No. 22-6338

IN THE

SUPREME COURT OF THE UNITED STATES

LUCAS MCNULTY-SNODGRASS — PETITIONER

vs.

UNITED STATES FEDERAL GOVERNMENT, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Lucas McNulty-Snodgrass 40802-509

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FCI Hazelton

LIST OF PARTIES

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

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- Criminal Case No. 3:21-cr-00047-SMR-SBJ
  (Southern District of Iowa (Eastern Division))

- Eighth Circuit Appeal No. 22-1067

QUESTION(S) PRESENTED

1.) "Since methamphetamine and fentanyl, i.e., illicit drugs et al., are considered "contraband," and contraband is not considered a proper article of commerce protected by the Commerce Clause (U.S. Const. Art. 1, Sec. 8, Cl. 3), then how is the United States Department of Justice, i.e., Executive Branch, and the United States Federal courts, i.e., Judicial Branch, using the Commerce Clause as [their] requisite jurisdictional means to prosecute and preside over illicit drug possession contraband crimes, committed solely within the territorial jurisdiction of the State of Iowa, when the United States Congress, i.e., Legislative Branch, has explicitly enacted substantive statutory Federal Law 21 U.S.C. Section 903, which prescribes Congressional 'intent' concerning the occupation and control of illicit drug possession contraband crimes committed solely within the territorial jurisdiction of the [States], which, provides that, '[N]o provision of this subchapter shall be construed as indicating an intent on the part of Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, UNLESS there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.' [?]" (emphasis added)

2.) "Since the United States Congress, i.e., Legislative Branch, has no 'intent' to occupy or control the field of illicit drug possession contraband crimes committed solely within the authority, i.e., territorial jurisdiction of the [States], '[i]ncluding criminal penalties,' UNLESS the [State], e.g., State of Iowa, illicit drug possession contraband law, i.e., I.C.A. Sections 124.101 to 124.602, conflicts with the Federal law, i.e., 21 U.S.C. Sections 801 to 904, then why is the United States Department of Justice, i.e., Executive Branch, violating Congressional substantive statutory 'intent' and the United States Constitution's Article II, Section 3, 'Faithfully Executed Clause,' i.e., '[s]hall take Care that the Laws be faithfully executed,' that further violates Article IV, Section 1, 'Full Faith and Credit Clause,' i.e., '[s]hall be given to each State to the public Acts, Records, and judicial Proceedings,' that clearly violates Article IV, Section 4, '[T]he Guarantee Clause," i.e., '[s]hall guarantee to every State in this Union a Republican Form of Government,' that each State govern and protect its own citizens; and why is the United States Federal Courts, i.e., Judicial Branch, presiding over these proceedings for want of jurisdiction and allowing this to happen, all in violation of [their] bound Oath to support the United States Constitution pursuant to 5 U.S.C. 3331, which is treason to the United States Constitution (usurping jurisdiction that which is not given), but not limited to, treason against every State in this Union, e.g., the State of Iowa [?]" (emphasis added)

3.) "Since the United States Federal Courts, i.e., Judicial Branch, in general, cannot take a blue pencil to statutes, because to do so violates separation of powers carved into the United States Constitution, and considered an act of legislating, i.e., creating and defining law, then why has this Court allowed and adopted the void opinion in Scarborough v. United States, 431 U.S. 563, 97 S.Ct. 1963, 52 L.Ed.2d 582 (1977)(Marshall, J.), when the Court clearly used a blue pencil and rewrote the 18 U.S.C. Section 922(g) Federal Statute law, by adding three (3) words, i.e., 'at some time,' this Court knowing the opinion violated separation of powers carved into the the United States Constitution, which effectively enacted/ratified prohibition on firearm possession crimes committed solely within the territorial jurisdiction of the State of Iowa, and has provided the United States Department of Justice, i.e., Executive Branch, and the lower Federal Courts, i.e., Judicial Branch, the requisite jurisdictional means to prosecute and preside over [all] firearm possession crimes, no matter where the firearm possession occurred, when the United States Congress, i.e., Legislative Branch, has explicitly enacted substantive statutory Federal law 18 U.S.C. Section 927 which prescribes Congressional 'intent' concerning the occupation and control of firearm possession crimes committed solely within the territorial jurisdiction of the [States], which, provides that, '[N]o provision of this chapter shall be construed as indicating an intent on the part of Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, UNLESS there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.' [?]" (emphasis added)

4.) "Since the United States Congress, i.e., Legislative Branch, has no substantive statutory 'intent' to occupy or control the field of firearm possession crimes committed solely within the authority, i.e., territorial jurisdiction of the [States], UNLESS the [State], e.g., State of Iowa, firearm possession and control law, i.e., I.C.A. Sections 724.01 to 724.32, conflicts with the Federal law, i.e., 18 U.S.C. Sections 921 to 930, then why is the United States Department of Justice, i.e., Executive Branch, violating Congressional substantive statutory 'intent' prescribed in Section 927, which further violates the United States Constitution's Article II, Section 3, 'Faithfully Executed Clause," i.e., '[s]hall take Care that the Laws be faithfully executed,' and violates Article IV, Section 1, 'Full Faith and Credit Clause,' i.e., '[s]hall be given to each State to the public Acts, Records and judicial Proceedings,' that clearly violates Article IV, Section 4, 'The Guarantee,' i.e., '[s]hall guarantee to every State in this Union a Republican Form of Government,' that each State govern and protect its own citizens, and why is the United States Federal Courts, i.e., Judicial Branch, presiding over these proceedings for want of jurisdiction and allowing this to happen, all in violation of [their] bound Oath to support the United States Constitution pursuant to 5 U.S.C. Section 3331, which is treason to the United States Constitution (usurping jurisdiction that which is not given), but not limited to treason against every State in this Union, e.g., the State of Iowa [?]" (emphasis added)

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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 B 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 N/A to the petition and is

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

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was July 18, 2022.

[ ] 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: August 23, 2022, and a copy of the order denying rehearing appears at Appendix D.

[ ] 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).

STATEMENT OF THE CASE

COMES NOW, Lucas McNulty-Snodgrass, Pro se, assisted by Paralegal Jesse M. Skinner pursuant to Federal law 28 C.F.R. Section 543.11(f)(1), hereinafter referred to as "Petitioner," hereby presents this Honorable United States Supreme Court with this substantive factual attack on the jurisdiction of the United States Department of Justice ("DOJ"), i.e., Executive Branch, to proceed with prosecution from the first instant. As will clearly be established in Parts B and C herein, the United States Congress, i.e., Legislative Branch, has never intended for the DOJ to use the Controlled Substance Act ("CSA") of 1970, as the requisite jurisdictional means to prosecute illicit drug possession offenses or the Gun Control Act ("GCA") of 1968, as the requisite jurisdictional means to prosecute illegal gun possession offenses, committed solely within the territorial jurisdiction of any of the several States in this Union, and this Writ of Certiorari will prove it.

PART A: PROCEDURAL HISTORY

On April 17, 2021, the DOJ charged Petitioner in a sealed indictment with four (4) Counts alleging that Petitioner committed an offense against the United States. See Appx. E herewith "Indictment"

Thereafter, Petitioner was arrested on April 19, 2021, and formally advised that he has been charged with Conspiracy to Distribute Controlled Substances in violation of Title 21 United States Code Sections 841(a)(1), 841(b)(1)(A), 841(b)(1)(B), and Title 18 United States Code Sections 922(g)(1) and 924(a)(2), in violation of Federal law.

Petitioner was appointed counsel who basically lead Petitioner like a sheep to the slaughter, acting as, and in concert with, the DOJ as prosecutor.

Thereafter, Petitioner plead guilty to Counts 1 and 4, to serve 210 months in Federal Prison ("BOP").

Petitioner's counsel filed Notice of Appeal to the Eighth Circuit Court of Appeals because Petitioner requested her to. Thereafter, counsel filed an Ander's brief claiming no grounds for relief. Petitioner timely filed his Pro se Ander's brief and raised the following Claims:

1) Petitioner has been under duress this entire time;
2) this factual attack on the DOJ's jurisdiction to prosecute this case from the first instant;
3) this factual attack on the district court's jurisdiction to preside over this case from the first instant;
4) the district court failed to sua sponte make sure it had jurisdiction over the subject-matter;
5) jurisdiction can never be forfeited or waived and can be raised at any time;
6) the district court violated Federal Criminal Rule 11(c)(1)(G) by failing to advise Petitioner that he was for want of jurisdiction to proceed from the first instant, but not limited to sentencing Petitioner.

Id. See Appx. A herewith, p. 1

On July 18, 2022, the Eighth Circuit summarily denied Petitioner's Ander's brief Claims, wholly failing to address the Claims, using as excusal for denial, this Court's decision in Gonzales v. Raich, 545 U.S. 1, 9 (2005) concerning Petitioner's factual Claims attacking jurisdiction on the drug possession offenses in Counts 1, 2, and 3; and United States v. Nash, 627 F.3d 693, 696-97 (8th Cir. 2010), which relied on this Court's decision in Scarborough v. United States, 431 U.S. 563 (1977), as excusal for denying Petitioner's factual Claims attacking jurisdiction on the firearm possession offenses in Count 4. Id. See Appx. B herewith

As can be seen the Eighth Circuit Court Panel totally butchered Petitioner's simply Claim(s) by twisting it into something Petitioner has never raised. Petitioner's Claims involved that the DOJ was for want of jurisdiction to prosecute this case criminally and that the district court was for want of jurisdiction to preside over this criminal case. The Eighth Circuit Panel raised on their own that "[C]ongress did not have power to enact the two statutes that Snodgrass violated." Id. See Appx. B herewith, pp. 1-2

Petitioner never raised that Claim, and its total rubbish talk to say such a thing. The Congress can enact any law they want concerning their own territories and possessions, as will be discussed at length and proved below.

Petitioner timely filed Motion for En Banc Hearing on August 2, 2022, (see Appx. C herewith), and the Eighth Circuit issued Order denying rehearing en banc on August 23, 2022. Id. See Appx. D herewith.

Petitioner now moves this Honorable Court to Grant this Writ of Certiorari and clean this thing up. It's been a long time coming and something that has to be done. Please bear with Petitioner as he lays out the foundation his factual Claims rest upon. Please do not think that Petitioner is trying to lecture. As will be clearly demonstrated though ... [we] have a serious problem that must be fixed once and for all.

PART B: Controlled Substance Act ("CSA") of 1970

In 1970, the 91st Congress enacted the CSA, that can be found in the Federal Criminal Code and Rules at Title 21 United States Code ("U.S.C.") Sections 801 to 904. Starting at Section 801, Congress goes into some talk about "interstate commerce" and "intrastate commerce." Its just talk. Id. See Section 801(1)-(7)

These findings by Congress of "health," "welfare," "swelling," etc., activities simply state Congress' view of the constitutional basis for its power to act. The findings do not tell us how much of Congress' perceived power was in fact invoked, or that the findings in fact support a statute broader than the one actually passed, and is suggested by the fact that "jurisdiction" does not appear at all in the introductory clause of the "findings," even though Section 801 contains the phrases, and concedingly reaches only "lawful" foreign and interstate commerce transactions.

Nowhere in the CSA does Congress enact a provision that confers "jurisdiction" to the DOJ to prosecute illicit drug possessions offenses committed solely within the sovereign territorial jurisdictions of the several States, to include, but not limited to, the State of Iowa. Id.

The closest the 91st Congress came to establishing "jurisdiction," can be found at 21 U.S.C. Section 882, which prescribes as follows:

> "[T]he district courts of the United States and all courts exercising [general] jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this [subchapter]." Id. (brackets for emphasis added)

Key notation here is "[e]xercising general jurisdiction [in] the territories and possessions of the United States ... ." As can be seen "jurisdiction" is limited to "territories and possessions" of the United States, which would be locations "[o]ut of the jurisdiction of any particular State," e.g., the State of Iowa.

To be fair, the only way the DOJ can prove it has jurisdiction over the case at bar, is to produce a copy of the letter of acceptance of jurisdiction the Federal Government gave the Governor of the State of Iowa pursuant to Title 40 U.S.C. Section 3112, that deeded and ceded the entire City of Davenport, Iowa over to the United States.

But we know that will not happen because no letter exist. What the DOJ will do, however, is argue that pursuant to the United States Constitution Article I, Section 8, Clause 3, i.e., the Commerce Clause, it grants the DOJ power "concurrent" with the States et al., to "regulate" illicit drug business activities, i.e., "contraband," which then becomes criminal, not civil, prosecution and punishment, all stemming from the Commerce Clause.

It is apparent that as the years have passed by, that the DOJ has purposely forgotten what Mr. Justice Catron made clear in his concurring opinion with Mr. Chief Justice Taney in Thurlow v. The Commonwealth of Massachusetts, 12 L.Ed. 256, 5 Howard. 504 (1845) that:

> "[T]he power given to Congress is unrestricted, and broad as the subjects to which it relates; it extends to all LAWFUL commerce with foreign nations, and in the same terms to all LAWFUL commerce among the States; and 'among' means between two only, as well as among more than two; ...

> Was it a subject of LAWFUL commerce among the States, that Congress can regulate? ... . The assumption is, that the police power was not touched by the Constitution, but left to the States as the Constitution found it. This is admitted; and whenever a thing, from character or condition, is of a description to be regulated by that power in the State, then the regulation may be made by the State, and Congress cannot interfere." (emphasis added)

Id. Thurlow, 5 Howard. at 599-600

Notice how the high Court stated "[a]ll lawful" commerce.

Well, methamphetamine and fentanyl, as well as any other illicit drug, is UNLAWFUL and considered CONTRABAND, and thus, NOT a proper article of commerce protected by the Commerce Clause, and subject to seizure by the police. If methamphetamine and fentanyl, i.e., "contraband," was a proper article of commerce, when the police seized it, [they] would be interfering with commerce, which is highly illegal.

As Mr. Circuit Judge McMillian explained it:

> "[P]roperty which is subject to seizure under the State's police power cannot be regarded as a proper article of commerce protected by the Commerce Clause. ... [marijuana] was contraband, that is, property that is unlawful to possess, and as such not an object of interstate trade protected by the Commerce Clause."

Id. See Predka v. Iowa, 186 F.3d 1082, 1084 (8th Cir. 1999); see also collecting United States Supreme Court cases cited therein

Understand that there is nothing different between marijuana and other illicit drugs such as methamphetamine and fentanyl. ALL OF THEM ARE CONTRABAND. -1-

Because methamphetamine etc., is "contraband," and thereby NOT protected or regulated by the Commerce Clause ... well, can this Court please tell Petitioner how the United States DOJ possesses jurisdiction to prosecute Petitioner's "crime," that was committed solely within the confines of the sovereign territorial jurisdiction of the State of Iowa?

The more serious question, is where in the United States Constitution does it provide the requisite jurisdictional pathway for the United States to enter the States Territorial Jurisdictions and prosecute for contraband and other so-called federal offenses?

Petitioner can answer that question. There are only three (3) ways:

1) Article IV, Section 4, Clause 1, "by Application."

A good example of this is a couple years ago, in Portland, Oregon there was rioting. President Trump wanted the Governor of Oregon to file the "Application" that would request for Federal Assistance to bring in the National Guard to quail the Domestic upheaval. The Governor refused to file the Application. Oregon citizens continued to riot and President Trump trounced around in his feeling because he could not exert his authority as President of the United States of America. This is one way.

2) Article V, "Ratify an Amendment to the United States Constitution."

A good example of this is, in 1919 the 65th Congress ratified the 18th Amendment that created prohibition on alcohol. In Section 2 thereof it states:

> "[T]he Congress and the several States shall have concurrent power to enforce this article by appropriate legislation." Id.

When it states "concurrent power," it means "concurrent jurisdiction." This is the second way the United States DOJ can gain jurisdiction into the several States Territorial Jurisdictions and prosecute. -2-

Since the 65th Congress had to ratify the 18th Amendment to gain concurrent power, i.e., jurisdiction, with the several States to prosecute alcohol related crimes, then why didn't the 91st Congress have to do the [SAME] thing in 1970, when it enacted the CSA, to grant the United States Federal Government, e.g., DOJ, concurrent jurisdiction, to prosecute for unlawfully possessed illicit drug crimes. That is a trillion dollar question that needs to be answered by this Court.

Moving on the third and last conferred power.

3) Article VI, Clause 2, "Supremacy Clause."

ONLY if the State's Constitution or laws are "contrary" or "conflict" with the United States Constitution or laws, will the United States Constitution or laws preempt the State's Constitution or laws. This is not just Constitutional law, but also substantive statutory law and precedent case law, as will be discussed more at length below.

This is an interesting subject. One of the greatest misconceptions is that the United States Constitution and laws preempt the States Constitutions and laws. If you have ever read the Iowa State Constitution, you would know that EVERYTHING that is in in the United States Constitution is in the Iowa State Constitution, so nothing is "contrary." Id.

Understand that the Iowa State Legislature used the United States Constitution as [their] template to ratify [their] own Constitution, so nothing is contrary. And because the Iowa State Legislature used the United States Federal Criminal Code and Rules as [their] template when enacting [their] illicit drug laws, i.e., I.C.A. Sections 124.101 to 124.602, nothing conflicts there either. Go check it out.

And there it is. Three (3) ways. Not four (4) ways. Three ways. All this talk about the Commerce Clause is just talk and talk is cheap.

As can be seen the United States DOJ, i.e., Executive Branch, and the United States district courts, i.e., Judicial Branch, are over stepping [their] territorial jurisdictional boundaries prosecuting and presiding over these contraband crimes committed solely within the several States Territorial Jurisdictions. And please do not point at the United States Congress because the United States Congress has protecting [themselves] from ever being accused of committing treason against the several States, to include, but not limited to, the State of Iowa. No, Congress protected [themselves], while on the other hand the DOJ and district courts have been hung out to dry.

Enacted within the CSA at 21 U.S.C. Section 903 is what some have termed [a] "Savings Clause," but Petitioner will term it [a] "Jurisdictional Clause," which reveals Congressional "INTENT," and prescribes as follows:

> "[N]o provision of this title shall be construed as indicating an INTENT on the part of Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, UNLESS there is a positive conflict between that provision of this title and that State law so that the two cannot consistently stand together." Id.

Well, Congressional "intent" is made very crystal clear, and Petitioner hates to be the bearer of bad news, but the Iowa State illicit drug laws, i.e., I.C.A. Sections 124.101 to 124.602, DO NOT positive[ly] conflict with the CSA, so NO JURISDICTION IS CONFERRED to the United States Federal Government, i.e., the DOJ and lower Federal Courts, are for want of jurisdiction to prosecute and preside over Petitioner's case-at-bar, for the crimes that were committed solely within the Iowa State Territorial Jurisdiction.

Petitioner cannot stop just yet, because of course the DOJ and lower courts have argued on behalf of each other in the past, that [they] do have jurisdiction over such cases like at bar, so let's check the Record out real quick.

Because Petitioner plead guilty the Record consist basically of Petitioner's Plea and Sentencing Hearings transcript (see Appx. F & G). The Record is devoid of any mention of how the district court, i.e., Mr. Chief Judge John A. Jarvey, ever established that he had jurisdiction over the subject matter, to preside over this case-at-bar, to include, but not limited to, sentencing Petitioner.

At the Plea Hearing, Magistrate Judge Stephen B. Jackson, Jr. establishes the following, in part, on the Record:

> 20 THE COURT: Good. Let's turn to page 4, paragraph
> 21 8. That paragraph is entitled factual basis. Are you there?
> 22 THE DEFENDANT: Yes, your Honor.
> 23 THE COURT: Do you see that paragraph 8 is titled
> 24 factual basis and states, As [sic] a factual basis for defendant's
> 25 plea of guilty, Defendant admits the following?

Id. See [ECF No. 33] page 21 at 20-25, Appx. F herewith

THE COURT: Do you see that paragraph 8 has A through E on paragraphs 4 and 5?
THE DEFENDANT: Yeah.
THE COURT: When you signed this agreement, do you understand that when you signed it, you were admitting all the information in paragraph 8 and its subparagraphs A through E were true and correct?
THE DEFENDANT: Yes, your Honor.
THE COURT: In fact, is all the information in paragraph 8 and its subparagraphs A through E true and correct?
THE DEFENDANT: Yes, your Honor.
THE COURT: Mr. McNulty-Snodgrass, beginning in approximately August of 2020 and continuing until December of 2020, did you reach an agreement with other people to distribute and possess with intent to distribute controlled substances?
THE DEFENDANT: Yes, your Honor.
THE COURT: Did you voluntarily and intentionally join in that agreement?
THE DEFENDANT: Yes, your Honor.
THE COURT: At the time you joined in the agreement,

Id. See [ECF No. 33] page 22 at 4-25, Appx. F herewith

did you know the purpose of it was to distribute and possess with intent to distribute controlled substances?
THE DEFENDANT: Yes, your Honor.
THE COURT: Did your conduct as part of that agreement involve 50 grams or more of methamphetamine and more than 40 grams of a mixture and substance containing a detectable amount of Fentanyl?
THE DEFENDANT: Yes, your Honor.
THE COURT: And did some or all the activity that you participated in as part of this agreement occur in Davenport, Iowa?
THE DEFENDANT: Yes, your Honor.

Id. See [ECF No. 33] page 23 at 1-12, Appx. F herewith

Very interesting colloquy there. But, as you can see the Magistrate wholly failed to establish jurisdiction over the subject matter, and not once did the Magistrate advise Petitioner pursuant to Federal Criminal Rule 11(c)(1)(G) that the [Court] was for want of jurisdiction to proceed from the first instant, to preside over the criminal case-in-chief, and\or sentence Petitioner.

The Sentencing Hearing [ECF No. 53] pages 1-18, dated 12/22/2021, Mr. Chief Judge John A. Jarvey, wholly failed to make any mention of the same, thereby, the Record is devoid of any proof of having established jurisdiction over the subject matter at bar. See Appx. G herewith "Sentencing Hearing Transcripts"

Thereby, since we are in the hypothetical realm of the proceedings. What the DOJ has argued in [other] cases is that, the United States district court has jurisdiction over all offenses committed against the United States pursuant to 18 U.S.C. Section 3231. Id. See 18 U.S.C. Sec. 3231

Notice what the DOJ has and will do. Distract by pointing a finger at the district court. And the district court will do exactly what the Circuit Court just did in this case-at-bar, and point a finger at Congress.

But let's stick to the Claim. We're discussing whether the DOJ has jurisdiction to prosecute this case-at-bar, and each case must be determined on a case-by-case basis.

The statutory substantive language prescribed in Section 3231 is rhetorical. Of course the United States district courts have jurisdiction over all offenses committed against the United States.

But what constitutes an offense against the United States? Well let's see what Mr. Chief Justice John Marshall made crystal clear:

> "... [i]t is not the offense committed, but the bay, etc., in which it is committed, that must be out of the jurisdiction of the states."

Id. See United States v. Bevans, 4 L.Ed 404, 3 Wheat. 336, at 337 (1816)

Adding later that:

> "...[u]nless the place itself be out of the jurisdiction of the State, Congress has not given cognizance of the offense to the Circuit Courts."

Id. See United States v. Wiltberger, 5 Wheat. 76, at 96 (1820)

It should be clear that "[D]avenport, Iowa," is NOT a federal enclave, having been deeded and ceded to the United States Federal Government pursuant to 40 U.S.C. Section 3112, and is located solely WITHIN the territorial jurisdiction of the State of Iowa, which is "out of the jurisdiction" of the United States DOJ, and "out of the jurisdiction" of the territorial limits of the Southern District of Iowa, Eastern Division, which is where the district court in question is solely located. Id. See 18 U.S.C. , Section 3238 "Offenses not committed in any district," i.e., :

> "[T]he trial of all offenses begun or committed upon the high seas, or elsewhere OUT OF THE JURISDICTION OF ANY PARTICULAR STATE or district, shall be in the district ...". (emphasis added)

See also 18 U.S.C. Sections 7(1)-(7) and 13 et seq., [SAME]

And for the Record, we all know that Congress created Districts and Divisions within the States (see 28 U.S.C. Sections 81-144), but these are NOT federal enclaves. These are established so that "if" an offense is made against the United States, court for that offense shall be held at that particular District Court, e.g., an offense committed [within] a Federal Enclave or federal jurisdiction located [within] one of the counties that make up that particular District or Division. Court will be held at [that] particular District Courthouse. Id.

As Mr. Justice Grier opined in his concurring opinion with Mr. Chief Justice Taney in Thurlow, 5 Howard. at 632-633:

> "[T]he police power, which is exclusively in the States, is alone competent to the correction of these great evils, and all measures of restraint or prohibition necessary to effect the purpose within the scope of that authority. There is no conflict of power, or of legislature, as between the States and the United States; each acting within its sphere, and the public good, ...". Id.

This clearly means the United States DOJ and the United States district court in question, has jurisdiction over all offenses committed within [their] respective District or Division, that was committed "out of the jurisdiction of any particular State," e.g., offenses committed within Federal Enclaves ("Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings") or within other Federal Jurisdictions, e.g., crossing a State line while contemporaneously committing a crime, using a phone or computer while contemporaneously committing a crimes, committing Piracies and Felonies on the high Seas and Offenses against the Law of Nations, and committing Treason against the United States Constitution by usurping jurisdiction that which is not given.

All these are considered offenses against the United States and Court for prosecution of these crimes will be held at the United States Courthouse in [that] particular Federal Judicial District. Understand that the DOJ, i.e., United States, has jurisdiction over the air and water. It just does not have jurisdiction over that precious soil located within the territorial jurisdiction of the State of Iowa, unless purchased pursuant to 40 U.S.C. Section 3112. Id. See also U.S. Const. Art. 1, Sec. 8, Cl. 17 and Art. IV, Sec. 3, Cl. 2, Territory and Property "belonging" to the United States; also Adams v. United States, 319 U.S. 312, 314, 87 L.Ed. 1421, 63 S.Ct. 1122 (1943)(Mr. Justice Black) [SAME]

Also within the United States Constitution at Article IV, Section 4, Clause 1, it clarifies a particular "guarantee," that the United States has vowed a bound Oath to protect, serve, support, defend, honor, and that is:

> "[T]he United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; ...". Id.

A direct guarantee to the State of Iowa for it to govern its own sovereign existence by the citizens therein, i.e., McNulty-Snodgrass, (see Buckner v. Finley, 27 U.S. 586, 7. L.Ed. 528 (1829)(Washington, J.)(States and citizens thereof are one)); and each of the United States employees involved in this case, even in this instant. Has swore or affirmed a bound Oath to protect, serve, support, defend, honor, this "guarantee," respectively. Id. See 5 U.S.C. Sec. 3331

In addition, to this guarantee, the DOJ, i.e., Executive Branch, is bound by the United States Constitution to "[t]ake Care that the Laws be faithfully executed, ..." (see U.S. Const. Art. II, Sec. 3, "Faithfully Executed Clause"), and in this instant, are wholly failing to abide by the United States Constitution in this regard (as presented supra), which is called Treason.

Now, if let's say, treason is anything but trivial in comparison to the next implication. The United States Constitution also stipulates at Article I, Section 10, Clause 3, "Tonnage--State compacts--War," as follows:

> "[N]o State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, UNLESS actually invaded, or is such imminent Danger as will not admit of delay." Id. (emphasis added)

Thereby, the United States Constitution makes crystal clear that the State of Iowa, i.e., McNulty-Snodgrass and Company, can do all these things, because the United States DOJ has invaded the State of Iowa's Territorial Jurisdictional realm, by usurping jurisdiction via the Commerce Clause as [their] requisite means to regulate unlawfully possessed contraband, in this so-called War on Drugs. This is treason being committed against not only the United States Constitution, i.e., "the guarantee," but also "the Faithfully Executed Clause," not to mention TREASON against every State in this Union[.]

The United States Constitution confers ONLY three (3) pathways into the sovereign States territories to prosecute crimes and controversies, i.e., Article IV, Section 4, Clause 1, "by Application;" Article V, "Ratify an Amendment;" and Article VI, if the State Constitution or laws are "contrary" or "conflict" with the United States Constitution or laws[.]

Now, having gotten that cleared up. There is one more argument Petitioner needs to clear up, because surely the DOJ will come out the gate riding hard, and so [they] don't make it the full eight (8) seconds, Petitioner will kill the cow now.

The DOJ has argued in the past that the indictment grants jurisdiction over cases like the one at bar to the district court. Again, pointing the finger at the district court. So let's discuss this. An indictment that fails to state all the essential facts, i.e., basic elements, of the offense, fails to state a claim upon which relief can be granted.

In one such case the DOJ argued that:

> "[I]t is sufficient that the indictment show that the offense was committed within the territorial jurisdiction of the court before which the indictment was returned."

Id. See Lowery v. United States, 161 F.2d 30 (8th Cir. 1947)(Circuit Judge Johnson)

The concern at bar is where exactly does the district court in question territorial jurisdiction start and end. Well according to the United States Constitution and Congressionally enacted substantive statutory law, it starts where the territorial jurisdiction of the State of Iowa ends and ends where the territorial jurisdiction of the State of Iowa starts, i.e., "out of the jurisdiction of any particular State."

But let's discuss this further because there is no need in leaving any room for argument since Petitioner or his Paralegal will not be allowed to argue this case-at-bar before this Honorable Court. Which, if so, Petitioner's Paralegal is pumped and primed and chomping at the bit to do so.

Understand there are six (6) essential facts that must be presented in any indictment before jurisdiction is conferred to the Court to preside over said controversy, which are as follows:

1) Date
2) Location of the offense
3) Territorial jurisdiction (determined by element 2)
4) Who did it
5) What did he do
6) Criminal jurisdiction (determined by element 3)

A State location is State Territorial Jurisdiction. A Federal location is Federal Territorial Jurisdiction. If the indictment fails to state all six elements, it fails to state a claim upon which relief can be granted and divest the [Court] jurisdiction over the subject matter.

In this instant case-at-bar, the DOJ refers to the District as the location. In other cases they have referred to the County as the location. Well "the Southern District of Iowa" is not a "location" but a "destination," and a judgment of conviction or acquittal under it would not protect the Petitioner from double jeopardy of another offense, because it does not show where in the "District" or what other identifying circumstances the offense was committed. See Partson v. United States, 20 F.2d 127, 128 (8th Cir. 1927)(Circuit Judge Sanborn)(overturned on different grounds); also Appx. E "Indictment"

You see, had the DOJ made reference to [a] particular "location" it would have alerted Petitioner that the location was not a federal location "out of the jurisdiction" of the State of Iowa.

Because the indictment has the "District" as the location, or as the district court has stipulated as the location, i.e., "Davenport, Iowa," it allows the DOJ to argue, "Well I didn't mean over there, but over there in the District." And when Petitioner proves it was "over there," the DOJ will argue "No I meant over there in Davenport, Iowa." And then when Petitioner proves it was in [a] particular "location," out of the jurisdiction of the territorial limits of the Southern District of Iowa, the DOJ would then argue "No I meant to say he knew the drugs were coming from Colorado." And the hypothetical charade would continue.

As Petitioner mentioned earlier, talk is cheap, especially after the facts have already been stipulated into the Record, and due process of law has been violated. Anybody can make it up on the whim. But, it isn't so easy to do especially when the Petitioner has had the opportunity to have it explained to him what is really going on behind the veil.

As clearly explained, it is not where the Court sits, but where the offense was committed that establishes Territorial Jurisdiction over the subject matter. State location means State Territorial Jurisdiction and State Criminal Statute violated. Federal location means Federal Territorial Jurisdiction and Federal Criminal Statute violated. Simple as that.

Each and every one the Federal Employees involved in the instant case-at-bar has swore or affirmed a bound Oath to not violate due process of law. Petitioner understands that these employees have not swore or affirmed a bound Oath to protect his Constitutional Rights, but a bound Oath to not violate the United States Constitution that has a whole laundry list of do's and don'ts's.

Due Process of Law has been violated and the only means of correcting it, is to GRANT this Writ of Certiorari and REMAND this case back to the district court with instructions to DISMISS this case-at-bar with prejudice, because the United States et al. has been for want of jurisdiction to proceed from the first instant with prosecution, as Congress has never intended for the DOJ to prosecute illicit drug offenses committed solely within the Territorial Jurisdiction of the State of Iowa, but not limited to, every State in this Union. Id. See 21 U.S.C. Sec. 903

On a final note, to conclude this Part of this writ. This Court has concluded that ordinarily, a guilty plea is a waiver of violations, even constitutional violations "[n]ot logically inconsistent with the valid establishment of factual guilt and which do not stand in the way of conviction, [if] factual guilt is validly established." Id. See Menna v. New York, 423 U.S. 61, 63 fn. 2 (1975)(Per Curium)(brackets for emphasis added)

The presumption in the case-at-bar is whether Petitioner is factually guilty of committing a federal offense. Since Petitioner has not violated an offense against the laws of the United States, but an offense against the laws of the State of Iowa, Petitioner is factually innocent of committing a federal offense.

In United States v. Broce, 488 U.S. 563, 109 S.Ct. 757, 102 L.Ed.2d 927 (1989)(Kennedy, J.), this Court further closed the door on attacks on guilty pleas, ruling in that case that a guilty plea foreclosed challenges based on double jeopardy. However, in Broce, this Court retained an exception to this doctrine.

The exception is the one established in Menna and Blackledge v. Perry, 417 U.S. 21, 94 S.Ct. 2098, 40 L.Ed.2d 628 (1974) (Stewart, J.), which is the situation, as here, the Government is precluded from "[h]aling a defendant into court on a charge, federal law requires that a conviction on that charge be set aside even if the conviction was entered pursuant to a counseled plea of Guilty." Id. Broce, 488 U.S. at 575, quoting Menna, 423 U.S. at 62

The recognized exception to a knowing and voluntary guilty plea exists if the defect is jurisdictional, i.e., the "[c]ourt has no power to enter the conviction." Id. See also collecting case, e.g., United States v. Knowles, 29 F.3d 947 (5th Cir. 1994)(Circuit Judge Goldberg); United States v. Skinner, 25 F.3d 1314 (6th Cir. 1994)(Circuit Judge Damon J. Keith); United States v. Seybold, 979 F.2d 582 (7th Cir. 1992)(Circuit Judge Ripple); Manzano v. Kincheloe, 915 F.2d 549 (9th Cir. 1990)(Circuit Judge Hug, Jr.); United States v. Palacios-Casquete, 55 F.3d 557 (11th Cir. 1995)(Circuit Judge Goodwin), and should this Court follow it's own precedent case law concerning "preemption" (as will be further discussed in "Reason for Granting Writ" below), then it is clear that the applicable statute, 21 U.S.C. Section 903, makes certain that Petitioner's conviction is invalid and requires reversal and remand with instructions to dismiss the instant case-at-bar with prejudice.

PART C: Gun Control Act ("GCA") of 1968

Petitioner is not going to sit here and waste this Court's valuable time and resources beating the dead cow, so Petitioner will get straight to the facts. It started in 1939, when the Federal Firearms Act ("FFA") was first enacted.

In 1943, the United States Supreme Court ruled in Tot v. United States, 87 L.Ed. 1519, 319 U.S. 463 (Mr. Justice Roberts) that:

> "[T]he statutory presumption is invalid because it is violative of the Fifth Amendment of the Constitution of the United States." Id.

This presumption dealt with evidence that because [a] firearm was shipped or transported or received by [a] person, the presumption of evidence that the person possessed the firearm was enough to prove the person caused it to be shipped, transported, and received [in] interstate commerce, was inconsistent with due process of law. And this was absolutely the correct ruling.

So the law remained for the next twenty-five (25) years, that in order to be convicted federally for firearms possession offenses, one must contemporaneously possess the firearm or ammunition while traveling through a federal jurisdiction, or caused the firearm or ammunition to travel through a federal jurisdiction.

Then is 1968, the 90th Congress revisited the FFA and enacted in its place the GCA. Still nothing changed. In 1971, this Court in United States v. Bass, 92 S.Ct. 515, 30 L.Ed.2d 488, 404 U.S. 336 (Mr. Justice T. Marshall), ruled that:

> "... [o]ne possesses a firearm in commerce or affecting commerce if at the time of the offense the firearm was moving interstate or on an interstate facility, or if the possession affects commerce."

Id. Bass, 404 U.S. at 340

Just to be clear, 18 U.S.C. Section 922(g) states in pertinent part as follows:

> "...[t]o ship or transport in interstate or foreign commerce or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." Id.

Key notations therein are "[in] or affecting commerce" and "[has] been shipped or transported [in] interstate or foreign commerce."

The term "in" means "inside" and the term "has" means "present tense" only. Id. See any Dictionary

Then all of a sudden in 1977, in Scarborough v. United States, 431 U.S. 563, Mr. Justice T. Marshall does an about face, and with one swipe of his "blue pencil," legislates three (3) words, i.e., "at some time," into the Section 922 Statute, enacting/ratifying prohibition on ALL firearm possession offenses, no matter where the offense may have taken place, and every Federal Court in the Land grabbed hold of it, -3- , and this has been the LAW ever since.

It was the United States DOJ's position that as long as any firearm had traveled in foreign and interstate commerce, i.e., through a federal jurisdiction, "at some time," that was all [they] needed to be conferred "jurisdiction," to prosecute every firearm crime committed in the United States of America. Just think of all that revenue generated over the past forty-five (45) years, the DOJ, i.e., Executive Branch, in collusion with the Federal Courts, i.e., Judicial Branch, prosecuting the citizens of the States and presiding over all these criminal cases, all on account of Mr. Justice T. Marshall "rewriting" Section 922(g). And who wouldn't want that Power.

What Mr. Justice T. Marshall actually legislated is as follows:

> "[I]t is apparent from the foregoing that the purpose of Title VII was to prescribe mere possession but that there was some concern about the constitutionality of such a statute. It was that observed ambivalence that made us unwilling in Bass to find the clear 'INTENT' necessary to conclude that Congress meant to dispense with the nexus requirement entirely. However, we see no 'INDICATION' that Congress 'INTENDED' to require more than the minimal nexus that the firearm have been 'AT SOME TIME,' in interstate commerce." (emphasis added)

Id. See Scarborough, 431 U.S. at 576

This the shot heard around the Nation by every Federal Court and from thenceforth, prohibition on firearms. Sadly 95% of the firearms in the United States of America have been transported across state lines. But that is exactly what the United States Federal Government et al., was seeking to control ... that is ... the Executive Branch and the Judicial Branch.

You see, what the high Court and Scarborough both failed to consider is that Congressional "INTENT" is prescribed right there in the GCA at 18 U.S.C. Section 927, which prescribes as follows:

> "[N]o provision of the chapter [18 U.S.C.S. Section 921 et seq.] shall be construed as indicating an INTENT on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, UNLESS there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together." Id. (emphasis added)

Recognize that phrase? Remember 21 U.S.C. Section 903? The same exact statute provision concerning the ambit of Congressional INTENT. And how many times has this Court made a ruling concerning 18 U.S.C. Section 927? NOT even one (1) time!

The same argument used supra to expose what the United States DOJ, i.e., Executive Branch, and United States Federal Courts, i.e., Judicial Branch, are unlawfully doing, e.g., usurping jurisdiction that which is not given, by prosecuting illicit drug possession offenses and illegal firearms possession offenses committed solely within the Territorial Jurisdictions of the several States. But with the GCA it gets much easier to prove.

When you hold up an Iowa State law on firearms control, it mirrors the GCA, so NOTHING conflicts, meaning no jurisdiction is conferred to the DOJ to prosecute firearm offenses committed solely within the State of Iowa's territorial jurisdiction (or any State for that matter).

You see, if Scarborough would have presented Section 927, which conveys Congressional "intent," this Court would have had no other choice than to shoot down the United States, i.e., Federal Government et al., ill-gotten scheme to control every gun crime committed in the United States of America. Which, as Petitioner has already pointed out, the Judicial Branch has just as much to gain as the Executive Branch by the enactment/ratification of prohibition on firearms control.

All you have to do is look around and see that the BOP is literally overflowing with unlawfully prosecuted resource citizens of the several States. It is not surprising now, just 50 years later, the BOP has 122 different federal prisons spanning coast to coast. United States citizens, i.e., federal employees, are thriving making huge paychecks for prosecuting, presiding over the cases, and baby-sitting warehoused men and women, while those [they] watch over deteriorate into the abyss as their families fall apart.

But again. Let's not get to far ahead of ourselves. Let Petitioner finish this thing up.

What this Supreme Court did in Scarborough, was with one swipe of it's "blue pencil," ratify prohibition on firearm control, in direct contrast with Congressional intent to do so.

You see, under no circumstance can the Judicial Branch legislate law. As Mr. Justice Frankfurter once explained the limits of statutory construction as follows:

> "[T]he courts are not at large. ... they are under the constraints imposed by the judicial function in our democratic society. As a matter of verbal recognition certainly a statute is to ascertain the meaning of words used by the legislature. ... . A judge must NOT REWRITE A STATUTE NEITHER TO ENLARGE NOR CONTRACT IT. Whatever temptations the statesmanship of policy making might wisely suggest, construction must eschew interpolation and evisceration. He must not read in by way of creation. He must not read out except to avoid patent nonsense or internal contradiction ... .
>
> The only sure safeguard against crossing the line between adjudication and legislation is an alert recognition of the necessity not to cross it and instinctive, as well as trained, reluctance to do so."

Id. See Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum.L.Rev. 527, 533, 535 (1947). (emphasis added)

You see, what Mr. Justice T. Marshall did was violate separation-of-powers carved into the United States Constitution. Adding three (3) words, i.e., "at some time," into the Section 922(g) firearm statute was an act of legislating, and stated bluntly, TREASON to the United States Constitution.

And this isn't what Petitioner thinks. This is what the longest reigning United States Supreme Court Justice, Mr. Chief Justice John Marshall thinks. The man that rubbed shoulders with our Founding Fathers. That if there was a question, all he had to do was walk across the street and ask it, is most apposite at this juncture:

> "[I]t is most true that this court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. THE ONE OR THE OTHER WOULD BE TREASON TO THE CONSTITUTION. Question may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment, and conscientiously to perform our duty."

Id. See Cohens v. Virginia, 6 Wheat. 264, 404, 5 L.Ed. 257, 291 (1821)

As Mr. Chief Justice Warren explained it:

> "[T]he Constitution divides the National Government into three branches - Legislative, Executive and Judicial. This 'separation of powers' was obviously not instituted with the idea that it would promote governmental efficiency. It was, on the contrary, looked to as a bulwark against tyranny. For if governmental power is fractionalized, if a given policy can be implemented only by a combination of legislative enactment, judicial application, and executive implementation, no man or group of men will be able to impose its unchecked will. James Madison wrote:
>
> > 'The accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.'"

Id. See The Federalist, No. 47, pp. 373-374 (Hamilton ed. 1880); See also United States v. Brown, 381 U.S. 437, 443-444 (1965)(Mr. Chief Justice Warren)

It is of course true that the Framers lodged three different kinds of power in three different entities. And they did so for a crucial purpose - because, as James Madison made clear:

> "[t]here can be no liberty where the legislative and executive powers are united in the same person[ ] or body" or where "the power of judging [is] not separated from legislative and executive powers." (brackets for emphasis added)

Id. See The Federalist No. 47, p. 325 (J. Cooke ed. 1961)(quoting Baron de Montesquieu)

It should be very clear to this Court that what Mr. Justice T. Marshall did when he added those three words "at some time" to the 922(g) statute, that he did so having no jurisdiction or authority to do so, thus, the opinion in Scarborough is none other than VOID AB INITIO, and must be treated as such, i.e., ULTRA VIRES, respectfully.

All you have to do is look at every 922(g) firearms case that has been challenged over the past forty-five (45) years and you will see that in every single one of them, the United States has cited Scarborough as [their] requisite means for obtaining jurisdiction to prosecute. Even the Federal Courts have adopted Scarborough as [their] requisite means to argue, in essence, blaming this Court, i.e., pointing a finger at it, to deny the Defendant. Id. See again Footnote -3- herewith

The federal courts only instrument, however, is a blunt one. They have "the negative power to disregard an unconstitutional enactment," Massachusetts v. Mellon, 262 U.S. 447, 488, 43 S.Ct. 597, 67 L.Ed 1078 (1923)(Mr. Justice Sutherland); see also Marbury v. Madison, 5 U.S. 137, 1 Cranch. 137, 178, 2 L.Ed. 60 (1803); but they cannot re-write Congress's work by creating statute laws, adding or taking away words from a statute, and the like. "[S]uch editorial freedom ... belongs to the Legislature, not the Judiciary." Free Enterprise Fund v. Public Com. Acct., 561 U.S. 477, 130 S.Ct. 3138, 177 L.Ed.2d 506, 510 (2010)(Mr. Chief Justice John Roberts, joined by the late Honorable Mr. Justice Antonin Scalia, Mr. Justice Kennedy, Mr. Justice Thomas, and Mr. Justice Alito); see also Seila Law LLC v. Consumer Finance Protection Bureau, 140 S.Ct. 2183, 591 U.S. ___, 207 L.Ed.2d. 494, 547 (2020)(Roberts, CJ., joined by Thomas, J., Alito, J., Gorsuch, J., Kavanaugh, J.); Murphy v. NCAA, 200 L.Ed.2d. 854, ___ U.S. ___ (2018)(Alito, J., joined by Roberts, CJ., Kennedy, J., Thomas, J., Kagan, J. Gorsuch, J., Breyer, J.); United States v. Stevens, 559 U.S. 460, 481, 130 S.Ct. 1577, 176 L.Ed.2d. 435 (2010)(Roberts, CJ., joined by Stevens, J., Scalia, J., Kennedy, J., Thomas, J., Ginsburg, J., Breyer, J.); Michigan v. Bay Mills Indian Country, 134 S.Ct. 2024, 188 L.Ed.2d. 1071, 1093, 572 U.S. 782 (2014)(Kagan, J., joined by Roberts, CJ., Kennedy, J., Breyer, J., Sotomayor, J.)("[t]he United States Supreme Court will not rewrite Congress's handiwork."); Jennings v. Rodriguez, 583 U.S. ___, 139 S.Ct. ___, 204 L.Ed.2d. 122 (2018)(Alito, J., joined by Roberts, CJ., Kennedy, J., Thomas, J., Gorsuch, J., Sotomayor, J.); just to name a few, respectfully. [ALL SAME]

There is nothing wrong with this as a beginning (except the adjective "simple" as Justice Kagan would put it). Just to be clear, so we we are not off the beating path. Many Defendants have (allegedly) argued that "Congress" exceeded its authority granted by the United States Constitution using the "Commerce Clause" as the means to "promulgate" these laws to regulate "contraband."

But, Congress can "promulgate" any law they want concerning its own territories and properties. The problem is not Congress. It is the United States, i.e., DOJ, and its United States Attorneys, that have exceeded [their] authority, because [they] are the ones actually prosecuting this case-at-bar, for crimes committed solely within the sovereign territorial jurisdiction of the State of Iowa.

These United States Attorneys are not only violating [their] bound Oath to support and defend the United States Constitution, but also wholly failing to take Care that the Laws be Faithfully Executed (Art. II, Sec. 3), and the Guarantee to the State of Iowa (Art. IV, Sec. 4). Id.

Think of it like this: If another State enacts a law and you live in another State, then that "law" (in that other State), does not apply to you. That same principle applies here. Just because the United States Congress "[m]ake all needful Rules and Regulations respecting the Territory and Property belonging to the United States" (Art. IV, Sec. 3, Cl. 2) does not means those "Rules and Regulations" apply to Petitioner. Those Rules and Regulations, i.e., Laws, apply to the United States Federal Government "[w]hich includes all places and waters, continental and insular, subject to the jurisdiction of the United States." Id. See 21 U.S.C. Sec. 802(28) and 18 U.S.C. Sec. 5 [SAME]

And please. Not to sound repetitive. This is so important and has been overlooked for way to long. When it comes to Congressional intent, it does not get any clearer than the substantive statutory laws enacted within the CSA (21 U.S.C. Sec. 903) and the GCA (18 U.S.C. Sec. 927), that prescribes the jurisdictional requisite for occupying the field of Drug Control and Gun Control within the States Territorial Jurisdictional Domains, i.e., only if the State laws conflict with the Federal laws, and in this instant case-at-bar, those laws do not conflict, so no jurisdiction is conferred to the DOJ.

Petitioner apologizes if he may have come across in any other manner except respectfully. He comes with a heavy heart not just for himself, but every man, woman, and child out there that has a loved one locked up abroad, far from their reaches to hug and hold. It is not easy believing that the very public servants who swore a bound Oath to protect and serve the Constitutions (U.S. Const. Amdt.. IX), would actually be the one's violating that bound Oath. All for the love of money, greed, and winning, especially when the lives of so many American citizens weigh in the balance.

What Mr. Justice T. Marshall did when he unlawfully legislated those three words into the 922(g) ... the lives that have been literally destroyed is astronomical. When you take from any family a main support structure, such as a father or a mother, the family crumbles. The kids are let loose like birds out of a cage and soon they become victim to the same exact thing befallen the father or mother. And we sit back and wonder why there is lawlessness in our streets. This is so sad.

A family may be able to keep it together long enough to last the prison term, if they were locked up in the State where it is possible for the family to make trips back and forth and keep the family bond strong. But when the federal government snatches a father or mother up, its not a prison in the next town or city. Its the next next or even across the next several States, wherever bed space is available.

It is hard to imagine this Court allowing Petitioner's case-at-bar to proceed another inch when Petitioner has clearly proved that the United States Federal Government et al., have been for want of jurisdiction this entire time to prosecute and preside over this case-at-bar. The instant Record is devoid that appropriate steps were taken to ensure the district court in question had jurisdiction over the subject matter. Only the recital of some questions being asked for the unknowing Petitioner to answer.

Just to be clear. Davenport, Iowa is not a Federal Enclave, and just because Justice T. Marshall committed treason by usurping jurisdiction and authority from Article I of the United States Constitution, and legislating those three words into the 922(g) statute, making it "law" that as long as a firearm had traveled in interstate commerce "at some time," does not change the fact that Congressional "intent," is that gun possession must be contemporaneously, i.e., "in" or "has," which means present perfect tense only, because the reality of it all is this ... the United States Federal Government et al., simply does not have jurisdiction to prosecute or preside over this case-at-bar, and the Petitioner and the DOJ cannot even both agree the district court in question has jurisdiction, because [they] cannot give something that does not exist.

If the firearms in this case-at-bar crossed through a federal jurisdiction "at some time," then who cares. It wasn't the Petitioner that caused it to happen, and the DOJ cannot prove it, and even on a good day, the DOJ cannot refute this factual attack on jurisdiction. Thereby, this case-at-bar should be forthwith REVERSED and REMANDED with instruction for the district court in question to DISMISS this case-in-chief with prejudice, and bring this madness to a screeching halt.

This Court has jurisdiction to determine jurisdiction, and if or when the Solicitor General files his/her Response, Petitioner will gladly Reply, respectfully.

REASONS FOR GRANTING THE PETITION

In keeping with the mandate that this Court address statutory issues before constitutional ones (see Jean v. Nelson, 472 U.S. 846, 854, 105 S.Ct. 2992, 86 L.Ed.2d 664 (1985)(Rehnquist, CJ.); this Court first looks at the issue of preemption. In determining whether a federal statute preempts state law this Court begins, as it always must, with the intent of Congress. See Wyeth v. Levine, 555 U.S. 555, 565, 129 S.Ct. 1187, 173 L.Ed.2d 51 (2009)(Stevens, J.). This Court ascertains the intent of Congress, however, through a lens that presumes that the state law has not been preempted. Id. This Court does this because, given the historic police powers of the states, this Court must assume that Congress did not intend to supersede those powers unless the language of the statute expresses a clear and manifest purpose otherwise. Id. at 565. Altria Group Inc. v. Good, 555 U.S. 70, 77, 129 S.Ct. 538, 172 L.Ed.2d 398 (2008)(Stevens, J.); Arizona v. United States, 132 S.Ct. 2492, 2501, 183 L.Ed.2d 351 (2012)(Kennedy, J.); Gregory v. Ashcroft, 501 U.S. 452, 460-461, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991)(O'Conner, J.). Thus, when the text of a preemption clause is susceptible of more than one plausible reading, this Court ordinarily "accept the reading that disfavors pre-emption." Altria Group, 555 U.S. at 77. In this case at bar, it is clear that the State of Iowa has historically held the power to police its own citizens for illicit drug possession offenses. See I.C.A. Sections 124.101 to 124.602. Likewise, states and localities historically have policed their own citizens as well, See, e.g.; Minnesota M.S.A. Sections 152.01 to 152.20; Missouri V.A.M.S. Sections 195.010 to 195.320; Nebraska R.R.S. 1943 Sections 28-401 to 28-456. Thus, given this directive to look at the intent of Congress with a presumption of non-preemption, the first place to look for Congress's intent, concerning Questions 1 and 2 supra, is in the the Control Substance Act ("CSA") of 1970 enacted by the 91st Congress, the preemption clause (also called a savings clause) which prescribes as follows:

21 U.S.C. Section 903

"[A]pplication of State Law
No provision of this subchapter shall be construed as indicating an intent on the part of Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together." Id.

If the savings clause is read as written, the savings clause would apply in the instant case at bar, and prevent federal preemption of (1) Iowa [intra]state laws on illicit drug possession offenses committed solely within the territorial jurisdiction of the State of Iowa (see 18 U.S.C. Sections 7(1) and 13(a) and 3238, i.e., "[o]ut of the jurisdiction of any particular State."); and (2) preclude federal penalties for [intra]state illicit drug possession offenses committed solely within the territorial jurisdiction of the State of Iowa, but not limited to, all the United [States] of America; UNLESS there is a positive conflict between the CSA, i.e., 21 U.S.C. Sections 801 to 904, and the State laws, e.g., I.C.A. Sections 124.101 to 124.602, and in this instant case at bar, these laws do not conflict.

Thereby, Congress has expressly and explicitly conveyed their "intent" concerning whether the Executive Branch, i.e., Department of Justice, may prosecute illicit drug possession offenses committed solely within the States Territorial Jurisdictions, and concluded there must be a positive conflict between those two (2) laws mentioned supra, before jurisdiction may be conferred over the subject matter at bar.

Because Congress has expressly and explicitly conveyed their intent, the DOJ is for want of jurisdiction to prosecute Petitioner's alleged federal offense, because the offense was committed solely within the State of Iowa's Territorial Jurisdiction, i.e., out of the jurisdiction of the Southern District of Iowa, see United States v. Bevans, 4 L.Ed 404, 3 Wheat. 336 (1816)(Marshall, CJ.)(not the offense but the location of the offense which determines whether State offense or Federal offense), and the United States district court is for want of jurisdiction to preside over said controversy, due to the fact the offense was committed solely within the particular State of Iowa, thus, out of the territorial jurisdiction of the district court. See 18 U.S.C. Section 3238 "Offenses not committed in any district."

Even were this an odd result, this Court's job is to fix it. The "preeminent canon of statutory interpretation" requires this Court "presume that [the] legislature says in a statute what it means and means in a statute what it says there." BedRoc Ltd. v. United States, 541 U.S. 176, 183, 124 S.Ct. 1587, 158 L.Ed.2d 338 (2004)(Rehnquist, CJ.)(quoting Connecticut Nat'l. Bank v. Germain, 503 U.S. 249, 253-54, 112 S.Ct. 1146, 117 L.Ed.2d 391 (1992)(Thomas, J.)). If Congress determines later that the plain language of the statute does not accurately reflect the true intent of Congress, it is for Congress to amend the statute. See Dodd v. United States, 545 U.S. 353, 359-360, 125 S.Ct. 2478, 162 L.Ed.2d 343 (2005)(O'Conner, J.). This Court's task is not to seek a motive for what Congress has plainly done, in fact, to the contrary, this Court must "avoid rendering what Congress has plainly done ... devoid of reason and effect." Great-West Life & Annuity Ins. Co. v. Knudson, 534 U.S. 204, 217-218, 122 S.Ct. 708, 151 L.Ed.2d 635 (2002)(Scalia, J.).

If Congress had intended for the DOJ to prosecute all illicit drug offenses, to include, but not limited to, those committed solely within the territorial jurisdictions of the States, then Congress would not have provided 21 U.S.C. Section 903 as part of the enacted CSA, which clearly places a substantive jurisdictional limitation on the DOJ from prosecuting [intra]state illicit drug possession offenses committed against the States laws, that do not have a positive conflict with the CSA. As it stands, the plain language of the statute decrees that State laws that prohibit illicit drug possession, are not preempted by the CSA.

This is because there is no rational way to rearrange the language to make it say what the DOJ would like it to say. The CSA does not expressly preempt the Iowa State Statute laws on illicit drug contraband control (I.C.A. Sections 124.101 to 124.602) because nothing "conflicts" with the CSA (21 U.S.C. Sections 801 to 904), respectively.

This same principle above applies to the GCA, accept it gets more tedious because we have an actual Supreme Court Justice violating separation of powers carved into the Constitution of the United States by legislating words into a criminal statue, alleging that he could not ascertain Congressional "intent" when Congressional "intent" is right there in the GCA at 18 U.S.C. Section 927. Id. See 18 U.S.C. Sec. 927 ibid

More specifically, this Court relies on a substantive canon of interpretation -- the mens rea canon. Under this canon, this Court interprets criminal statutes to require a men rea for each element of an offense "[e]ven where ' the most grammatical reading of the statute' does not support" that interpretation. Rehaif v. United States, 588 U.S. at ___ (slip op., at 6)(quoting United States v. X-Citement Video, Inc., 513 U.S. 64, 70 (1994)).

As Mr. Justice Alito recently confirmed in his concurring judgment, joined by Justices Thomas and Barrett, in Ruan v. United States, 597 U.S. ___ (June 27, 2022)(Breyer, J.)(slip op., at 14-15 fn.*), that:

> "[W]hy we have held that the mens rea canon allows courts to ignore obvious textual evidence of congressional intent is not obvious. In our constitutional system, it is Congress that has the power to define the elements of criminal offenses, not the federal courts. Liparota v. United States, 471 U.S. 419, 424 (1985); see also United States v. Davis, 588 U.S. ___, ___ (2019) (slip op., at 5)("Only the people's elected representatives in the legislature are authorized to 'make an act a crime'" (quoting United States v. Hudson, 7 Cranch. 32, 34 (1812))). The mens rea canon is legitimate when it is used to determine what elements Congress INTENDED to include in the definition of the offense. See, e.g., Staples v. United States, 511 U.S. 600, 605 (1994)(explaining that the canon is founded on an inference of congressional INTENT). But applying that canon to OVERRIDE the INTENTIONS of Congress would be inconsistent with the Constitution's separation of powers. Federal Courts have no constitutional authority to RE-WRITE the statutes Congress has passed based on judicial views about what constitutes "sound" or "just" criminal law. Cf. X-Citement Video, 513 U.S., at 80-82(Scalia, J., dissenting)(criticizing our mens rea canon precedents for "convert[ing a] rule of interpretation into a rule of law" binding on Congress). (emphasis added)

If Justice T. Marshall could go as far as trying to find Congressional intent, the likelihood that he could not find it when it is right there in black letter law, is a far stretch for one to imagine that his actions were unintentional. The instant Record speaks for itself and Lady Justice demands that this Honorable Court intervene, no matter the cost, and issue ORDER that the opinion Scarborough is overturned in accordance with, and as the United States Constitution, Laws, and Justice requires.

-1- Contraband defined means "[i]llegal or prohibited trade; smuggling. Goods that are unlawful to import, export, produce, or possess." See Black's Law Dictionary Eleventh Edition; see also "contraband per se" defined

-2- What is the difference between illegally possessed alcohol and illegally possessed illicit drugs? The answer is nothing. Both are CONTRABAND, and contraband is NOT a lawful commodity, nor a proper article of commerce that may be REGULATED by Congress pursuant to the Commerce Clause.

-3- United States v. Smith, 101 F.3d 202, 215 (1st Cir. 1996); United States v. Weems, 322 F.3d 18 (1st Cir.), cert. denied, 540 U.S. 892, 157 L,Ed,2d 167, 124 S.Ct. 233 (2003); United States v. Corey, 207 F.3d 84, 88 (1st Cir. 2000); United States v. Carter, 981 F.2d 645, 648 (2nd Cir. 1992); United States v. Gaines, 295 F.3d 293, 302 (2nd Cir. 2002); United States v. Coward, 296 F.3d 176, 183 (3rd Cir. 2002)(quoting United States v. Singletary, 268 F.3d 196, 205 (3rd Cir. 2001)); United States v. Gateward, 84 F.3d 670 (3rd Cir. 1996)[SAME]; United States v. Gallimore, 247 F.3d 134, 138 (4th Cir. 2001); United States v. Darrington, 351 F.3d 632, 634 (5th Cir. 2003), cert. denied, 158 L.Ed.2d 994, 124 S.Ct. 2429 (2004); United States v. Chesney, 86 F.3d 564, 571 (6th Cir. 1996), cert denied, 520 U.S. 1282, 117 S.Ct. 2470, 138 L.Ed.2d 225 (1997); United States v. Fish, 928 F.2d 185, 186 (6th Cir. 1991); United States v. Campbell, 549 F.3d 364, 374 (6th Cir. 2008); United States v. Henry, 429 F.3d 603, 620 (6th Cir. 2005); United States v. Lemons, 302 F.3d 769, 772-773 (7th Cir. 2002); United States v. Bradford, 78 F.3d 1216, 122-1223 (7th Cir. 2002), cert. denied, 517 U.S. 1174, 116 S.Ct. 1581, 134 L.Ed.2d 678 (1996); United States v. Lowe, 860 F.2d 1370, 1374 (7th Cir. 1988), cert. denied, 490 U.S. 1005, 104 L.Ed.2d. 155, 109 S.Ct. 1639 (1988); United States v. Sheldon, 66 F.3d 991 (8th Cir. 1995); United States v. Rankin, 64 F.3d 338 (8th Cir. 1995); United States v. Nash, 627 F.3d 693, 696-697 (8th Cir. 2010)(Circuit Judge Benton); United States v. Jones, 231 F.3d 508, 514 (9th Cir. 2000)(quoting United States v. Polanco, 93 F.3d 555 (9th Cir. 1996)); United States v. Hanna, 55 F.3d 1456, 1462 (9th Cir. 1995)(quoting Scarborough v. United States, 431 U.S. at 575)); United States v. Farnsworth, 92 F.3d 1001, 1006-1007 (10th Cir.), cert. denied, 519 U.S. 1034, 117 S.Ct. 596, 136 L.Ed.2d. 524 (1996); United States v. Bolton, 68 F.3d 396, 400 (10th Cir. 1995); United States v. Griffith, 928 F.3d 855, 865 (10th Cir. 2019)(Scarborough precedent bound the Circuit); United States v. McAllister, 77 F.3d 387, 390 (11th Cir.), cert. denied, 519 U.S. 905, 117 S.Ct. 262, 136 L.Ed.2d. 187 (1996); [ALL SAME BOUND BY SCARBOROUGH]

CONCLUSION

Petitioner has made it here to this Honorable Court fair and square. Other litigants aren't so fortunate as their Motions are denied as time barred, or their Section 2241 is declared by the lower Courts a successive Section 2255 and summarily denied for want of jurisdiction of all things. Those litigants are being held to the highest standards of review, and in most cases have wasted [their] chances for relief chasing white rabbits, having struck out their hopes all but faded away, thereby do not have the resources to pay the appeal fees up front and are being black-balled by the lower courts and admonished for filing frivolous claims.

Petitioner humbly moves this Honorable Court to do the right thing, which is to GRANT this writ based on the sound doctrines established in [our] Constitutional Republic[s], the United States, and the United [States] of America. Due process of law has been violated and warrants swift action as each Honorable Supreme Justices has sworn or affirmed a bound Oath not to violate OR allow to be violated.

Petitioner now respectfully moves this Honorable Supreme Court.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: November 18, 2022