§ 6, and 1961 et seq. The Affidavit evidenced standing as such and previous acceptance by the courts. APPENDIX 12 is the June 4, 2014 affidavit and COLE's Oath of Office. APPENDIX 13 is negative proof that the ANSWER and Affidavit were removed from the court's file before August 14, 2014, Memorandum by Counse Schutz, and the court Clerk's February 25, 2019 letter attesting that it is still not in the file, confirming removal and probable destruction. This reveals a crime under 18 USC § 1512(c). COLE asserted that this document's removal reveals a possible motive for the officer involved shooting and for the conspiracy to remove the prosecution of COLE into the Federal court unlawfully.

Judge BURRELL demonstrated his bias against COLE by abetting the concealment and suppression of this evidence and abrogating COLE's right to be informed of the nature of the allegations against him by denying him his right to discovery of the evidence against him. Said bias was further demonstrated by his refusal to consider any possibility that the officers involved in the shooting had done anything wrong or unlawful to instigate the shooting or assault COLE. The imposition of a sentence of death by incarceration proves bias.

The refusal of judge BURRELL to consider COLE's allegations that the Officers involved in the shooting committed crimes against the United States during the encounter deprived him of the equal protection of the laws under the 14th Amendment, demonstrated bias against COLE, and violated his duty under 1 Stat. 73, 91, ch. 20 § 35 and the civil rights acts of 1870. COLE contends the bullets they were using constituted a violation of 18 USC § 2441 and their actions a personal trespass and assault. APPENDIX 14 is a picture of the bullets they were using in violation of the Rome Statute ICC. Also that their failure to inform COLE he was under arrest or of the authority under which they were arresting him invokes the Fourth Amendment protections against illegal seizure and illegal arrest.

Both of the lower courts abrogated COLE's right to self-represent and forced counsel upon him against his expressed demand that he be allowed to plead and manage his own cause personally. COLE was not accorded an opportunity to be heard at a meaningful time or in a meaningful manner as required by the Sixth Amendment and due process. Art. III, § 2, cl. 2 vests original Jurisdiction in the Supreme Court as COLE is a public Minister. It is necessarily exclusive jurisdiction. Ames v Kansas, 111 US 449, 464. The trial court had not jurisdiction "where the claim clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction" and because "forclosed by prior decisions of this Court," Steel Co. 523 US at 89. Under 18 USC § 7 the territorial jurisdiction of the United States includes only what is "out of the jurisdiction of any particular State". BLM lands are within the exclusive territorial jurisdiction. 18 USC § 3231 is unconstitutional because it supplants Art. III, § 2. Congress has not the authority to by pass Art. V of the U.S. Const.

PETITION FOR WRIT OF CERTIORARI - PAGE 26 OF 31 - COLE v U.S.

APPENDIX 15 is the affidavit of FBI Agent Andrew FORRISTEL proffered in the Government's Opposition to defendant's Motion as Exhibit B. On page 2 it is claimed that "Aside from Browning's singular statement, the FBI is not in possession of any evidence that a second individual who was not a law enforcement officer or EMS provider, handcuffed or not, was present at the crime scene." On page 1 it states that, "On October 29, 2014, the FBI received a copy of NCSO report 1140-1626, containing Supplements 1 through 27... which was provided to the United States Attorney's Office for purposes of discovery." Fire Chief James Turner's interview was also in said discovery, who was in the clearing with Tom Browning, and stated in his interview unequivocally that a citizen other than COLE was in the roadway in the clearing handcuffed, i. e. Christopher DONEGAN.

APPENDIX 16 is Supplemental Incident Report no. 9 by Andrew LILLER. On page 2, Bates stamped "COLE_01043" it says:

"I went back to the scene after escorting Officer Hardin to his vehicle. I saw an additional subject detained at the scene by CHP Officer Lilyquist. The subject's name was Christopher Donegan."

The Government knowingly concealed at least three witnesses and Deputy LILLER's report to conceal witness Christopher DONEGAN and the separate investigations of the California Highway Patrol (CHP) and the private investigation of Robert Beresford, who interviewed Mr. DONEGAN, who would have probably impeached both involved Officer's testimonies. BLM Agent Pultorak brandished his assault rifle when he accosted him. He saw things, and heard conversations which had he testified would have probably informed the jury of the truth and made them aware they were being deceived. 18 USC §§ 1001, 1621.

OVERVIEW

California instituted prosecution Jan. 26, 2014 in M14-0388 for keeping arms. Cole challenged Constitutionality of the Cal. PC §§ 25400, and 25850 for lawfully keeping and bearing arms, a right guaranteed by the Second Amendment. The court refused to allow constitutionality to be challenged, insisting in error that the jury must determine the constitutionality of the CA "law". Is it the judge's duty?

COLE filed his ANSWER June 5, 2014, ordered to be part of the record and the D.A. to respond by June 25, which was not done. It was removed from the court file.

June 14, the BLM agent instigated the shooting in COLE's wilderness camp. Christopher DONEGAN walks into the clearing almost immediately and is tackled and handcuffed by HARDIN, but it complicates finishing COLE off. Concealment of the witnesses and evidence began right then: Casings, sun-glasses, and cuffs moved.

March 1, 2019 FBI Agent FORRISTEL's perjured affidavit, Appdx. 15 was filed as EXHIBIT B in ECF 210 in 2:14-cr-269, revealing the pattern of concealment of witnesses and fraud on the court that began nearly 5 years previous when compared with LILLER's Report no. 9, Appdx. 16. It reveals that witnesses Browning, Turner, Liliquist, and Liller were concealed to conceal witness Christopher Donegan.

The USAO falsely claims COLE "ignores Mr. Browning's further explanation" on p. 4, ¶ 1 of Appdx 22. COLE pointed out that the interrogator stopped him from stating why he believed that to be fact, and pressured him to recant what he had stated unequivocally as being fact based on what others has said. Prosecutor's knew that they could not conceal the witnesses and evidence in State court, so:

State and Federal Executive Officials met at NCSO July 9, 2014 and conspired to have the federal charges brought in violation of 18 USC sec. 3261(b):

"No prosecution may be comenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the deputy Attorney General, which function may not be delegated."

They conspired to by-pass the writ ad prosequendum and due process to violate it.

SUMMARY

Judicial notice is hereby given that on 1/14/2020, pursuant to ORDER of Chief Judge K. J. Mueller: 2:14-cr-00269-WBS-DB is reassigned to William B. Shubb for all further proceedings. District Judge Garland E. Burrell Jr. is no longer assigned to the cause. Docket No. (ECF) 220.

The fact that the judge has been changed now does not make the argument or questions moot. The USCA for the Ninth Circuit has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. If left undisturbed, the holding will stand as a binding precedent within the Ninth Circuit. Kalamazoo County Rd Comm'n v Delon, 2015 US LEXIS 5. See also City of ERIE v PAP'S A.M., 529 US 277, 306 (2000).

The United States Court Of Appeals For The Ninth Circuit has sanctioned such a departure by a lower court from the accepted and usual course of judicial proceedings as to entreat an exercise of this Court's supervisory power by refusing/ failing to examine its jurisdiction and effecting judicial decisions made by the Executive Branch of Government without regard to law, justice, rights, or injury to parties or the Governments of the State and United States.

The Federal prosecution instituted September 18, 2014 in 2:14mj212 (see Appdx. 9) was instituted unlawfully for purposes that violate the Constitution as it:

- 1) prosecuted acts that occurred exclusively within the venue of a state;
- 2) was for acts that occurred exclusively without the U.S. jurisdiction, § 7;
- 3) violated the prior exclusive jurisdiction doctrine (Kline, 260 US at 229);
- 4) the cause did not arise according to "the regular course of judicial procedure" and does not amount to a "Case" to which judicial Power extends (see Muskrat v U.S. 219 US 346, 356-357 (1911); Steel Co. v Citizens For Better Env., 523 US 83, 102, 140 L Ed 2d 210, 118 S Ct 1003 (1998);
- 5) the necessary process for moving a prisoner from one jurisdiction into a foreign jurisdiction to be tried on criminal charges was by-passed.

- 5 (cont.)) The court was enjoined by the law. Dynes v Hoover, at 80.
- 6) The cause was unlawfully brought. Ipso facto not under U.S. Constitution.
- 7) Federal prosecution was prohibited from being commenced by 18 USC §3261(b).
- 8) COLE is a public Minister. Jurisdiction over his person is vested solely in this supreme Court by Art. III, § 2, cl 2. Original Jurisdiction is necessarily exclusive. Ames v Kansas, 111 US 449, 464 (1884); South Carolina v Reagan, 465 US 367, 397, 79 L Ed 2d 372, 104 S Ct 1107 (1984).
- 9) The purpose for exercising the Federal district court's jurisdiction was to effect the conspiracy agreed upon by State and Federal Executive branch Officials July 9, 2014, violating 18 USC 242, 371, 372, and 1201(c).

How best the wrong should be righted and the wrong doers pursued? See supra p. 17. The imposition of a death sentence by incarceration on COLE for an alleged crime that did not occur is contrary to justice and repugnant to the Constitution.

The imposition of ineffective Counsel to "represent" in abrogation of COLE's demand to be allowed to plead and manage his own cause personally, coupled with continuous subjection to cruel and unusual punishments and deprivation of all access to legal materials and the requisits to prepare a meaningful legal pleadings deprived him of fundamental fairness, virtually all rights, and all remedy. COLE has been deprived of all right to dismiss unwanted counsel, which still injures. The judgment of the federal district court is void. Redress is due.

The jurisdiction of any court may be inquired into in every other court when brought by a party, and if it acted without authority, "its judgments and orders are nullities; they are not voidable, but simply void, and form no bar to a recovery sought, even prior to reversal, in opposition to them; they constitute no justification, and all persons concerned in executing such judgments, or sentences are considered in law as trespassers." Williamson et ux. v Berry, 8 Howard 495, 541, 12 LED 1170.

The lower courts refused and/or failed to show or examine their jurisdiction.

RELIEF SOUGHT

For the foregoing reasons, the Petitioner, Brent Douglas Cole, respectfully prays that the following be granted by this Court:

- 1) Declare federal-question jurisdiction;
- 2) Issue a writ of certiorari for all cases related to this cause: Federal : USCA 9th Cir. nos. 19-10019, 15-10459, 15-10313; USDC Eastern Dist. of Calif. nos. 2:14-cr-00269-GEB 2:14-MJ-212-EFB, 2:19-cv-02274; State case nos. M14-000388 and F14-000267 in the Superior Court Of California County Of Nevada and review, instituting prosecutions if appropriate;
- 3) Declare the District Court judgment and sentence void;
- 4) Order the Release of The Petitioner from his confinement;
- 5) Order any and all further proceedings this Court deems are appropriate;
- 6) Take any and all other actions this Court deems appropriate to enforce the requirement that all Legislative, Executive, and Judicial Officers, both of the United States, and of the several states are bound by the required Oath and to enforce the rule of law.

VERIFICATION

I am the Petitioner in this action. All facts alleged in the above petition not otherwise supported by citations to the record, exhibits, or other documents are true of my own personal knowledge. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

So help me God.

Executed at Oxford, Wisconsin

Brent D. Cole

Date: January 25, 2020

Brent Douglas Cole, Reg. no. 71911-097
P. O. BOX 1000
OXFORD, WI 53952