

No. **24-7127** ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
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Patrick Beck — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Tenth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Patrick Beck #08924510
(Your Name)

CCCC P.O. Box 3540
(Address)

Milan, NM 87021
(City, State, Zip Code)

N/A
(Phone Number)

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QUESTION(S) PRESENTED

The questions presented here today are with great honor and expertise with regard to the ~~rudimentary~~ demands for American Jurisprudence. The equity and freedom of speech with respect to the public interest requires that the Constitution and fundamental rights of all Americans be upheld to protect our liberties and freedoms. The petitioner requests the Honorable Supreme Court of Justice decide the following questions to uphold American historical tradition and prevent deprivation or oppression of the rights of American citizens to wit:

- 1) May a President of The U.S.A. reinstate an act found as unconstitutional by the Supreme Court to arrest political opponents for expressing their viewpoints?
- 2) Once a case has been dismissed without prejudice by a prosecution, may an appellate court obtain jurisdiction if the defendant shows prejudice caused by unreasonable delays or due process and violations of the Constitution?
3. When a prosecutor requests to release a defendant from custody, may a district court deny the request and require the defendant to be evaluated for dangerousness pursuant to 18 USC § 4241 and not 18 U.S.C. § 4246, prior to any finding of incompetency or signs of mental illness? Can an unlicensed independent evaluator conduct the evaluation instead of a hospital without certification of incompetency?
- 4) May incompetency be stipulated by replacement counsel without prior notice or meeting with the defendant and a competency hearing waived, despite defendant's objections?
- 5) What are the limitations for delays and requirements of due process regarding The Insanity Defense Reform Act (18 U.S.C. § 4241) with respect to the Bail Reform Act, The Speedy Trial Act, and Amendments 5, 6, 8, & 14 to The United States Constitution?
- 6) May a criminal defendant be held as incompetent without due process, despite a certification of competency past the U.S.S. 61 range for a pending charge without any hearings on the matter at hand?
- 7.) Does the First Amendment grant a Presidential candidate immunity for subject matter concerning politics and public concerns from prosecution under 18 U.S.C. § 2261 and may criminal liability be assigned for emotional distress?

LIST OF PARTIES

☒ 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

- U.S.A. V. Beck, No. 22-MJ-01089-DHU, U.S. District Court For The District of New Mexico; Judgment: 9/5/2024
- U.S.A. V. Beck, No. APP. 24-2100, U.S. Court of Appeals For The Tenth Circuit; Judgment entered: 11/25/2024
- U.S.A. V. Beck, No. 23-MJ-00180-LF-1, U.S. District Court For The District of New Mexico; Judgment: 8/27/2024
- U.S.A. V. Beck, No. APP. -24-2094, U.S. Court of Appeals For The Tenth Circuit; Judgment entered: 7/25/2024
- U.S.A. V. Beck, No. USCA-24-2143, U.S. Court of Appeals For The Tenth Circuit; Judgment entered: 11/25/2024
- U.S.A. V. Beck, No. 24-CR-01267-DHU, U.S. Dist. Court For The Dist. New Mexico; Judgment entered: N/A
- Beck V. U.S.A, No. 23-CV-00154-JB-LF, U.S. Dist. Court For The Dist. New Mexico; Judgment Pending
- Beck V. Bowers, U.S. Dist. Lexis 143695; U.S. Dist. W. D. Oklahoma; Judgment entered: 2024, August
- Beck V. Garrido, No. CV-1181-O, U.S. Dist. Fort worth Texas; Judgment entered: June, 2024
- Beck V. Gov't, Lexis 56866; U.S. Dist. Court For The Dist. New Mexico; Judgment: 2024
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- Bones v. Honeywell Intl Inc., 366 F.3d 869, 2004 U.S. App. Lexis 2703 (10th Cir. 2004) Pg. 37

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

☒ For cases from **federal courts**:

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

Opinions (continued)

- 1) Tenth Circuit U.S. Appeals Court appears at Appendix C to the petition and is unpublished
- 2) Tenth Circuit U.S. Appeals Court opinion appears at Appendix C to the petition and is unpublished
- 3) U.S. District Court of The District of New Mexico opinion appears at Appendix D to the petition and is unpublished
- 4) U.S. District Court of The District of New Mexico opinion appears at Appx E to the petition and is unpublished
- 5) U.S. District Court of The District of New Mexico opinion appears at Appx E to the petition and is unpublished
- 6) U.S. District Court of The District of New Mexico opinion appears at Appx G to the petition and is unpublished
- 7) U.S. District Court of The District of New Mexico opinion appears at Appx H to the petition and is unpublished
- 8) U.S. District Court of The District of New Mexico opinion appears at Appx I to the petition and is unpublished
- 9) U.S. District Court of The District of New Mexico opinion appears at Appx J to the petition and is unpublished
- 10) U.S. District Court of The District of New Mexico opinion appears at appx K&L to the petition and is unpublished
- 11) U.S. District Court of The District of New Mexico opinion appears at appx M to the petition and is published
- 12) U.S. District Court of Fort Worth Texas opinion appears at appx M to the petition and is unpublished
- 13) U.S. District Court of Western Oklahoma opinion appears at appx M to the petition and is published

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 1/17/2025.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 1/17/2025, and a copy of the order denying rehearing appears at Appendix A.

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

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

☐ For cases from **state courts**:

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Rest. of Torts 2d § 435 Pg. 10 Appx. 0-13
- Rest. of Torts 2d § 436 Pg. 10 Appx. 0-13
- Rest. of Torts 2d § 444 Pg. 10 Appx. 0-13
- Rest. of Torts 2d § 456 Pg. 10 Appx. 0-14
- 18 USCS § 16 Pg. 13 Appx. 0-6
- 18 U.S.C.S. § 924 (c)(3)(B) Pg. 13 Appx. 0-14
- 42 U.S.C.S. § 1485 (3) Pg. 14 Appx. 0-14
- F.R.Crim. P. 48 (c) Pg. 15 Appx. 0-15 Pg. 18, 21
- 18 U.S.C.S. 3162 (b) Pg. 15 Appx. 0-8
- F.R. Crim. P. 45 (a)(1) Pg. 15 Appx. 0-15
- 6th Amend. Const. Pg. 17 Appx. 0-10
- 28 U.S.C.S. § 1291 Pg. 18 Appx. N/A
- Rule 48 (b) Pg. 19 Appx. 0-15 Pg. 21
- 18 U.S.C.S. 3162 (4)(a) Pg. 19 Appx. 0-8 Pg. 13
- 31 USCS § 3729 (a)(1)(A) Pg. 22 Appx. 0-16
- 18 USCS § 3142 (g) Pg. 25 Appx. 0-16 Pg. 8
- 18 U.S.C.S. § 3161 (h)(4) Pg. 26 Appx. 0-4, 5 Pg. 34
- 18 U.S.C.S. § 3161 (h)(1)(E) Pg. 26 Appx. 0-4, 5, 16
- 18 U.S.C.S. § 3142 Pg. 26 Appx. 0-16
- 4th Amend. Const. Pg. 26 Appx. 0-9 Pg. 1
- 6th Amend. Const. Pg. 26 Appx. 0-10 Pg. 32
- 8th Amend. Const. Pg. 26 Appx. 0-10 Pg. 32
- Rule 27 (C)(1) Pg. 27 Appx. 0-16
- 18 U.S.C.S. 4241 Pg. 28 Appx. 0-3 Pg. 29, 32, 33, 34
- 18 U.S.C.S. 4246 Pg. 28 Appx. 0-3 Pg. 29, 32, 33, 34
- FRE 702 Pg. 32 Appx. 0-18
- F.R. Civ. P. 26 (1) Pg. 33 Appx. N/A
- F.R. Crim. P. 5 Pg. 36 Appx. 0-9, 0-17
- F.R.E. 401 Pg. 36 Appx. 0-17
- FRE 402 Pg. 36 Appx. 0-17
- FRE 403 Pg. 36, 37 Appx. 0-17
- F.R. Crim. P. 12, 2 Pg. 36 Appx. 0-17
- FRE 608 Pg. 36 Appx. 0-17
- FRE 702 Pg. 36, 37 Appx. 0-18
- 18 U.S.C.S. 3141 Appx. 0-4
- ~~18 U.S.C.S. 3141 F Appx. 0-3~~
- ~~18 U.S.C.S. § 3161 Appx. 0-4~~
- ~~28 U.S.C.S. § 1203 Pg. 4 Appx. 0-7~~
- ~~37 U.S.C.S. § 3729 (a)(1) Appx. 0-16~~

STATEMENT OF THE CASE

1) In 2019, Patrick Beck, Petitioner, began an Independent Presidential Campaign as a new party candidate, FEC Reg. # C06777318 and The Warp Speed Committee aimed for the 2028 Presidential election.

2) The campaign went viral online, Members of the Public launched a smear campaign of slander.

3) Conflict arose, Heather & Roy Grawltz Filed a Protection order without service on Patrick, shared it online, and instigated Personal attacks towards Plaintiff. This included criminal allegations, others also did the same and Filed False Police reports claiming Plaintiff had numerous mental illnesses and had committed various crimes. A smear campaign began as Patrick's campaign grew and was in the news.

4) On March 15, 2022 Biden enacted VAWA Reconsolidation Act, then Filed executive order 87 FR 37431 Title 3 on June 22, 2022. Pursuant to this order, FBI Agent Eric Bruce Filed a warrant on 6/23/2022.

5) On June 30, 2022 Patrick Beck was arrested. David Wunderink had contacted Bruce to have Patrick arrested while threatening Patrick and bullying him. Wunderink made Fake accounts online to collect responses by harassing Patrick, then sent them to Bruce. Wunderink had harassed an online celebrity Denise Waidhofer to the point of suicide, while doing the same to Patrick. This was in continuation of the smear campaign / bully scheme. Patrick reported it to the FBI to no avail and had been stalked, threatened, humiliated, robbed, assaulted, and falsely accused. Alleged victims claimed Patrick was delusional and elicited responses with extortionary threats and fake blackmail to create controversy. This was done on public forum in response to the campaign. Bruce took messages out of context to obtain a search warrant, which contained false claims of Patrick going to Michigan to hunt down David. Investigation showed this as false, among other things, such as drug usage and guns.

6) After arrest, Counsel requested a preliminary hearing waiver with false promises of release. Numerous continuances were Filed awaiting discovery and investigation. An appeal to detention was Filed and heard on 11/14/2022. Counsel misrepresented claims of Patrick being found as a danger. Prosecution sought release.

7) Court ordered a mental evaluation and denied release to determine dangerousness. (Pursuant to 4241)

8) Counsel Filed to dismiss on 1/31/2023. Prosecutor refiled on 2/1/2023 and agreed to dismiss on 2/7/2023.

9) Counsel raised incompetency on 4/23/2023 without a hearing at the detention hearing.

10) Plaintiff was transferred to Fort Worth FMC and found incompetent based on the previous evaluation.

11) Brian Povi was assigned and waived the hearing. Patrick was sent to Devens FMC and found competent 8/27/2024.

12) Prosecution Filed an indictment 8/27/2024, dismissed previous case 9/5/2024 and challenged competency finding.

13) Brian was removed and Joel Meyers assigned on 1/2025. 3rd competency evaluation completed on 4/7/2025.

14) Patrick challenged dismissal w/o prejudice. Competency hearing awaiting judgment, 1st hearing since 11/14/2022.

15) Indictment claims Patrick cyberstalked ex-girlfriend Shyla Behrman and aunt Kristen Peterson with political texts taken out of context in regard to the smears, personal attacks, and false reports Filed. The Prosecution and psychologists have engaged in continuous misrepresentation of facts and statements and personal attacks.

16) Doctors have made many misstatements regarding mental illness. Patrick went to college for psychology at UNM and both supervisors were his teachers who overlooked the evaluations from N.M. on 11/14/2022 & 3/14/2025.

Patrick is one class from a degree in psychology and transcripts withheld. DUV left evaluation due to conflict of interest.

17) Donald Trump Filed executive orders reversing Biden's executive orders targeting speech online.

18) Patrick has overserved without a standing detention order or competency hearing or finding of guilt.

19) Doctors claim Patrick as delusional based on rhetoric online, misstatements, and a patent pending.

REASONS FOR GRANTING THE PETITION

BIDEN ADMINISTRATION EXECUTIVE ORDER CHALLENGE

20.) The regulation 87 FR 37431 Title 3 issued on June 22, 2022 and the orders issued pursuant to this regulation are void, of no effect, and unauthorized by law for the following reasons:

a.) The executive orders published in The Federal Register, according to 5 U.S.C. § 553, were not sufficiently close to the Final Rule adopted by the defendant to give Plaintiff and other members of the public fair notice of the proposed actions of the defendants.

b.) The executive order was issued to not be applied retroactively, however Eric Bruch, Jon Stanford, and Paul Mysliwiec acting on behalf of the United States applied it to conduct they alleged to have occurred prior to June 22, 2022 and reaching as far back as 1993.

c.) Donald Trump's recent executive orders have invalidated Biden's previous orders:

1.) 90 FR 14065 Ex. 14148; March 28, 2025 - Preserving and Protecting The Integrity of American Elections

2.) 90 FR 8235 Ex. 14147; Jan. 28, 2025 - Ending the weaponization of The Government

3.) 90 FR 8243 Ex. 14149; Jan. 20, 2025 - Restoring The Freedom of Speech and Ending Federal Censorship

D.) Patrick Beck, Plaintiff, calls to the attention of this Court pursuant to Rule 51(a) of F.R.C.P. and Section 2403(a) challenges the constitutionality of 87 FR 37431 Title 3. In particular, Patrick Beck claims that the executive order and statutes promulgated under it, 18 U.S.C. § 2261-2262, are unconstitutional on their face and as applied. The threat of prosecution is real and the continuing confinement of Patrick Beck on this basis is unlawful, based on multiple prosecutions and attempts to have Patrick Beck arrested or hospitalized. The threat of criminal prosecution constitutes 1st Amendment retaliation and a ban on political speech. This impermissibly burdens the 1st Amendment rights of a prospective candidate to speak freely on ideas concerning public domain. As such, this amounts to discrimination on the basis of viewpoints and the right to associate in establishing a new party as an independent candidate. The irreparable harm of being prevented from expression is a deprivation of a political belief and the public's right to cast one's vote effectively, as well as hear a new point of view.

E.) Patrick Beck has been punished for civil rights and a belief in the established constitution. The right to freedom of expression and to have ideas in regard to politics, inventions, and scientific research is fundamental. One can not be labeled as delusional for expressing such views and arrested as well as hospitalized on such a basis. The Intellectualist Party for a new generation has a right to exist.

F.) The equal protection clause of the 14th Amendment protects against the tyranny of a monopoly of a 2 party system, thereby causing systemic violations, deprivations, and discrimination.

G.) Content based regulations are presumptively invalid. The creation and dissemination of information and speech within the meaning of the 1st Amendment to The Constitution. The government and public interest is not advanced and the statutes as well as Biden's Executive order are "content-based regulations of speech that cannot survive strict scrutiny." Reed v. Town of Gilbert, 576 U.S. 155 135 S.Ct. 2218 192 L.Ed. 2d 236 Lexis 4061. In Munth v. Missouri, 603 U.S. Missouri v. Biden 680 F.Supp. 3d 630 2023 U.S. Dist. Lexis 114585, The Biden Administration was found to have launched a massive attack against the freedom of speech to disparage speakers viewpoints and content on social media. There is extensive evidence of a substantial government campaign, of which the indictment is only a part of, designed to use the burden of repeated criminal prosecutions to chill the exercise of 1st Amendment rights. Patrick Beck has a right not to be tried and to be released immediately pending the dismissal of this case, with prejudice, as these are "Important rights that would be lost, probably irreparably if review had to wait until final judgment," Abney, 431 U.S. 638 quoting Cohen 337 U.S. at 546, see Dombrowski v. Pfister, 380 U.S. 479, 487, 14 L.Ed. 2d 22, 85 S.Ct. 1116 (1965) (Right not to be tried, Bad Faith prosecution brought to squash right of free expression may itself constitute injury to 1st Amendment rights.)

H.) The 1st Amendment envisions that persons be given the opportunity to inform the community of both sides of the issue under the circumstances. This issue affects the entire nation. Consistent suppression of Patrick's social media accounts and imprisonment as well as the restrictions at the precise time when public interest in the matters discussed were at their peak, shows a purposeful limitation to maximize injury. "The 1st uninhibited marketplace of ideas in which truth will ultimately prevail rather than to countenance monopolization of the market place." Comm. Ass'n v. Davis, 339 U.S. 382, 392, 412 "speech may be fought with speech, falsehoods and falsities must be exposed, not suppressed, unless there is not sufficient

time to avert the evil consequences of noxious doctrine by argument and education. That is the command of the First Amendment."

I.) Accordingly, "It is the Federal Judiciary's role to 'say what the law is' and thus, determine whether congress' actions violate the Federal constitution".

See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177-78, 2 L.Ed. 60 (1803)

"Judicial review gives courts jurisdiction to invalidate actions of the political branches in foreign relations, statutes, international agreements, and executive actions as violative of the constitution." *Reid v. Covert*, 354 U.S. 1, 77 S.Ct. 1222,

1 L.Ed. 1148 (1957). Because, "The Framers of the constitution of this Nation, forged from the struggle against tyranny that they declared the importance of the separation of powers." M.J.C. Vile, *Constitutionalism and the separation of powers* 156-157 (1957) In *Federalist No. 47* James Madison wrote,

"No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty than the separation of powers, at 301 (James Madison) (Clinton Rossiter ed. 1941) The president

has no standing authority to interpret the laws. (Art. III §3) Art. III Allows the Judiciary to interpret the law, not the creation of them. "The US, however, does not rely upon the president's responsibility to 'take care that the laws be faithfully executed' Art. II §3 allows the president to execute the laws, not make [or interpret] them." *Medellin v. Texas*, 552 U.S. 491 128 S.Ct,

1346 170 L.Ed. 2d 190, 2008 U.S. Lexis 2912 (2007) The president's authority to act as with any exercise of government power, "must stem either from an act of congress or from the constitution itself." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585, 72 S.Ct. 863, 96 L.Ed. 1153, 62 Ohio Law

Ab. 417. Therefore, Biden and his administration lacked all authority to interpret or establish the law by way of an executive order in respect to international or local commerce to limit speech directed towards a gender. ⑥

J) This in turn is impermissible legislature through the executive branch and a clear usurpation of power by allowing equity for women democrats but denying the freedoms of men. This limits freedoms and reinforces a monopoly of a 2 party system hell bent on silencing alternative viewpoints. Congress lacked authority to establish 18 USC § 2361 and the cyberstalking statute to begin with. No law can allow for a crime to exist on the basis of speech, gender, or sexual preferences in commerce. The states have the authority to police crimes alleged as stalking within their own territory or jurisdiction. However, political speech does not fall within the confines of behavior that congress or the states intended to punish. There can be no laws on crimes that might happen, but has not happened. Weaponizing the judiciary violates separation of powers between legislative, judiciary, and executive branches, thereby compromising the integrity of the judicial system. This takes power from a democracy or republic and turns it into an authoritarian totalitarian socialist regime fueled by abolishing rights for some, yet not others based on sexism or feminism. Art 1 § 8 "The powers delegated by the proposed Constitution to the Fed. gov. are few and defined. Those which are to remain in the state are numerous and indefinite." The Federalist No. 45 pp. 292-293 (C. Rossiter ed. 1961). This const. mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties." *Gregory v. Ashcroft*, 501 U.S. 452, 458, 115 L.Ed. 2d 410, 111 S.Ct. 2395 (1991). "The power to make the necessary laws is in congress; the power to execute in the President," *Hamdan v. Rumsfeld*, 548 U.S. 557, 591, 126 S.Ct. 2749, 165 L.Ed. 773. "The responsibility for transforming an international obligation arising from a non-self executing treaty into domestic law falls to congress, not the executive," *Foster v. Neilson*, 27 U.S. 253 7 L.Ed. 415 1829 U.S. Lexis 405. "The executive's limited authority to settle international claims disputes pursuant to an executive agreement cannot stretch so far." *Medellin* at 13. Unconstitutional statute or action cannot be law, it is "as inoperative as though it never has been passed." *Norton v. Shelby City*, 118 U.S. 425, 442, 6 S.Ct.

1121, 30 L.Ed. 178 (1886)

K.) It is beyond Congress's control to regulate speech online with regard to politics under the commerce clause and conditions, U.S. Const. Art. I § 8 Cl. 3. As "The Supreme Court would not pile inference upon inference in a manner that would bid fair to convert congressional authority under the commerce clause to a general police power of the sort related to the states and conclude that there will never be a distinction between what is truly national and what is truly local." As Congress "Failed to show requisite nexus within commerce," because "Pelon possession of a firearm and violent crime is not commercial activity. Cannot regulate all activities that might lead to violent crime regardless of relation to interstate commerce, because it would give unlimited power to the Federal Government in excess of the constitution." U.S. v. Lopez, 514 U.S. 549, 115 S.Ct. 1624 131 L.Ed.2d 626, 1995 Lexis 3039. As "Commercial speech does no more than propose a transaction commercially." *Abrahamson v. Gonzales* 949 F.2d 1567 (1992 U.S. App.) Lexis 14 (Regulations on non-commercial speech are subject to strict scrutiny as society has an interest apart from economical interests). "Activities that affected interstate commerce directly were within Congress power, activities that affected interstate commerce indirectly were beyond Congress' ~~power to regulate interstate commerce~~." *Id.* at 546 ALA. *Schechter Poultry Corp. v. U.S.*, 296 U.S. 495, 74 L.Ed. 1570 (1935) (otherwise would be a centralized gov.) and "would obliterate the distinction between what is national and what is local" U.S. v. Bass, 404 U.S. 336, 30 L.Ed.2d 1 (1971). Even if so, the 1st implies a free market enter prize and unrealized capital expenditures or gains are non-taxable income, which then would give Patrick the rights under Copyright law to own his text messages and the government precluded from filing claims based on it for payment through the court, and therefore infringed on his intellectual property rights by committing an act of fraud. There were no agreements ⑧ that the government could republish these works of art and expressions.

Otherwise, general use of the internet and injury in communication does not constitute an injury in fact to confer art. III standing under the commerce clause. The U.S.A. lacks standing for failure to state a claim upon which relief can be granted or liability assumed, see *Zoulek v. Nass* 2024 U.S. Dist. 10th Cir. Lexis 138675, "Thus far in our nation's history our cases have upheld commerce clause regulations of interstate or international activity only where that activity is economic in nature," see *U.S. v. Cha Varria*, 2023 U.S. Dist Lexis 98351 (10th Cir) (Dismissed for lack of jurisdiction). The regulation of interstate violence not directed at instrumentalities, goods, or channels involved in interstate commerce has always been province of the states, see e.g. *Cohen v. Virginia*, 19 U.S. 264, 6 Wheat 264, 426, 428, 5 L. Ed. 257 (1821) (Marshall, J.) ("Congress 'has no general right to punish felonies generally'") ("The constitution... withholds from Congress a plenary police power.") id at 584-585 Lopez 514 U.S. (Thomas, J. concurring) ("we always have interpreted readings of the commerce clause and the scope of Federal power that would permit Congress to exercise a police power.") 596-97 AS the Violence Against Women Act was found to be unconstitutional in *U.S. v. Morrison*, 529 U.S. 598 120 S.Ct. 1740 146 L.Ed. 2d 658 2000 U.S. Lexis 342. (Gender motivated crimes of violence are not economic activity and therefore commerce clause did not vest Congress with authority to police and is outside Congress' remedial power under the 5th and 14th Amendments.) Congress is not the word police, even if words are considered as violent threats or especially political speech. "Political speech must prevail against laws that would suppress it, whether by degree or inadvertance" 130 S.Ct. at 898 *Citizens United*. AS subjecting political speech to criminal sanctions is a "statute prohibiting speech" and is "rarely sustained" see *Skf USA Inc v. U.S. Customs and Border Prot.* 556 F.3d. 1337 2009 U.S. App. Fed. Circuit Lexis 2964. Can not render a "ban on political speech constitutional by carving out a limited exemption through an amorphous ~~regulatory~~ regulatory interpretation." *Citizens United v. Fed. Election Comm.*, 558 U.S. 310, 324, 130 S.Ct. 876, 175 L.Ed. 2d 753 (2010)

L) "The State may not burden the speech of others in order to tilt public debate in a preferred direction." *R.A.V. v. St. Paul* 505 U.S. 377, 391, 112 S.Ct. 2671, 120 L.Ed. 2d 305 (1992) The Executive order and all following orders by the District court as well as determinations by the psychology evaluators have placed excessive burdens on opinions or core political rhetorical satire or sarcasm that was a general reflection of other people's characters. Yet Doctors claim these social media posts as threats or stalking or closely held beliefs pursuant to an old executive order that is invalid. If a Presidential candidate can not express his or her views and is not entitled to their own opinion of their own beliefs, but be forced to have a government psychologist tell someone what to think, believe, or what their viewpoint must be and hold a person hostage otherwise, then they have a disconnect from reality. As "other rights, even the most basic are illusory if the right to vote [or speak] is undermined." *Wesberry v. Sanders* 376 U.S. 117, 84 S.Ct. 526, 11 L.Ed. 2d 481 (1964) "Debates on public issues should be uninhibited, robust, ~~and~~ and wide open." *N.Y. Times v. Sullivan*, 376 U.S. 254, 270 11 L.Ed. 2d. 686 84 S.Ct. 710 (1964)

M) 2261-2262 Title 18 and cyberstalking focus on emotional distress, however this factor alone without another act is not enough to survive strict scrutiny, as neither criminal nor civil liability can attach based on an emotive intention of the speaker. Subjective emotions of fear, pain, or doubt do not determine whether words qualify as true threats or violent acts. Without a physical harm, emotional results could include laughter or sadness. Subjecting a person to Federal holding or hospitalization based on such emotive factors as elements is not the standard for criminal liability. The Restatement of Torts 2d §31, 46, 69, 70, 71, 228, 281, 282, 306, 316, 313, 432, 433, 435, 436, 444, 456 All show that a person can not be held vicariously liable for emotional distress caused by words that do not result in bodily harm. (10) Congress can not create Federal laws based on gender or words.

This is vague and overly broad as threats and violence are not caused by emotional distress alone. A broadened harassment definition will chill the speech of those such subjective ideals and create an amorphous standard based on viewpoint discriminations. This would allow a person to slander and defame another or to use fighting words and collect responses to then label it as stalking, as was done in this case at hand. This is entirely dependant on a claimants subjective sense of harm and allows the government to pick content or speakers or allows a doctor to claim what they consider as legal speech, viewpoints, or content. There is no objective standard, leaving the statute as vague as can be. This is a hotly debated subject, as what is unreasonable or negligent text usage, i.e. what qualifies as violent words? Are there specific words a person can not use legally online or in politics? Any remark would constitute harassment or figure of speech count as criminal or stalking. See *Counterman v. Colorado*, 600 U.S. 66, 78, 143 S.Ct. 2106, 216 L.Ed. 2d 775 (2023) "An objective standard, turning on how reasonable observers would construe a statement in context, would make people give threats 'a wide berth'" *Rogers v. U.S.* 422 U.S. 35, 47, 95 S.Ct. 2091, 45 L.Ed. 2d 1 (1975). A law or regulation "may be invalidated as overbroad if a substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep." *U.S. v. Stevens*, 559 U.S. 460, 473, 130 S.Ct. 1577, 176 L.Ed. 2d 435 (2010). A regulation can also be vague if it "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits," or "if it authorizes or even encourages arbitrary and discriminatory enforcement," *Hill v. Colorado* 530 U.S. 703, 732, 120 S.Ct. 2480, 147 L.Ed. 2d 597 2000 (citing *Chicago v. Morales* 527 U.S. 41, 56-57, 119 S.Ct. 1849, 144 L.Ed. 2d 67 (1999)).

M) In considering historical tradition on speech, is this regulation consistent with what is considered as stalking, or a constitutionally permissible ban (11) on certain types or amounts of speech and conduct relative to expressions?

Historical evidence will show this is an unconstitutional regulation of speech on its face, as prior to phones, paper and pens or books existed and public debates happened frequently. Is a long letter considered stalking, because no law can be valid regarding speech if it only ~~covers~~ covers one form of speech but not the other, such as 50,000 emails, posts, sentences, texts, words, or pages in a manuscript.

No amount of speech can be limited and so we turn to content, which makes the statute invalid. The constitution has never permitted such emotional based regulation, especially on speech. "whoever would overthrow the liberty of a Nation, must begin by subduing the freedom of speech," Silence Begood (Benjamin Franklin) Letter to the Editor, No. 8, The New-England Count (July 9, 1722) "Freedom of speech is a principal pillar of a free government, when this support is taken away, the constitution of a free society is dissolved, and tyranny erected in its ruins."

Benjamin Franklin, On Freedom of Speech and The Press, Pa. Gazette, Nov. 1737 reprinted in The Works of Benjamin Franklin Vol. II, 285 (Philadelphia, Hillard, Gray & Co. 1840) "The right of freely examining public Characters and measures and of free communication among the people Thereon... has been justly deemed, the only effectual guardian of every other right" James Madison (Brief Architect of the Constitution 4th President James Madison, Resolutions of 1798 (Dec. 21, 1798) in The writings of James Madison, 1790-1802 at 328-29 Gaillard Hunt ed. 1900

First inaugural address "error of opinion may be tolerated where reason is left free to combat it." Thomas Jefferson, First Inaugural Address, in The Papers of Thomas Jefferson: 17 Feb. to 30 April 1801 at 148 (Barbara G. Oberg, ed. 2006)

"This articulation of the market place of ideas remains a cornerstone of Supreme Court jurisprudence." See Whitney v. California, 274 U.S. 357, 375, 47 S.Ct. 641, 71 L.Ed. 1095 (1927) (Those who won our independence believed that freedom to think as you will and speak as you think are means ⁽¹²⁾ indispensable to the discovery and spread of political truth") quoting Cardozo at 54

D) AS "listeners reaction to speech is not a content-neutral basis for regulation" County Gra v. Nationalist Movement 505 U.S. 123 at 125, 134 220 L.Ed. 2d 101, 114 S.Ct. 2395 (1992) e.g. Texas v. Johnson, 491 U.S. 397, 412, 105 L.Ed. 2d 342, 109 S.Ct. 2533 (1989) (a statute prohibiting flag desecration was content based because it punished speech based on the "emotive impact of [the] speech on its audience") which also would require a determination of whether speech is a true threat in considering "The surrounding events and reaction of the listeners," which requires "whether the [speech] constituted true threats [and is] properly for the jury to decide" Planned Parenthood of the Columbia willamette inc. v. Am. Coalition of Life Activists, 2002 U.S. App. 9th Lexis 9314 ("The court admonished the jury that it should not conclude that those agencies [FBI & Marshals] had decided that the threats were "true threats" to cure the prejudicial effect from the admission of this testimony) which, as here would mean that Dr. Larson categorizing the texts as "threats" or "stalking" is presumptively prejudicial and applying a commitment standard is prejudicial on such findings, as it is for the jury to decide and not evaluators or Federal officers.

R) AS such, threat or violence as defined is vague and arbitrary as applied based on content out of context with no physical harm. Such was found in Sessions v. Dimaya 584 U.S. 148 138 S.Ct. 1204, 200 L.Ed. 2d 549 2018 U.S. Lexis 2447-

"Abstract yet not specified large degree of risk" finding §16 title 18 as arbitrary and unpredictable. Also see U.S. v. Davis, 588 U.S. 139 S.Ct. 2319, 204 L.Ed. 2d 757, 764 held that 924(C)(3)(B) Residual clause was vague because violent conduct was not definite. This has a chilling effect on speech since speakers cannot be sure if their speech is legal in the greater social exchange.

See Reno v. ACLU 521 U.S. 844 117 S.Ct. 2314, 138 L.Ed. 874 Lexis 54037 (Gov. regulation of the content of speech is more likely to silence ideas than encourage them)

a.) Petitioner Patrick Beck asserts that he has a right to be free from false imprisonment under the overall circumstances. "An individual ~~asserting~~ asserting a First Amendment claim of defense who is involved in a criminal proceeding is not required to await the disposition of the proceeding," because "the criminal proceeding itself violates the individual's First Amendment rights and allows for an injunction of the proceeding," *Dombrowski v. Pfister*, 380 U.S. (1965). The Federal government may not use the agents and instrumentalities of law enforcement to curb protected speech. The underlying prosecution must be barred as it is motivated by bad faith desires to chill the exercise of 1st Amendment rights. The petitioner has a right to not be tried under the 1st Amendment. "The 1st Amendment affords scant protection unless it is understood to be a 'right not to be tried.'" *U.S. v. Hollywood Motor car Inc.*, 458 U.S. 850, 860-61, 56 L.Ed.2d 18, 98 S.Ct. 1547 (1978) and is "a right effectively unreviewable on appeal from a final judgment." *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468, 57 L.Ed.2d 351, 98 S.Ct. 2954 (1978). Also see ~~USA v.~~ *USA v. P.H.E. Inc.* 465 F.2d 848, 855 (10th Cir. 1992) (Distinguishable because Federal Prosecutors engaged in a widespread campaign "designed to use the burden of repeated criminal prosecutions to chill the exercise of First Amendment Rights with a motive to harass or disrupt legal political pursuits.) AS "abusive epithets, vulgarities, and profanities are nonactionable. The ad hominem nature of such language easily identifies as political hyperbole which, as a matter of law, can not reasonably be understood as statement of fact." *Dworkin v. LFP Inc.* 839 P.2d, 903, 915 (P.Wyo 1992). Despite this fact of the nature of language online, which included the petitioner writing online grievances and tagging the FBI for refusing to aid, Doctor Larson, Brunko, Biber, & Landry have treated the language as beliefs or threats. The FBI claimed online threats were not real, then arrested Patrick (14) after he reported such threats. Plaintiff is immune under the *Nixon-Pennington Doctrine*. See *Pro. Real Estate Investors Inc. v. Columbia Pictures Inc.* 508 U.S. 49, 56, 113 L.Ed.2d 111, 113 S.Ct. 142 (1993) §1483(c). Also holds immunity for speech by presidential candidates.

II. Appeals Court Jurisdiction over Prosecutions Dismissal without Prejudice

- 21.) Patrick Beck filed a timely appeal to the underlying Prosecutions Motion for dismissal without prejudice. This was dismissed for lack of Jurisdiction. Counsel at the time refused to aid and demanded the Plaintiff take a plea to be released. Counsel Brian Pori claimed he would leave the case otherwise and then claimed Patrick was incompetent, while demanding he plea to be released from Jail, when Patrick told counsel the standards to plea are the same to stand trial regarding competency, counsel misrepresented Patrick and was removed. Patrick refused to waive any rights. The appeal was filed on 11/25/2024.
- 22.) Petitioner timely motioned for a rehearing which was denied on 1/17/2025 and subsequently was appointed new counsel, Joel Meyers. An issue at hand is whether the appellate court had jurisdiction to consider the appeal of the Government's Motion to dismiss. Such analysis would require whether the Government's dismissal under The Speedy Trial Act and Rule 48(a) was in fact the entire action being subject to dismissal under the circumstances, which would be a final decision and grant Jurisdiction for the appeals court to decide on the matter.
- 23.) As a general rule a dismissal without prejudice is not a final order. There are exceptions. The dismissal by the Government was not to cure a deficiency and then request leave to refile. The dismissal was originally filed on 1/30/2023, Document 29, case #22-MJ-01084-DHU, Appx. # 63 Motion to Dismiss with Prejudice and Request Release From Custody. There had been at least four ends-of-Justice continuances in a not so complicated case for the purpose of a pre-indictment resolution. (Appx. # F). On October 24, 2022 a resolution had been ~~reached~~ agreed to for an 18 month deferment to probation and dismissal. 110 days had elapsed up UNTIL the motion to dismiss. The Government had refused to provide exculpatory evidence within their control. The delays exceed excludable time limitations under F.R. crim. P. 45 (a)(1) and 18 U.S.C. § 3162(b). The Plaintiff filed for a dismissal through counsel as shown by Appx. # 63

34.) The Prosecution immediately refiled on 2/1/2023 which shows a total variance and retaliatory conduct, as the fruits of the evaluation were used for the refile, which contained the same charges with different alleged victims and information. Kathleen Peterson was changed to Kirsten Peterson, and the conduct previously used to arrest was changed. See 23-MJ-00180-DHU. An indictment was not returned until 8/27/2024. On 2/7/2023 the government moved to dismiss #22-MJ-01089-DHU and this dismissal was delayed, then refiled on 9/5/2024. An immediate concession upon a motion to dismiss precludes any argument the prosecution could make against a finding of prejudice. The lack of any substantive argument otherwise strongly suggests that AUSA did not seriously intend to prosecute in a timely manner. This is supported by the record from the hearing on November 14, 2022 where Jon Stanford (AUSA) had argued to release the Petitioner. Every plea offered has included 0 years and 3-5 years of probation. 34 months have passed. However, due to Patrick requesting that information be corrected, then prosecution demands for a plea, continuances, and failures of previous counsel to investigate. An evidentiary hearing was requested in August of 2022, however due to the request to an 18 month deferral and release, the hearing was never held. The re prosecution overburdened the defense as the prosecution continuously has presented false or misleading information and created a conflict. Previous Counsel Dennis Candalaria had to leave the case because of his long standing relationship with Jon Stanford (AUSA), stemming to their high school years. Candalaria had obtained evidence showing the prosecution had in fact fabricated claims, but withheld this from the court because he, "didn't want them to lose their licenses." The Prosecution has instead focused on attacking the plaintiff's credibility by claiming he is delusional and incompetent to delay or force a plea, even when offered evidence otherwise. (16)

35.) The record supports this claim, as John Stanford claimed the finding of restoration to competency was false because he claimed Patrick had "faked good", "deceived and manipulated or tricked evaluators into thinking he was competent", "Patrick believes in a wide spread conspiracy", "Thinks he is Spanish royalty", "thinks he is a CIA operative" and "believes Princess Diana to be his mother". These fabrications as well as claims Patrick "raped Shayla", "dropped out of college", "was a Meth/heroin addict", "had guns and violated restraining orders", and "was in Michigan stalking Wendie on two occasions to murder him", "was going to murder and rob his grand parents", "was suicidal", "threw Kirsten out of a building" and other unproven baseless accusations without any factual support. These allegations were used to gain support of a finding of dangerousness and mental illness. Patrick pointed out that these claims were proven false or not backed by evidence and the prosecution's doctors from Golden Forensics claimed this as "evidence of delusional", even though the FBI admitted to Dennis Candemia they "had been lied" to and Patrick had told the truth.

36.) The Bail Reform Act and Speedy Trial Act as well as 6th Amendment have been violated by the Government's delays. This effort is a strategic and calculated form of harassment to gain an unfair tactical advantage over the petitioner in bad faith. This is shown by cumulative delays, misrepresentation of evidence and statements, false claims, and use of knowingly perjured hearsay. The Government upon its own motion, has agreed they violated the petitioner's rights, yet failed to specify the reasoning for refusing the way they did with frivolous and meritless claims. See Cano-Silva, 402 F.3d 1031, 1034 (10th Cir. 2005) (A reprosecution of the charges would negatively impact the administration of justice and the Speedy Trial Act.) There is no valid reason for the government's failure to follow the timeframes required of the Act. (17)
"Where the delay is the result of intentional dilatory conduct, or a pattern

of neglect on the part of the Government, dismissal with prejudice is the appropriate remedy." *U.S. v. Saltzman*, 984 F.2d 1087, 1093-94 (10th Cir. 1995).

27.) A dismissal under rule 48(c) requires the government to seek leave from the court prior to amending. In this case, the government refiled then dismissed the case. There was a gap in the indictment and it wasn't until such was obtained in the amended case, 20 months later the government refiled the dismissal. There was an obvious prejudice involved regarding double Jeopardy, as the government could not proceed to two separate trials. It is plain harassment if review had to wait until after trial, as such would be untimely. To determine whether or not the dismissal without prejudice is appealable, "we look to the substance and objective intent of the district court's order, not just its terminology." *Moya v. Schollenbarger* 465 F.3d at 444, 449. See *U.S. v. Wallace & Tierman Co.* 336 U.S. 793, 794, 69 S.Ct. 824, 93 L.Ed. 1042 (1949) (That the dismissal was without prejudice to filing another suit does not make the cause unappealable.) "A case dismissed without prejudice may or may not be a final appealable order, depending on the circumstances." *Coffey v. Whirlpool Corp.* 591 F.2d 618, 620 (10th Cir. 1979) as "the focus must necessarily be on the district court's intent on issuing the order" See *Mobley v. McCormick* 40 F.3d 337 (10th Cir. App. 1994) "A final decision within the significance of 28 USC § 1291 depends not on its name, its propriety or its nominal function but rather upon the determination or refusal to determine a justiciable issue." *Mobley* 40 F.3d at 337. "We endeavor to scrutinize complaint dismissals closely in order to pinpoint those situations whereby, in a practical sense, the district court by its order has dismissed a plaintiff's ~~action~~ action as well." *Petty v. Manpower inc.* 591 F.2d 615, 617 (10th Cir. 1979) "A matter going to the merits of appellant's complaint itself rather than a procedural problem which amendment of a complaint might rectify." *Petty*, 591 F.2d at 617 (the order was considered final and appealable)

"In each case [finding a dismissal of a complaint without prejudice as appealable], the district court effectively "determined that the action could not reasonably be saved by an amendment of the complaint which the plaintiff could be expected to make," *Shorman v. American Federation of Musicians*, 588 F.2d 1313 (10th App. 1978). The dismissals reformed were complaints and practically disposed of entire actions, and were final decisions, as to "whether plaintiff has been effectively excluded from Federal court under the present circumstances" *Facteau v. Sullivan*, 843 F.2d 1318, 1319 (10th Cir. 1988). The court order for dismissal on 4/5/2024, does not state a grant for leave to amend as it already had been amended prior to dismissal as retaliation, showing it as a final decision. "A dismissal of a complaint based on a defect that cannot be cured by amendment is an appealable order." *Shorman* 588 F.2d at 1315. Also see *Gelbeim v. Bank of Am. Corp.* 574 U.S. 405 S.Ct. (2015) (Dismissal without leave to amend is a final decision under § 1291). An amendment would be futile to cure a constitutional violation under this situation. The practical effect of the dismissal is termination of the entire case and action, making the dismissal without prejudice appealable. Prejudice is shown by the delays, statute of limitations, and lack of merit that warrant a dismissal with prejudice.

38) The government has continued to delay trial. This has been ongoing for 34 months, which violates a fair administration of justice in violation of the defendant's right to a speedy trial, prompt initiation of the prosecution by due process under the Fifth Amendment, and a right to prosecution without delay under Rule 48(b). The government's deliberate and persistent pattern of oppressive and prejudicial delays have been combined to prevent the defendant from adequately preparing a defense and show the truth. The 18 USC § 3162(a)(1) factors warrant a dismissal with prejudice as "where the delay is the result of (19) intentional dilatory conduct, or a pattern of neglect on part of the government

dismissal with prejudice is the appropriate remedy." Also see *U.S. v. Williams* 576 F.3d 1149, 1158 (10th Cir. 2009). A dismissal under the speedy trial act requires that when a subsequent indictment or information adds no new offenses and changed the same offense, the speedy trial commences with the original filing. As "Pre-indictment delay that arises to a constitutional violation requires a dismissal of the indictment with prejudice to retrial." *U.S. v. Johnson* 100 F.3d 1107, 1110 n.2 (10th Cir. 1997) Also see *U.S. v. Marion*, 404 U.S. 307, 324 S.Ct. 455, 30 L.Ed. 2d 468 (1971). In *Johnson*, an aspect of the STA violation was the Government waiting 2 years to file an indictment, even though the case was not that complicated, justifying a dismissal with prejudice.

29) When the Government refiles a complaint or indictment prior to filing a dismissal, the original STA violations are carried over. The STA clock continues to run from the first appearance; and therefore, the dismissal carries over. "Courts have interpreted these rules to mean that the refiling of a superseding indictment [or information] prior to the dismissal of the original indictment does not affect the speedy trial clock for offenses charged in the original indictment [or information]" *Johnson* 100 F.3d 1540, 1544, 133 L.Ed. 2d 86, 116 S.Ct. 135 (1995); *U.S. v. Gonzalez*, 897 F.2d 1312, 1316 (5th Cir. 1996); *U.S. v. Salvage*, 863 F.2d 595, 599 (8th Cir. 1988); *U.S. v. Davlinon*, 1997 U.S. Dist. Lexis 12153 (10th Cir. 1997). "The speedy trial clock continues to run from the date of the original indictment or first appearance;" *Gonzalez*, 897 F.2d at 1316. The Government's dismissal for a STA violation then subjects the entire action to dismissal, making prejudice obvious. The government's offer to defer in Nov. 2022 cuts against the presumption that the public interest would be best served by a dismissal without prejudice. See *U.S. v. Madzarac*, 678 F.Supp. 3d 42 R.L. 2023. To then delay for 6 months after a finding of competency to argue against such a finding, yet also negotiate a plea while a pending continuation upon their own motion of the

competency hearing, is the precise reason of the improper purpose barred by the harassment test. See Pitts, 331 F.R.D. 199 (D.C. 2019) at 205; also see Ammidown, 497 F.2d 615 (U.S. App. D.C. 1973) at 620 accord *poindexter* 716 F. Supp. 6 (D.C. 1989) at 11 (Identifying concern as protecting the defendant from the government seeking to "gain a position of advantage, or to escape from a position of less advantage in which it found itself from its own election.") Rule 48 is to protect the defendant from harassment through the prosecution charging, dismissing without jeopardy, and commencing another prosecution at a different time more preferable to the prosecution. See U.S. v. Madzarec, 678 F. Supp. 3d 42 R.C. 2023; Also see U.S. v. Durr, 760 F.2d 617 (10th Cir. Appeals 1984) Lexis 26200 (Court abused discretion in not requiring government to state reasons for dismissal under rule 48(a)) In such a case, dismissal with prejudice to a second indictment or refiling is the proper remedy. As the prosecution is required leave of court prior to refiling and not afterwards or 30 months later, to prevent harassment of a defendant by the prosecution charging, dismissing, and recharging the same crime, See *Rinaldi v. U.S.*, 434 U.S. 229 n. 15, 54 L. Ed. 2d 207, 48 S.Ct. 81 (1977) Also, since the petitioner contested the dismissal, it must be treated as though it were with prejudice. See U.S. v. Westborn, 849 F.2d, 980, 1988 U.S. App (5th Cir. 1988) Lexis 4889. Petitioner Patrick Beck has contested such, however, the prosecution raised incompetency to prevent any challenges. The prosecution failed to offer any reasoning for a dismissal and a dismissal is not warranted absent a finding of prejudice under the Speedy Trial Act. The change in substance amounts to a variance that is tainted and prejudicial. Jon Stanford contends that a "trial would not be fair" yet, continues to delay to hospitalize the plaintiff to reevaluate competency and delay far past the sentence guidelines, without even a preliminary hearing or standing detention order.

30.) As in *U.S. v. Taylor*, 487 U.S. 326, 343, 108 S.Ct. 2413, 101 L.Ed. 2d 247 (1988) The court held "Failure to consider all factors relevant to the choice of a remedy under the act" constitutes an abuse of discretion, such as a bare dismissal, "where as here, the delay-causing conduct is attributable to the Sovereign, it inclines progressively in favor of the accused," "The appropriateness of barring reprosecution increases a relatively direct proportion to the degree of culpability which attaches. Accordingly, delay which results from intentional non-compliance with the act or from the actions designed to gain an unfair prosecutorial advantage weighs heavily in favor of dismissal with prejudice." *U.S. v. Hastings*, 847 Fed. 920, 925 (1st Cir. 1988) "Under *Bain* and *Stirone*, a constructive amendment requires automatic reversal," see *Gratner v. U.S.*, 413 F.2d 1061, 1071, 134 U.S.App. D.C. 154 (D.C. Cir. 1969) (Variance amounted to a constructive amendment, & the court would already have determined that the variance resulted in denial of a substantive right, and therefore, that error was not harmless) As substantially different evidence results in a manifest injustice in a constructive amendment,

31.) Allowing a change in substance permits the kind of bad faith gamesmanship and prejudice by overburdening the defense's discovery efforts concerning issues not originally raised. The delays resulting are substantial, as the evaluations relied on such discrepancies that have gone uncorrected. This violates the presentment Clause 31 USC § 3724(a)(1)(A). Voluntarily dismissing the case divests the court of subject matter, and is an improper use of an accusatory instrument. "A constructive amendment of the indictment is more dangerous than a simple variance because it actually modifies an essential element of the offense charged, thereby effectively altering the substance of the indictment. But when the variance rises to a level of a fatal variance, relief is appropriate." *U.S. v. Bradley*, 2013 U.S. Dist. at 10 (Kansas 2013) Lexis 153415. The addition of predicate acts not charged in the indictment or original complaint is such a prejudicial variance and it is likely the commitment

was based on these additional allegations, Petitioner was denied any chance to defend and put at risk of another prosecution. As a matter of law, even a good faith decision to continue a constitutionally tainted prosecution does not erase such taint when the prosecution continues to utilize the fruits of tainted behavior, as previously described. For example, the unlawful seizure of evidence is not cured by turning it over to a new prosecution or even a grand jury. See ~~Griffin~~ *Griglio v. U.S.*, 405 U.S. 160, 154, 31 L.Ed. 2d 104, 92 S.Ct. 763 (1972) (Promises made to defendant by one prosecutor binds another prosecutor of the same office). The Government appears to be arguing for a rule that would permit the prosecution to proceed an indictment with a campaign of harassment and prosecutorial misconduct; so long as a single prosecutor remains and act as a cleansing agent to remove any past misconduct by continuing to renew the misconduct. The prosecution is premised on the fruits of constitutional misconduct and tainted behavior, then continuing by laundering the taint to incompetency proceedings.

3d) The proper remedy under 18 USC § 3162(a)(2) is discharge and release, 34 months exceeds the amount of time expected to serve if found guilty and 0 months is a possible sentence. This is violative of substantive due process, see *U.S. v. Arendas*, 2013 U.S. Dist. Ct. Utah 2013 Lexis 69796. The ends of justice continuances were made without underlying cause or valid requirements. See *U.S. v. Koerber*, 813 F.3d 1262 (10th Cir. App.) (dismissed with prejudice due to ends of justice continuances, outdated evidence 3-20 years old, and amount of discovery without listing reasons for granting it) "The only remedy is dismissal with prejudice." *Struck v. U.S.*, 412 U.S. 434, 440, 93 S.Ct. 2260, 37 L.Ed. 2d 566 (1973); Also see ~~Doyle~~ *Doyle v. U.S.*, 505 U.S. 647, 655 112 S.Ct. 2086, 120 L.Ed. 2d 520 (1995) (Affirmative proof of prejudice is not essential to every STA claim) The continuances were in regard to pleas. This counts against the government and consumed over 18 months. See *U.S. v. New Buffalo Amusement Corp.*, 600 F.2d 368 (U.S. App. 2d

1979) Lexis 14493 (Government must assume responsibility for the risk of instant delays where the bargain is ultimately unsuccessful.) The decision to accept a plea is ultimately the decision of the client ABA Model Rules of Prof. Conduct R. 1.2(c). As it is "fundamental that an attorney may not coerce a client into accepting a plea": *Purdy v. U.S.*, 208 F.3d 41, 45 (2nd Cir. 2006) As "Tactical delays" or "Prosecutorial delay incurred in reckless disregard of circumstances" will typically violate due process. *U.S. v. Lovasco*, 431 U.S. 783, 795 n.17, 97 S.Ct. 2044, 52 L.Ed. 2d 752 (1977); Also see *Connolly v. U.S.*, 2013 WL 530869 (D.N.J. 2013) (waste of resources and delay in case is contrary to objectives of STA).

33.) Detention is in excess of the offered resolution on Nov. 14, 2022. This has increased pretrial based on arbitrary circumstantial hearsay or speculation. see *U.S. v. In Reles*, 434 F.2d 103, 104-05 (7th Cir. 1970) (Noting that delay in bringing a case to trial may indicate detention is punitive when "The prosecutor is stalling because he realizes his case is so weak that pretrial detention is the only punishment in fact he can impose on the defendant.") The prosecution has requested more delays on 4/7/2025 for a second restoration period after an 8 month delay from a finding of competency and certification by challenging the hospital's finding, yet using it as an excuse to re-hospitalize for another 8 month delay. Any form of confinement is punishment. See *Littlefield v. Deland* 641 F.2d 729, 731 (10th Cir. 1980), yet the prosecution has argued against trial because a conviction might be likely and unfair. There is no standing detention order and the original commitment on 4/23/2023 without a hearing to determine competency is a clear violation of substantive due process. "What is at issue when an aspect of pretrial detention that is ~~not~~ not alleged to violate any express guarantee of the Constitution is challenged, is the right to be free from punishment." *Bell v. Wolfish* 441 U.S. 520, 534 ~~2001~~, 99 S.Ct. 1861, 60 L.Ed. 2d 447 (1979) (Defendant may not be punished prior to guilt phase)

Also see *Baker v. McCollan*, 443 U.S. 137, 143, 94 S.Ct. 2689, 61 L.Ed. 2d 433 (1979) (Prolonged detention in the face of a person's protestation of innocence may violate the 4th and 14th Amendment) "This traditional right to freedom before conviction permits the unhindered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. Unless the right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." *Stack v. Boyle*, 348 U.S. 1, 72 S.Ct. 1, 96 L.Ed. 3 (1951) citing *Hudson v. Parker*, 156 U.S. 277, 285, 15 S.Ct. 450, 39 L.Ed. 424 (1895) "The likelihood of conviction by itself has no bearing on the pretrial release decision. To consider the weight of the evidence for purposes of prejudging the outcome would convert pretrial detention from a regulatory detention into a punitive detention, which the Supreme Court finds unconstitutional." *U.S. v. Salerno*, 481 U.S. 739, 747-48 107 S.Ct. 2095, 95 L.Ed. 2d (1987) "The weight of the evidence is the least important of the various § 3142(g) factors" lest a court make a "pretrial ~~determination~~ determination that the person is guilty." *U.S. v. Mata Medina*, 767 F.2d 1403, 1408 (9th Cir. 1985) Pretrial detention is punishment where detainee is held "simply because there is no room at a hospital." *Disability L. Ctr. v. Utah*, 180 F. Supp. 3d 993, 1012 (D. Utah 2016). Also see *Advoc. Ctr. for Elderly & Disabled v. Louisiana Dep't of Health & Hosp.*, 731 F. Supp. 2d 603, 610 (E.D. La. 2010) (Detainees remain in jail because hospital is full not because it would restore competency) Irrational and arbitrary reasons exist for pretrial detention, not related to competency, showing a punitive animus. No explanation has been made as to why pretrial release conditions have not been met or could mitigate any speculative concerns, not shown to exist by unproven hearsay of past behavior from 20 plus years ago. The Government interests are diminished as they have secured a punishment and seek to extend it. (25)

34.) The transportation delays alone violate 3161 (h)(4) and (h)(1)(F), let alone the denial of bail. "Under American Criminal Justice procedure, pretrial bail may not be used as a device to protect society from the possible commission of additional crimes by the accused." Report of The House Committee, H. R. Rep. No. 154, 89th Cong. 2d. Sess. 5-6 (1966) "The passage of the pretrial detention provision of the 1984 act did not, however, signal a congressional intent to incarcerate wholesale the category of accused persons awaiting trial. Rather, Congress was demonstrating a concern about "a small but identifiable group of particularly dangerous defendants as to whom neither the imposition of stringent release conditions nor the prospect of revocation of release can reasonably assure the safety of the community or other persons." S. Rep. No. 225 98th Cong. 1st Sess. 6-7 reprinted in 1984 Code Cong. & ad news at 3189. The legislative history stresses that "the decision to provide for pretrial detention is in no way a denigration of the importance of the defendants' interest in remaining at liberty prior to trial... it is anticipated that [pretrial release] will be appropriate for the majority of Federal defendants," id at 7, 12 reprinted in 1984 U.S. Code Cong. & ad news at 3189. "Consistent with the intent expressed in the legislative history, the statutory scheme of 18 U.S.C. § 3142 continues to favor release over pretrial detention... The wide range of restrictions available ensures, as congress intended, that very few defendants will be subjected to pretrial detention." U.S. v. Miller, 625 F. Supp. 513 at 5-9, "The clear and convincing standard requirement imposes a heavy burden of proof upon the government which must be met before the defendant's liberty may be curtailed by pretrial detention." U.S. v. Jones, 614 F. Supp. 96, 98 (E.D. Pa. 1985).

35.) No such findings have been made in the case at hand. The petitioner has been deprived of liberty without procedural or substantive due process in violation of the 4th, 5th, 6th, 8th, and 14th Amendments to the Constitution and in violation of the STA and Bail Reform Act statutes, without a hearing.

III Insanity Defense Reform Act

36) The main contributing factor of the raising of incompetency or mental illness is caused by misconduct and misrepresentations of evidence or statements as well as evidence that was taken out of context and formed around a false narrative. This is proven by the government's request for release and then refile, dismissal, delays, ~~no~~ hearings, personal attacks, and a refusal to provide data or get to the merits of the case. It makes no sense for the government to request release once caught in a lie and then raise all of these issues not relative to the case. A showing of bad faith efforts to withhold evidence and instead of admitting this, doubling down on another self-serving affidavit. This is violative of Rule 37(c)(1) Failure to make disclosures or discovery. Yet, that prosecution has constantly used, alleging the petitioner as delusional and incompetent as an excuse for every single error they have made. Any "reasonable prosecutor understood that providing a medical examiner fabricated evidence and then putting him on the stand to testify offends the constitution." *Truman v. Owen City*, 1 F. 4th 1227, 1235 (10th Cir. 2021) Also see *U.S. v. Gregory*, 2020 U.S. Dist. Lexis 82255 (10th Cir. 2020) (where government 1) fabricated evidence, 2) called defendant a liar, 3) constantly misstated evidence and violated Rule 403) "There is no moral, constitutional, common law, or common sense difference between providing phony evidence in support of continued confinement and prosecution." *Pierce v. Gilchrist*, 359 F.3d, 1279 at 58 (10th Cir. App. 2014) AS "Fabrication of evidence will constitute fraud on the court" *Zuvich v. Matrix Service Inc.* 426 F. 3d, 1281, 1291 (10th Cir. 2005) AS "by clear and convincing evidence, the fraud infested has interfered with the ability to prepare and proceed to trial." See *Mooney v. Halohan*, 294 U.S. 103, 112 S.Ct. 340, 79 L.Ed. 791 (1935) (U.S. Supreme Court has made clear that deliberate deception of a court by the presentation of false evidence is incompatible with rudimentary demands of justice).

Re affirmed in *Pyle v. Kansas* 317 U.S. 213 63 S.Ct. 127, 87 L.Ed. 214 (1942)

"The same result obtains when the state, although not soliciting false evidence allows it to go uncorrected when it appears." *Napue v. Illinois*, 360 U.S. 264, 269, 79 S.Ct. 1173, 3 L.Ed. 2d 1217 (1959) also see *U.S. v. Williams*, 2012 (U.S. Dist. Lexis 24776) (who was coerced to plea based on fabricated evidence and perjured testimony)

37.) Such evidence was used in the case at hand and a dangerous risk assessment was ordered by the court based on such falsities on 11/14/2022. Incompetency was not raised until 4/23/2023. The court lacked jurisdiction to order a dangerous risk assessment and use it to determine if petitioner suffered from a mental illness. See order 11/17/2022 Doc # 405, 22-MJ-01089-DHU, APPX # __. Amended on 7/26/2023 Doc # 47 to include "under §4241". "The court does not have authority to order evaluation of dangerousness under §4246 before hospitalization and examination under 4241 (d)" *U.S. v. Velazco-Barrera*, 2010 Dist. Lexis 107706 at 10 (10th Cir. 2010) The court order stated a lack of information was available regarding Petitioner's mental health and ordered a dangerous risk assessment per 4241, (not 4246). 4241 does not allow for a dangerous risk assessment by an unlicensed independent evaluator, Dr. Larsen, under Dr. Brook's supervision. "First, the court must 'determine whether reasonable cause exists to believe the defendant may be mentally incompetent, if so, the district court must conduct a competency hearing.' At the hearing the court may order a psychology evaluation to determine whether the defendant is competent." See 4241 (d) "If mental incompetency is established at the hearing by a preponderance of evidence, the court must halt the proceeding." *U.S. v. Martin* 2024 U.S. Dist. Lexis 211000 (10th Cir. 2024) As "the court does not have, nor does it want, free standing powers to order defendants to undergo dangerous examinations, and a plain reading of the

Statutory language reveals that the court must await the completion of the competency examination, before [defendant] is subject to the provisions of 4246. In the U.S., Society does not commit people for dangerous evaluations merely because having such knowledge might be a good idea." see U.S. v. Velazco - Baranza, 2010 U.S. Dist. Lexis 107706 (11th Cir) at 12.

38) The district court ordered a dangerous risk evaluation based on a lack of information to determine conditions for release, which was then relied upon thereafter to determine competency. This has delayed the proceedings for 24 months. No hearing was held from 4/23/2023 to 4/7/2025, despite Petitioner's objections. Replacement counsel, upon appointment, immediately stipulated incompetency prior to meeting Petitioner a single time. Counsel Brian Pori claimed petitioner had been found incompetent twice, see Appx# — and Docket #57, 8/25/2023. Petitioner had an evaluation performed by Dr. Bieber at Fort Worth, who found the petitioner as incompetent based on two previous risk assessment by Dr. Larsen. The court acted outside of the statutory confinements of Congress and lacked Art. III §2 standing by ordering the risk evaluation prior to incompetency being raised, hospitalization, or evaluation. The Petitioner was not eligible for a dangerous risk assessment at any point in time. The court lacked custodial authority to apply §4246, as the risk assessment must be performed during §4241(d) custody after a certification of non-restorable is issued by the facility director. An abuse of discretion is "deferential, abuse is shown where the decision was made on a mistaken view of the law." see U.S. v. Messner, 107 F.3d 1445, 1454 (10th Cir 1997). This is a plain error and failure to remand would result in a miscarriage of justice, as is the case since 3 habeas corpus motions were refused under §2241, and 2 appeals were denied concerning the dismissal and the commitment. The petitioner was held for 9 months waiting hospitalization for restoration, and counsel waived a hearing without Patrick's consent. (29)

39) "Following Jackson, the remedy for such violations requires dismissal." see *U.S. v. Tombs*, 574 F.3d 860, 1274 (10th Cir. 2009) "Failure to hold a competency hearing given a genuine, reasonable doubt about competency violates procedural due process." *Cooper v. Oklahoma* 134 L.Ed. 2d 498, 116 S.Ct. 1373, 1376 (1996) "The defendant is Constitutionally entitled to a hearing on the issue of competency," see *Pate v. Robinson* at 377, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed. 2d 815 (1966) ("It is contradictory to argue that a defendant may be incompetent, and yet knowingly or intelligently waive his right to have the court determine his competency to stand trial") Counsel or potentially incompetent defendants cannot knowingly and intelligently relinquish rights voluntarily. See *Adams v. Wainwright*, 764 F.2d 1356, 1359 (11th Cir. 1985); *Indiana v. Edwards* 554 U.S. 164, 164-70, 182 S.Ct. 2379, 171 L.Ed. 2d 345 (2008).

40) Because "civil commitment for any purposes constitutes a significant deprivation of liberty that requires due process protection," *Jackson v. Indiana* 406 U.S. 715 (1970); *Humphrey v. Cady*, 405 U.S. 504 (1970); *In Re Gault* 387 U.S. 1 (1967); Furthermore, the clear and convincing standard for a commitment as dangerous requires due process by the 14th Amendment as it may "reduce the risk of a defendant having his reputation tarnished erroneously by increasing Plaintiff's burden of proof." See *Addington v. Texas* at 425, 441 U.S. 418, 426-427, 99 S.Ct. 1804, 60 L.Ed. 2d 323 (1979)

Jon Stanford (AUSA) stated in court on 11/14/2022 that there was a substantial concern Patrick Beck's reputation would and had been damaged, yet proceeded with the commitment and delays. He more recently has retaliated by attacking Patrick's reputation by stating Patrick was "manipulative", "deceptive", "faked good", "misled evaluators with charm" and was "incompetent due to his high intellect and adaptability" because he was able to "make evaluators think he was competent". The court had no reason to force Patrick to take the dangerous risk assessment on 11/14/2022 and should have released him, which would have prevented an erroneous commitment, delays, loss of liberty, and loss of property as well as freedom of speech. Jon Stanford had raised

an argument for release because he knew the information was false. Doctors have then relied on that information to commit Patrick and delay proceedings, "The court may not substitute its judgment for that of the prosecutor and must defer to the prosecutor unless prosecutor is clearly wrong," *U.S. v. Hammy* 638 F.2d 803, 1981 U.S. App. Lexis 19750 (5th Cir. App.) Also see *Maggio v. Pelford*, 462 U.S. 111, 103 S.Ct. 2861, 27 L.Ed. 2d 794 (1983) (Finding a competency hearing unnecessary where a defendant never gave the Judge adequate cause to fear mental incompetency) The confinement, arrest, and commitment lacked proper procedures and evidentiary standards, which is "a fundamental defect which inherently results in a complete miscarriage of justice or an omission inconsistent with the rudimentary demands of fair procedure." *Hill v. U.S.* 368 U.S. 424, 82 S.Ct. 468 L.Ed. 2d 417 (1968) "A criminal defendant, who neither initiated a psychiatric evaluation nor attempted to introduce any psychiatric evidence may not be compelled to respond to a psychiatrist," *Estelle v. Smith* 451 U.S. 454, 68 L.Ed. 2d 359, 101 S.Ct. 1860 (1981) AS "No statutory authority or case law gives the court license to order defendant to submit to a mental health examination by the U.S., when defendant is not relying on an insanity defense," *U.S. v. Overton* 437 F. Supp. 3d 1078 (D.N.M., 2006) "Information obtained during the interviews and info. contained in privileged letter provided prosecutors with a roadmap of whom to interview and what documents to focus on. The prosecutors approach, relying on privileged documents and violating rules of professional conduct and due process, has fundamentally compromised this case and is certainly prejudicial to the defendant," *U.S. v. Kosher* 2014 U.S. Dist. Lexis 113839. This vice assessment "provided an opportunity for the

U.S. to obtain a damaging diagnosis or learn/create harmful things about the [defendants] past, which in this case was mostly made up hearsay of 20-30 years ago. See *Yowell v. Thaler* 442 Fed. Appx 100, 2011 WL 4056207 1-2 WL (5th Cir. 2011) (Noting defense attorney's statement that "Based on my experience in the past, there is probably no way on God's green earth that we are going

to allow the state to examine our client with one of their own experts.) "Any use of expert witnesses paid by a party raises concerns of partisanship, competency, and honesty. Because experts are partisan witnesses paid by a party, there is an inevitable danger of bias." Makis Bernstein, Jury Evaluation of Expert Testimony Under The Federal Rules, Drexel L.R. 239, 268 (2015) "The experts will often do anything. They toss statements into their reports to be helpful. Too many attorneys release the report as written - without editing or trimming... The reports draw Daubert motions or rule 702 challenges. The proponent is then forced to defend the statements." U.S. v. DeLeon 2021 (U.S. Dist. NM) Lexis 203045.

41) The petitioner was competent at all times and not subject to the provisions of 4246 for a dangerous risk assessment. This determination must be performed separately. Patrick Beck took a Forensic Psychology class with Dr. Larsen's supervisor Dr. Brovko at UNM in Fall of 2019, which Dr. Larsen claimed as a delusion. UNM transcripts were withheld and Dr. Larsen claimed Brovko never taught at UNM. UNM's website shows otherwise. There is a standard by the American Psychology Association requiring that competency evaluations to be done separate from dangerous risk evaluations, as was taught in Brovko's class. Patrick had taken a screenshot of this standard, which also ended up in discovery information. Hence, why the sentencing Commission and Congress set the standards for 4241 to come prior to 4246. The seriousness of an involuntary commitment requires a separation of power and requires a Federal Medical center to perform such assessments within set time frames. The court was without authority to order the risk assessment and deny bail, which is violative of the 5th, 6th, 8th, and 14th amendments. "4246 proceedings are only triggered following a proper certification by a director of the facility in which Defendant is hospitalized." U.S. v. Miguel Cruz-Ruiz, 585 F.Supp. 3d 167, 2012 U.S. Dist Lexis 62387 (Puerto Rico) "without a certification in this case, the court cannot order a dangerous risk assessment." see U.S. v. Baker, 807

822 1315, 1373-24 (6th Cir. 1986) (in absence of a certification and by failing to strictly adhere to the procedures outlined in Section 4246 (a), the district court "lacked statutory authority" to commit the defendant.) This in effect reads the Bail Reform Act § 3142 into the statutes concerning a defendant's mental competency. Mixing up dangerousness in the Bail Reform Act with dangerousness in the 4246 context under 4241 is a fatal error. Also see U.S. v. Locklear 483 Fed. Appx. 843, 2012 U.S. App. Lexis 12644 (4th Cir. App) where Locklear had attacked a Federal officer of Representative Mike McIntyre concerning John Kerry's campaign. Locklear was claimed as delusional and the district court had no authority to send him back for a third time for reevaluation because the prosecutor "was not comfortable" releasing him and did not "accept Butler's findings". "Non compliance with this statute is not a mere technicality - it is directly contrary to Congress's command." U.S. v. Chanters, 829 F.2d 479, 487 (4th Cir. 1987) The 4246/4248 eligibility provision is subject matter discretion and jurisdiction without deciding the issue. U.S. v. Welsh 879 F.3d 530, 535 (4th Cir. 2018) The court did not have jurisdiction under 4241, hence why no hearing was held concerning Dr. Larsen's report and custody was arbitrary as it did not serve a legitimate government interest. The lapse of time since is unreasonable. See FR Civ. P 12(b)(1) dismissal.

42) See U.S. v. Weyda, 966 F.3d 294, 2020 U.S. App. 4th Cir. Lexis 23617 (2 years after initial commitment under 4241 and 6 months after unrestorability determination, respondent could not be considered legitimately committed to Airt. custody and 4248 certification was untimely) The delays this evaluation has caused are unreasonable.

"The Constitution does not permit any portion of a defendant's commitment under 18 U.S.C. § 4241(d) to last indefinitely." U.S. v. Donnelly, 41 F.4th 1107, 1106 (9th Cir. 2022) (The period of pre-hospitalization under 4241(d)(1) may not exceed 4 months given for hospitalization itself. Must have a reasonable relation to finding an appropriate facility and arranging transportation.)

"As the phrase 'not to exceed four months' 4241(d) forecloses extensions, the fact that 4241(d)(2)(A) allows additional reasonable time to restore competence confirms 4241(d)(1) creates an absolute deadline." See *U.S. v. Carter* 583 F. Supp. 3d 94 D.C. 2022 Lexis 30121. There appears to be a circuit split concerning this issue and many disagreements within district courts themselves, as to what remedy is available to non-compliance and when due process is violated. 3161(h)(4) sets out a 10 day transportation requirement and many attorneys use 4241 to retaliate or delay while the appeals courts do not always allow for an appeal under the collateral order doctrine and do not find 2241 to cover such violations. There must be a relation to STA and the bail reform act, as well as the constitution; as alleged incompetency under the American's with disabilities Act does not deprive a person of their rights. The lack of a scientific process in psychological test procedures allows for false positive diagnosis based on subjective stereotypes that are known to be false. Statistically speaking, mental illness makes a person less dangerous than repeat offenders, the news however, often overexaggerates crimes and claims the cause is mental illness. These labels are discriminatory and do not justify such disregard for due process or freedoms and liberties. As here, it is far too easy to slander a person with unproven hearsay claims to halt procedures. Yet, "The preponderance of evidence standard for release or conditional discharge is much lower than the burden of proof for the initial commitment, which requires clear and convincing evidence." *U.S. v. Pinson*, 547 F.3d 872, 838 (10th Cir. 2008) "By subjecting Jackson to a more stringent standard of release than those generally applicable to all others not charged with offenses... deprived petitioner of equal protection of the laws under the 14th Amendment." *Jackson* 466 U.S. 715 at 1851, 1859 (34)

"In the current matter, there was no finding of even probable cause by a hearing by Judiciary. See *Gerstein v. Pugh*, 420 U.S. 103, 114, 43 L.Ed. 2d 54, 95 S.Ct. 854 (1975) (violation of 4th Amendment)

43) As shown in President Trump's executive orders attached, these are calculated attacks by strategically weaponizing the Judiciary to silence perceived political opponents for expressing their freedoms to insure as much damage and injury can be inflicted as possible by delays, personal insults, and rewriting history. Biden appointed the Judge presiding over the case and the case is full of slanderous insults designed to force a plea to take the petitioner out of politics and any future job prospects. Yet, even still Golden Forensics claims Patrick is intelligent and adapted to the test procedures. The medical community defines intellectual disability according to three criteria, 1) significantly subaverage intellectual functioning, 2) deficits in adaptive functioning (the inability to learn basic skills and adjust behavior to changing circumstances), and onset of these deficiencies during the developmental period. DSM 5 at 33 For APA. Yet, Dr. Landry claimed adaptive functioning and intelligence as proof of delusions and incompetency on 3/14/2025 after a finding of competency certified by a Federal Medical center. Dr. Landry's claim was based on credibility determinations regarding evidence and refusal to plea. "Focus of court's inquiry is capacity and intelligence, not credibility." People v. Parks 41 N.Y. 2d 36 359 N.E. 2d 358 310 N.Y.S. 2d 848 1976 N.Y. Lexis 3204 (App. N.Y.) "It was an error for the district court-appointed psychologist... simply because he refused to take a plea... We thus count these delays against the government." U.S. v. Tigano 880 F.3d 602 at 27 (delay of seven months for failure to provide timely transportation counted against Government) Also see U.S. v. Perkins 99 F.4th 804 2024 U.S. App 5th Cir. Lexis 10096 (Dr. Biben, who claimed Patrick as delusional and incompetent, found Perkins delusional, schizophrenic, and competent) U.S. v. Oaya 2023 U.S. App. Lexis 484 (5th Cir. App. 2025) (competent as delusions did not interfere with trial preparation) U.S. v. Gould 790 F.2d 235 (App. 2d 1488) (commitment order immediately appealable) "At some point, the debate must come to an end, and the U.S. does not get to keep sending a report from the doctors until it gets one it likes." U.S. v. Martin U.S. Dist. 2011 Lexis 12941 at 52

44) Dr. Larsen's evaluation is invalid and was performed in a coercive setting. As "The circumstances under which the interview was conducted were extremely intimidating." U.S. v. Guevra 983 F.2d 1001, 1002-04 (10th Cir. 1993) Dr. Landry used similar tactics for the purpose of obtaining a confession by repetitive questioning "likely to elicit an incriminating response." U.S. v. Woody, 2070 WL 351, 3486 (D.N.M. 2020) citing R.I. v. Ennis, 446 U.S. 291, 294 (1980) Dr. Larsen claimed a refusal to plea as proof of delusional & dangerous, violative of Rule 5 401, 402, 403, § 18817(a) with respect to guilt and not to negate specific intent or for an insanity defense. Both involved "The use of shackles or other physical restraints ... is thus strongly disfavoured because it undercuts the presumption of innocence" Zygalin v. Wainwright, 720 F.2d 1221, 1223 (11th Cir. 1983) cert denied 466 U.S. 941, 80 L.Ed. 2d 468, 104 S.Ct. 1931 (1984) Each interview was via zoom and restraints were unnecessary. This violates the 5th as such was "Accusatory, persistent, and intrusive questioning [turning] an otherwise voluntary encounter into a coercive one." U.S. v. Little, 60 F.3d 708 U.S. App. 10th 1995 Lexis 194157, statements obtained under court order are not voluntary, waiver must be free of choice, not overreaching psychologist. The tainted information used has tainted the defense and violates Rule 1d2(c)(4), "No psychologist can predict with certainty whether an individual will commit dangerous acts." LoCoZZa & Steadman, The Failure of Psychiatric Predictions and Dangerousness: Clear & Convincing Evidence, 24 Rutgers L. Rev. 1084 (1976), Diamond, The Psychiatric Prediction of Dangerousness, 123 U. Pa. L. Rev. 439 (1974), Delusions and even real threats are low indicators of violence. The Forensic Psychology Handbook, Goldstein. "V-RAG, PCL-R, HCR-20 tests and risk assessments or instruments should not be used to predict low frequency events such as future violence regarding preventative detention." The Efficacy of Violence Prediction American Psych. Ass. 741 (2016) "Testimony which vouches for the credibility of a witness violates Rule 608(a)(1) & Rule 403, lacks relevance under 401 & would not assist under Rule 702" See U.S. v. Adams 271 F.3d 1236, 1246 (10th Cir. 2001) "No Professional should rely on such a biased source" Therasense inc. v. Becton Dickinson co. No. 04-02123 WtA, 2008 U.S. Dist. Lexis 124780, 2008 WL 23 23856 at 2. (N.D. Cal. 2008)

45.) Dr. Larson, Dr. Landry, and Don Stanford have made many inappropriate attacks on Patrick Beck's character. These are inflammatory and personal attacks introduced as evidence of mental illness and based on 3rd party hearsay, such as claims of Patrick as "delusional, incompetent, manipulative, a pathological liar, math addict" and so on. See U.S. v. Hill 744 F.3d 1250, 1265-66 (10th Cir. 2014) (concluding that improper opinion testimony about defendant's credibility had affected the defendant's substantial rights in part because the prosecution emphasized the testimony during closing argument). This caused a prejudicial effect by misrepresenting Petitioner's testimony in whole from psychology evaluations. Violative of Rule 702 & 403. "The credibility of witnesses is generally not an appropriate subject for expert testimony." U.S. v. Toledo 485 F.2d 1462, 1470 (10th Cir. 1973) The bulk of Heather Grawick and Kirsten Peterson's hearsay is speculative, "was going to burn the house down" (20 years ago) "might have guns", "was going to throw me out of a two story building but did not" (10 years ago) "Evidence, including testimony, must be based on more than mere speculation, conjecture, or surmise." Bonos v. Honeywell Int'l Inc., 366 F.3d 869 2004 U.S. App. Lexis 2703 (10th Cir. 2004)

CONCLUSION

Wherefore, promises considered, Petitioner must be released from confinement and the commitment reversed. Petitioner prays the court dismiss the case with prejudice for lack of due process and the stated violations.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Patrick Beck Patrick Beck

Date: 4/16/2025