

25-6758

No. _____

IN THE

ORIGINAL

SUPREME COURT OF THE UNITED STATES

CLYDE PONTEFRACT - PETITIONER

VS.

UNITED STATES OF AMERICA et al.

ON PETITION FOR A WRIT OF CERTIORARI TO

SIXTH CIRCUIT UNITED STATES COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Clyde Pontefract, 13955-035

FCI Ashland

PO Box 6001

Ashland, KY 41105

2nd

9589-0710-5270-6106-1400-03

1st

9589-0710-5270-1508-0349-21

Questions Presented for Review

1. Does the Substantive Law of 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. qualify for the Little Tucker Act under United States V. Mitchell, 463 US 206 (1983) for compensation by the Federal Government for the loss of personal property of a federal inmate ?
2. Does the Substantive Law of 28 CFR §553.10 et seq. and Program Statement of 5580.08 establish fiduciary responsibilities under the test of "Fair Interpretation" rule under United States V. White Mt. Apache Tribe, 537 US 465 (2003) that would establish that 31 USC §1321(a)(21) & (22) is not a bare trust?
3. Does Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and 28 USC §2680(c) actually deny a federal prisoner to file a claim based on his personal property under the Federal Tort Claims Act ?

LIST OF CASES DIRECTLY RELATED TO THIS CASE

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Docket No 2025 U.S. App LEXIS 16249

Case No 24-3629

CL CLYDE PONTEFRAC T Vs UNITED STATES OF AMERICA, et al.

July 1, 2025
(See Appendix B)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

Docket No 2023 U.S. Dist LEXIS 145888

Case No 4:22-cv-01683

CLYDE PONTEFRAC T Vs UNITED STATES OF AMERICA, et al.

August 21, 2023
(see Appendix A)

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Table of Authorities

1. Ali V. Fed Bureau of Prisons, 552 US 214, 128 S Ct 831, 169 L Ed 2d 680 (2008); Pages, iv, vi, 6, 8, 9, 10.
2. Davidson V. Fed Bureau of Prisons, No. 17-5429, 2017 US LEXIS 24272 (6th Cir., Nov. 29, 2017); Page, 10 (ftn 1)
3. Spengler V. United States, 688 Fed Appx 917 (Fed. Cir., 2017). Page, 10, (Ftn 1).
4. United States V. Bormes, 568 US 6, 133 S Ct 12, 184 L Ed 2d 317 (2012); Page, 1.
5. United States V. Mitchell, 463 US 206, 103 S Ct 2961, 77 L Ed 2d 580 (1983); Pages, v, 1, 3, 7.
6. United States V. White Mt. Apache Tribe, 537 US 465, 123 S Ct 1126, 155 L Ed 2d 40 (2003); Pages, v, 2, 3, 4, 5, 7.
7. Ute Indian Tribe V. United States, 99 F.th 1353, (App. Fed. Cir., 2024); Page, 5.

8. 28 CFR §14.1 et seq.; Pages, iii, v, 2, 3, 5, 7, 8.
9. 28 CFR §543.30 et seq.; Pages, iii, iv, v, 2, 3, 5, 7, 8.
10. 28 CFR §553.10 et seq.; Pages, v, 4, 5, 6, 7, 8.
11. 5 USC §101; Page, 2.
12. 5 USC §801; Page, 5.
13. 28 USC §1346(a)(2) or the Little Tucker Act;
Pages, iii, iv, v, vi, 1, 2, 3, 4, 5, 6, 7, 8, 9.
14. 28 USC §2680(c); Pages, iv, vi, 6, 8, 9.
15. 31 USC §1321(a)(21) & (22); Pages, iii, v, 1, 2, 3, 4, 5, 7, 8.
16. 31 USC §3723; Page, iv.
17. PS 1320.07; Page 5.
18. PS 5580.08; Pages, 6, 7, 8.

JURISDICTIONAL STATEMENT

Plaintiff filed under 28 USC §1346(a)(2), the Little Tucker Act, and 28 USC §1331. Plaintiff used for Substantive Law of the Little Tucker Act jurisdiction 28 CFR §14.1 et seq., 28 CFR §543.30 et seq., and 31 USC §1321(a)(21) & (22). The district court Dismissed this action under Sovereign Immunity that included a Dismissal under the Federal Tort Claims Act.

Pontefract Vs. United States of America, et al., US
District Court for the Northern District of Ohio,
Civil Action No. 4:22-cv-01683 (LEXIS 145888)
August 21 2023. Appendix A.

Plaintiff filed a timely Appeal that Affirmed the District Courts Order.

Pontefract Vs. United States of America, et al., US
Court of Appeals for the Sixth Circuit, Docket No.
24-3629 (LEXIS 16249), July 1 2025. Appendix B.

The jurisdiction of this Court is invokled under 28 USC §1254(1).

Concise Statement of the Case

Pontefract is a federal inmate who is being denied personal property claims by the Federal Bureau of Prisons. These personal property claims was established during a forced transfer to another institution during the COVID-19 pandemic. The Federal Bureau of Prisons only supports 31 USC §3723 for small tort claims for the loss of personal property caused by the negligence of an officer or employee. This type of tort claim is the only claim being supported, yet, not court reviewable by the Federal Bureau of Prisons and the United States Courts.

The courts has also dismissed federal tort property claims by Pontefract based on Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and 28 USC §2680(c) claiming that his claim lacked subject-matter jurisdiction even though he filed under the Little Tucker Act. This contradicts congress' support with 28 CFR §543.30 et seq. that allows federal inmates to file for personal property claims under the Federal Tort Claims Act. The courts have used Ali and §2680(c) to barr the exemptions of U.S. Sovereign Immunity for Little Tucker Act personal property claims.

Because of these contradictory legal issues of case law and statutes Pontefract had legally reasoned that there is no valid support within the United States Courts to uphold his Constitutional Right under the Taking Clause of the Fifth Amendment. For these reasons he ask this Court to rectify these issues.

Summary of the Argument

This argument is based on the Little Tucker Act annotated in 28 USC §1346(a)(2) and its jurisdictional capability to establish money damages to a federal inmate for his personal property claims that does not come under the Federal Tort Claims Act. Under Supreme Court authority this possibility exist if Substantive Law can support the Little Tucker Act from the Federal Bureau of Prison's Trust Fund with statutes and program statements that support prisoners property rights based on 31 USC §1321(a)(21) & (22).

The first possibility stated in Section I is supported by United States V. Mitchell, 463 US 206, 216-17 (1983) and that Substantive Law can support Little Tucker Act jurisdiction. Plaintiff articulates that Substantive Law 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. supports money damages for personal property of a federal prisoner.

The second possibility stated in Section II is supported by United States V. Mitchell, 463 US 206, 224-25 and United States V. White Mt. Apache Tribe, 537 US 465, 472-74 (2003) and that 31 USC §1321(a)(21) & (22) is supported as not being a bare trust when the Substantive Law of 28 CFR §553.10 et seq. and PS5580.08 establishes fiduciary responsibilities when they have complete control over a federal inmates personal property by the "fair interpretation" rule established by White Mt.

The third and fourth issues from these two possibilities in law quickly addresses that these Little Tucker Act claims are vital to protect Pontefract's Constitutional Right from the Taking of personal property when there is no relief by the Federal Bureau of Prisons or the Courts because of their support that Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and 28 USC §2680(c) will not allow a federal prisoner to file under the FTCA. Because the lower courts silently would not address this Pontefract ask for remand to determine these legal issues or to address these issues from the Supreme Court.

ARGUMENT

I. The Panel Court never recognized Substantive Law under United States V. Mitchell, 463 US 206, 216-17 (1983).

The Panel Court used several legal issues to Affirm the district court's Dismissal. The first issue was based on jurisdiction by stating, "[t]he district court therefore did not ere by concluding that it lacked jurisdiction under the Little Tucker Act." See Appendix B at LEXIS 4. To perform this the court claimed that the Little Tucker Act, 28 USC §1346(a)(2) does not create substantive rights on its own. They claimed that "claims must be premised on another source of law that can faily be interpreted as mandating compensation by the Federal Government for the damage sustained", (IQMO), ID LEXIS 4, citing United States V. Bormes, 568 US 6, 15, 133 S Ct 12, 184 L Ed 2d 317, 323 (2012). The panel court also used for support United States V. Mitchell, 463 US 206, 216-17 (1983). Here is where one legal issue is being misunderstood. The panel court stated that Pontefract cited "31 USC §1321(a)(21) & (22), which classify prisoner accounts as trust funds", without explanation and stopping their analysis at this point in law. ID LEXIS 4. They based this statement on bare trust being supported by Mitchell, 463 US 224-25. They continued their support with two opinions that Pontefract distinguished. ¹

For the Supreme Court to understand while using the same cite in Mitchell, 463 US 216, the Supreme Court while supporting the Tucker Act stated that a "substantive right must be found in some

other source of law, such as ... any Act of Congress, or any regulation of an executive department." Yes, Pontefract cited 31 USC §1321(a)(21) & (22), he also cited 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. which is Substantive Law. The panel court stopped at §1321 and never recognized these two statutes. Section 543.30 states, "[p]ursuant to the Federal Tort Claims Act, a claim for money damages for ... loss of property", Pontefract claims that this supports money damages under the Little Tucker Act. Pontefract owns his personal property by the authority of Congress from 31 USC §1321(a)(21) & (22). Pontefract has also supported that an executive department under 5 USC §101, the Department of Justice, and by the Federal Bureau of Prisons (FBOP) through 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. is the Substantive Law being applied to the Little Tucker Act. These statutes which are substantive law, both support money damages through a tort claim, and this legal theory is supported by United States V White Mt Apache Tribe, 537 US 465, 471 (2003). White Mt first described different bare trust examples from previous Supreme Court opinions and then explained that the "fair interpretation" rule is used to support the Substantial Law for money damages. This is one legal issue that the panel court was in error by not continuing their analysis from Pontefract's Substantive Law claims. ²

Now because these two statutes supports money damages from the FTCA and the panel court never discussed this because they stopped at §1321(a)(21) & (22) claiming that a bare trust would not support a Little Tucker Act jurisdiction, the panel court

failed to analyze this procedure element of common law. As Mitchell explains that , and in this case, §14.1 et seq. and §543.30 et seq. "can fairly be interpreted as mandating compensation by the Federal Government for the damages sustained." Mitchell, 463 US 217, and "thus, for claims against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department ... a court must inquire whether the source of substantive law can fairly be interpreted as mandating compensation by the Federal Government for the damages sustained." Mitchell, 463 US 218. (IQMO) This places the panel court in error from Mitchell because Mitchell supports that both §14.1 et seq. and §543.30 et seq. "can fairly be interpreted as mandating compensation by the Federal Government for the damages sustained." Mitchell, 463 US 218. The panel's decision is in conflict with these two Supreme Court decisions. This would be supportive that this Court should remand back to the district court for an analysis on the Substantive Law mentioned in this case and weighed with Mitchell and White Mt for review.

II. The panel court failed to analyze the "fair interpretation" Rule for duties owed under their fiduciary responsibilities.

There is another and separate legal issue that will support a Little Tucker Act jurisdiction also because §1321(a)(21) & (22) are NOT bare trust under the guidance of Mitchell, 463 US 224-25, and United States V. White Mt Apache Tribe, 537 US 465, 472-74 (2003). Again the panel court was in error because they stopped

their analysis at the bare trust. Pontefract in his appeal discussed this legal issue and maintained that §1321(a)(21) & (22) created a trust relationship. These regulations that the FBOP uses to manage a federal prisoner's personal property establishes fiduciary responsibilities. See 28 CFR §553.10 et seq. and 31 USC §5580.08. These regulations manage and control the personal property from 31 USC §1321(a)(21) & (22) that is authorized by Congress and will support Little Tucker Act jurisdiction through fiduciary responsibilities because the FBOP has complete control over federal prisoners personal property that includes what property he is allowed to purchase and keep in his personal possession.

To determine fiduciary responsibilities the Supreme Court asked the lower courts to use the "fair interpretation" rule established from White Mt., 537 US 465, specifically in §II(A) at 472-73, and §II(B) at 473-74. Under this rule Pontefract claims that the above statutes and regulations manage and control his personal property beyond a bare trust and that there is a "fair interpretation" as mandating compensation by allowing tort claims for his personal property. This would support Little Tucker Act jurisdiction. The "fair interpretation" rule was not used by the panel court. The panel court had stopped their analysis at §1321(a)(21) & (22) with the bare trust analogy while adding the argument that the time of the actual purchase had ended the FBOP's fiduciary responsibilities. ID LEXIS 5. If the "fair interpretation" rule was applied by the panel court, they would have to explain why the FBOP manages inmates personal property pass the property's

sale and explain why the FBOP manages inmates personal property that is authorized by §1321(a)(21) & (22) along with §553.10 et seq. " Purpose and Scope " of inmate personal property and PS5580.08 " Inmate Personal Property " and determine from this if there is a fiduciary responsibility owed by the FBOP for "loss of property" from §543.30 et seq. and PS1320.07 and under what circumstances. There is support for this in 5 USC §801 in that Congress supported §14.1 et seq. and §543.30 et seq. for tort claims for the "loss of property" by a federal inmate and under §553.10 et seq. supported inmates to own personal property and that Wardens shall establish "in writing that personal property which may be retained by an inmate", and to determine this, the "fair interpretation" rule supported by White Mt should have been applied and analyzed.

Either one of these two legal issues would support Little Tucker Act jurisdiction and is guided by Ute Indian Tribe V. United States, 99 F.4th 1353, at LEXIS 24-31 (App. Fed. Cir., 2024). Here in Ute the United States had argued the same argument as the panel court as to control over water-related infrastructure. The Appeal's Court for the Federal Circuit had disagreed with the U.S. and while the court used the same legal analysis as in Pontefract's claims, Ute, LEXIS 28-29, allowed jurisdiction in support and vacated the district court's dismissal and remanded, LEXIS 31. This legal argument would also allow Pontefract jurisdiction under the Little Tucker Act. Pontefract request that the Supreme Court Remand back to the district court to examine if Pontefract's personal property authorized by 31 USC §1321(a)(21) &

(22) and controlled by \$553.10 and PS5580.08 is beyond a bare trust for fiduciary responsibilities that would support Little Tucker Act jurisdiction.

III. The Distinguishing of Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and 28 USC §2680(c).

If this Court agrees with Pontefract on the above legal analysis in Section I and II of this motion the panel court's legal analysis that concerns Ali and §2680(c) will have to be applied towards the Little Tucker Act. This was never performed by the district nor appellant courts. Pontefract still claims that Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and §2680(c) is distinguished and ask for REMAND back to the district court to be determined in the alternative I ask the Supreme Court to re-examine the opinion of Ali V. Fed Bureau of Prisons, 552 US 214 (2008) and if 28 USC §2680(c) directly applies to a federal prisoner when filing a Tort claim for his personal property.

IV. Specific Fiduciary Responsibilities.

The panel court claimed that Pontefract did "not explain what specific fiduciary duty was owed or how it was breached. The district court therefore did not err by concluding that it lacked jurisdiction under the Little Tucker Act." Appendix A, LEXIS 5 The district court never reached the discussion of any fiduciary responsibilities because the district court also stopped its analysis at 31 USC §1321. Appx A, ID 8-9, and never proceeded

under Substantive Law and the "fair interpretation" rule. Pontefract ask this Court to Remand back this issue to the district court as to what specific duties does §553.10 et seq. and PS5580.08 place on the U.S. Government that would account for a fiduciary responsibility to a federal inmates personal property.

V. Reasons For Granting Relief.

Both the district and appellate courts dismissed the action for lack of recognizing Substantive Law that supports Little Tucker Act Jurisdiction, treating that missing procedural element as dispositive, thereby refusing to reach the substance of Pontefract's procedural claims under common law and producing friction with the US Constitution of the Fifth Amendment, the Taking Clause.

(i) Substantive Law under Mitchell, 463 US 206, 216-17 (1983).

The courts failed to apply Substantive Law under Mitchell of both 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. that would of supported 31 USC §1321(a)(21) & (22) with the Federal Bureau of Prisons fiduciary responsibilities for claims for personal property under the Little Tucker Act.

(ii) The Courts Failed to Apply the "Fair Interpretation" rule supported by White Mt, 537 US 465, 472-74 (2003).

The "Fair Interpretation" rule supported by White Mt would establish that 31 USC §1321(a)(21) & (22) is not a bare trust

because the Substantive Law of 28 CFR §553.10 et seq. and PS5580.08 manage and control Pontefract's personal property beyond a bare trust and supports fiduciary responsibilities for Little Tucker Act jurisdiction.

This Case Raises a Critical and Recurring Question.

This case involving federal prisoners' litigation and whether common law rules override Pontefract's Constitutional rights to his personal property that denies him Little Tucker Act jurisdiction needs clarification because common law of Ali with §2680(c) is causing a federal prisoners Constitutional Right under the Fifth Amendment's Taking Clause to be in question. Clarifying these two common law rules is essential to the integrity of judicial review and federal equitable relief when they effect prisoners constitutional rights.

VI. PRAYER FOR RELIEF

Pontefract respectfully request that this Honorable Court:

Set forth an opinion that Little Tucker Act Jurisdiction is supported under a federal prisoners personal property claims, and to answer the question if 28 CFR §14.1 et seq. and 28 CFR §543.30 et seq. is Substantive Law under United States V. Mitchell, 463 US 206 (1983) for Little Tucker Act Jurisdiction, and

if there is a "Fair Interpretation" that 28 CFR §553.10 et seq. and PS5580.08 establishes fiduciary responsibilities through control of personal property to 31 USC §1321(a)(21) & (22) under United States V. White Mt. Apache Tribe, 537 US 465 (2003), or

remand back to the District Court to analyze these two issues and to determine the distinguishing of Ali and §2680(c) and determine specific fiduciary responsibilities by the Federal Bureau of Prisons under Little Tucker Act Jurisdiction.

I declare under penalty of perjury that the foregoing is true and correct and that this motion was placed in the prison mail box on September 23 2025.

Respectfully submitted,

September 23 2025,

Resubmitted December 19 2025

Clyde Pontefract

Clyde Pontefract

Clyde Pontefract

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