25-7405

CASE NO._____

ORIGINAL



IN THE SUPREME COURT OF THE UNITED STATES

ROY ALLEN NICHOLS, PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

ON PETITION FOR A WRIT OF HABEAS CORPUS
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

# PETITION FOR A WRIT OF HABEAS CORPUS

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## QUESTION(s) PRESENTED

The Petitioner states that the issues presented ARE ones of great public interest and Constitutional importance, but that they also raise the following Constitutional questions:

1). Which Article in the U.S. Constitution specifically provides for cession of lands from any of the 50 Union States to the United States?

2). For what specific purpose(s) are those lands acquired by the United States through cession from the 50 Union States?

3). What was the intent of Article VI, clause 3 of the U.S. Constitution, as was written, understood, interpreted, and adopted by the Framers?

4). Is morality an actual and true enumerated power granted to Congress by the U.S. Constitution, as was written and adopted by the Framers?

5). Does Congress possess any true, actual, delegated power and authority under the U.S. Constitution to create, define, legislate, enact, and punish issues of morality?

6). Was the imposition of Chapter 110, 18 USC, a valid and appropriate, or was it an invalid and inappropriate exercise of Congress' true actual power conferred by the U.S. Constitution?

7). What are the only crimes that the U.S. Constitution had specifically enumerated and granted Congress the power and authority to legislate over and to provide punishment for?

8). Can an inferior legislative district court created by Congress under Article 1, section 8, clause 17 of the U.S. Constitution, sitting outside the realm of the District of Columbia, be legally conferred with criminal jurisdiction, or subject-matter jurisdiction?

9). Does the current interpretation of the Commerce and Necessary and Proper clauses by Congress, the Federal Government, and the inferior district courts comport with the original understanding, intent, interpretation, and purpose as was written and adopted by the Framers?

The Petitioner states that the answers to these questions are not 'rocket science', but can be truly answered by adhering to the letter of the U.S. Constitution, and this Court's sworn Oath to uphold the U.S. Constitution.

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## PETITION FOR WRIT OF HABEAS CORPUS

Roy A. Nichols, the Petitioner, respectfully asks this Honorable Court to grant this Writ of Habeas Corpus to null and void the conviction and sentence in this case from the United States District Court for the Northern District of Ohio, Western Division, and the Opinion of the Sixth Circuit Court of Appeals in Case Nos. 3:17-CR-00372 and Case No. 18-4240, respectively.

## OPINIONS BELOW

The Opinion of the Sixth Circuit Court of Appeals in United States v. Roy Nichols, Case No. 18-4240, affirming the trial court's decision was rendered on February 4, 2020, and the Sentencing Judgment of the United States District Court for the Northern District of Ohio, Western Division in United States v. Roy Nichols, Case No. 3:17-CR-00372, was entered on December 3, 2018.

## JURISDICTION

This Petition seeks to nullify and void the conviction and sentence imposed by the trial court and the Opinion of the Sixth Circuit Court of Appeals affirming the conviction and sentence. Specifically at issue is that the Federal Government and the inferior Federal courts below did not have the subject-matter jurisdiction, criminal enforcability power and criminal jurisdictional authority(regardless of the Commerce, Necessary and Proper Clauses or 18 USC §3231)beyond the geographic location and exclusive jurisdiction of the Government and it's inferior court, in direct violation of Article I, section 8, clause 17 of the U.S.Constitution.

The Jurisdiction of this Court is invoked pursuant to 28 USC §1254(1) and United States Supreme Court Rule 13.1 and 13.3.

## STATEMENT OF THE CASE

The matter now before the Court in this case originally stemmed from a Request for Judicial Notice, to be filed in the then-Appellant's(now Petitioner's)direct appeal in Case No. 18-4240 because the Appellant was under the presumption that court-appointed counsel had abandoned his duty to represent the then-Appellant to the best of his ability, so the Appellant sent the Request for Judicial Notice to the Clerk of the Court for the Sixth Circuit Court of Appeals to be filed.

Two and a half months elapsed without receiving any kind of response from the Court of Appeals concerning the Notice or a file date stamped copy of the Notice, so the Appellant wrote a letter to the Clerk of the Court to inquire about the Notice; Two weeks later, the Appellant received a letter stating that "because the Appellant was represented by counsel, he was not able to file as a pro se litigant and had no right to 'hybrid counsel' and therefore, the Request Notice would not be filed.

The Petitioner states that 'hybrid counsel' was not the intended purpose for filing the Notice in pro se, but to raise the issues now before the Court because appellate counsel refused to initially raise them after being directed to do so by the then-Appellant; It is a foregone conclusion that had counsel raised the issues, he would have been 'black-listed' from the Appellate Court appointed cousel pool. By denying the Notice to be filed, the Appellate Court violated the Appellant's Due Process rights, then abandoned it's sworn Oath and duty to uphold the U.S. Constitution, which equates to committing Treason against the Constitution and the People.

REASON FOR GRANTING THIS PETITION:

I. The issues before the Court in this case are ones of great Constitutional importance and are reoccurring issues throughout ALL inferior district courts within ALL the Federal Circuits, especially the Sixth Circuit

The Petitioner states that the Federal Government has no criminal enforcability, criminal jurisdictional, or criminal adjudicational powers(regardless of the Commerce, Necessary and Proper clauses, or 18 USC §3231)to provide for the punishments for any purported Federal offense committed beyond the Federal Government's and inferior district court's geographic locations and exclusive jurisdictions within the State of Ohio, or any other State of this Union.

The Petitioner states that this fact of Law can be found in Article I, section 8, clause 17 of the U.S. Constitution, which states: "To exercise exclusive Legislation in all Cases whatsoever, over such District(not exceeding ten Miles square)as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful buildings;" and in the Judiciary Act of 1798, Chapter XX, section 9, clause 1 which states: "And be it further enacted, that the district court shall have, exclusively of the courts of the several States, cognizance of all crimes and offences that shall be cognizable under the authority of the United States, committed within their respective districts or upon the high Seas."

The Petitioner states that the power to punish was only given to the enumerated subjects in Article I, section 8, clause 6 and 10,

and in Article III, section 3, clause 2 of the U.S. Constitution and not in the Commerce or Necessary and Proper Clauses; Any law passed by Congress that assumes to create, define, legislate, enact, regulate, or punish issues of morality or other crimes than as stated above without a properly submitted and ratified Constitutional Amendment are altogether void and of no force, especially when applied and enforced beyond the Federal Government's and it's inferior district court's geographic locations and exclusive jurisdictions within any of the several 50 Union States.

The Petitioner states that according to 40 USC §3112(c) that unless and until notice of acceptance of jurisdiction by Congress over any and all lands ceded to the Federal Government by any of the several 50 Union States, it's to be presumed that no such jurisdiction exists and theiinferior district courts are without any type of jurisdiction to punish any acts committed within or upon lands ceded and/or acquired by the United States through cession.

The Petitioner also states, that the Federal Government and it's inferior district courts have repeatedly failed to abide by their own rules and statutes, specifically concerning the Federal Rules of Procedure, as to the definition of 'State', according to Rule 1(b)9, as well as to the definitions of 'interstate commerce' according to 18 USC §10 and 'Territorial Jurisdiction' according to 18 USC §7(3).

The very first example that demonstrates the Federal Government has no criminal enforcability and jurisdictional powers beyond it's geographic locations and exclusive jurisdictions within a State is in Chisholm v. Georgia, 2 Dall 419, 435 (1793), in which

the Supreme Court held that: "Each State in the Union is sovereign as to all the powers reserved. It must necessarily be so, because the United States have no claim to any actual authority, but such as the States have surrendered."

Four years later, the Supreme Court in Maxfield's Lessee v. Levy, 4 US 330 (1797), observed and held that: "if the court is without jurisdiction, it would not matter if the defendant were found guilty by a jury 100 times."

The earliest example that demonstrates Congress is limited in it's powers to legislate over and provide punishment to only the subjects the Framers had enumerated in Article I, section 8, clauses 6 and 10 and in Article III, section 3, clause 2 of the U.S. Constitution, and placed all other types of conduct into the category of the common law, is in United States v. Worrall, 2 US 384, 1LEd 426 (1798), where the Court observed and held: "The common-law authority relating to crimes and punishments has not been conferred upon the Government of the United States...The United States as a Federal Government, have no common-law; and consequently, no indictment can be maintained in their courts for offences merely at the common-law."

The Petitioner states that all courts, whether Federal or State, have an obligated duty to uphold the U.S. Constitution via Article VI, clause 3 and protect the Constitutional rights of all citizens appearing before them; to neglect, abandon, and disrespect the U.S. Constitution's mandate is not only committing Treason against the U.S. Constitution, but is also indicative of Socalist Doctrine and tyranny.

The Petitioner states that according to Article VI, clause 3 of the

U.S. Constitution, ALL members of both State and Federal branches of government are under sworn Oath or Affirmation to uphold the U. S. Constitution, and if that Oath or Affirmation is either neglected or abandoned, it is considered as a form of Treason against the Constitution, which is punishable by impeachment.

Five years after Worrall, the Supreme Court in Marbury v. Madison, 1 Cranch 137, 176 2LEd 60, 73 (1803), with Chief Justice Marshall speaking for the Court, had observed and held: "To what purpose, are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distiction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed and if acts prohibited and acts allowed are of equal obligation....

The glory of our American system of government is that it was created by a written constitution, which protects the People against the exercise of arbitrary, unlimited power, and the limits of which instrument may not be passed by the government it created, or, by any branch of it, or even by the People who ordained it, except by Amendment or change of it's provisions."

Thirteen years after Marbury, the Supreme Court in Martin v. Hunter, 1 Wheat 304, 326 (1816), had observed and held that: "the general government can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication."

Two years following Martin, the Supreme Court in United States v. Bevans, 3 Wheat 336, 287-288 (1818), again, with Chief Justice Marshall speaking with regard to the Necessary and Proper Clause, had

observed and held that: "Congress may pass all laws which are necessary and proper for giving the most complete effect to this power. Still, the general jurisdiction over the place[of the crime], adheres to the territory, as a portion of sovereignty not yet given away."

A year later, the Supreme Court in McCulloch v. Maryland, 4 Wheat 316, 416-418 (1819), Chief Justice Marshall observed and held: "So with respect to the whole penal code of the United States: whence arises the power to punish in cases not prescribed by the Constitution? All admit that the government may legitimately punish any violation of it's laws; and yet, this is not among the enumerated powers of Congress. The right to enforce the observance of law, by punishing it's infraction, might be denied with more plausability because it is expressly given in some cases.....

The good sense of the public has pronounced, without hesitation, that the power of punishment appertains to sovereignty and may be exercised whenever the sovereignty has a right to act, as incidental to his constitutional powers. It is a means for carrying into execution all sovereign powers, and may be used, although not indispensibly necessary. It is a right incidental to the power, and conductive to it's beneficial exercise."

Two years following McCulloch, the Supreme Court in Cohens v. Virginia, 6 Wheat 264, 298 (1821), Chief Justice Marshall could not have made it any plainer or clearer, in applying what James Madison wrote in the Federalist Papers #49, when, in speaking for the Court, he pointed out: "The People made the Constitution, and the People can unmake it. It is the creature of their own will, and, lives only by their will. But this supreme and irresistable power to make and to unmake, resides only in the whole body of the Peo-

ple, not in any subdivision of them; The attempt of any of the parts to exercise it is usurpation, and ought to be repelled by those to whom the People have delegated the power of repelling it."

Three years after Cohens, the Supreme Court in Gibbons v. Ogden, 9 Wheat 1, 189-190 (1824), again, with Chief Justice Marshall, speaking for the Court, stated and held that: "Commerce undoubtedly.... is regulated by presvribing rules for carrying on that intercourse. What is this power? It is the power to regulate, that is, to prescribe the rules by which commerce is to be governed."

Twelve years after Gibbons, the Supreme Court in New Orleans v. United States, 10 Pet 662, 737 (1836), had observed and held that: "Congress cannot, by legislation, enlarge the Federal jurisdiction, nor can it be enlarged by the treaty-making power. Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the Federal Government shall establish forts or other works, and it is only in these places or in the territories of the United States, where it can exercise a general jurisdiction. The State of Louisiana was admitted into the Union on the same footing as the original States. Her rights of sovereignty are the same, and by consequence, no jurisdiction of the Federal Government, either for purposes of police or otherwise, can be exercised over this public ground, which is not common to the United States."

The Petitioner states that since the Federal Government claims and contends that it has the power and authority to prosecute and punish purported Federal offenses committed beyond it's geographic locations and exclusive jurisdictions within the boundaries of any of the several 50 Union States, then the Federal Government must: a). Be able to provide the Petitioner with, and show actual and physi-

cal proof of, the Government's extra-territorial jurisdiction and application of the statute in-question that the Petitioner had been charged with and prosecuted for; b). Be able to provide the Petitioner with, and show actual and physical proof from the State legislature of Ohio and the other 49 Union States, of the Federal Government's extra-territorial jurisdiction beyond it's geographic locations and exclusive jurisdictions within the boundaries of any of the several 50 Union States; and c). Provide the Petitioner with, & show a true, factual Constitutional foundation supporting the statute in-question that the Petitioner was charged with and prosecuted for.

The Petitioner states that absent the above-mentioned, no Federal prosecution can be maintained, or conviction be allowed to stand, for any purported Federal offense committed beyond the Federal Government's or it's inferior district court's geographic locations and exclusive jurisdictions(regardless of the Commerce, Necessary and Proper clauses, or 18 USC §3231)and the Federal Government or it's inferior district courts cannot, pursuant to 18 USC §13, adopt any law or statute of any of the several 50 Union States.

On the heels of New Orleans, the Supreme Court in United States v. Coombs, 12 Pet 72, 79 (1838), observed and held that:"the commerce power extends to such acts, done on land, which interferes with, obstructs, or prevents the due exercise of the power to regulate[international and interstate]commerce."

Seven years after Coombs, the Supreme Court in Pollard v. Hagan, 3 How 212, 221, 223-224 (1845), while in addressing the status of the State of Alabama(and applicable to all States), observed and held that: "The United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama,

or any of the new States were formed...The United States have no Constitutional capacity to exercise a municipal jurisdiction, sovereignty, or imminent domain within the limits of a State; Such power is not only repugnant to the Constitution, but it is inconsistent with the spirit and intentions of the deeds of cession."

Fourteen years after Pollard, the Supreme Court in Ableman v. Booth, 21 How 506,524 (1859), observed and held that: "The Constutution of the United States, with all the powers conferred by it on the General Government, and surrendered by the States, was the voluntary act of the People of the several States, deliberately done for their own protection and safety against injustice from one another and their anxiety to preserve it in full force in all it's powers, and to guard against resistance to or evasion of it's authority, is proved by the provision of Article VI, clause 3, in which requires, that members of all State legislative, executive, and judicial offices of the several States as well as those of the General Government, shall be bound by Oath or Affirmation to support the Constitution."

Ten years following Ableman, the Supreme Court in Ex Parte McCardle, 7 Wall 506, 514 (1869), observed and held: "What, them, is the effect of the repealing Act upon the case before us? We cannot doubt as to this. Without jurisdiction, the Court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the Court is that of announcing the fact and dismissing the cause."

Two years after McCardle, the Supreme Court in Knox v. Lee and Parker v. Davis, 79 US 457, 535-536 (1871), expressed in it's observation as to what the aggregate powers of the Federal Government per-

mits Congress to legislate over, and to the 'penal code' of the U. S. Government for application and enforcement in a nationwide manner; And when mentioning the specifically enumerated subjects in Article I, section 8, clauses 6 & 10, and in Article III, section 3, clause 2 of the Constitution that the Framers had provided for application and enforcement in a nationwide manner, the Court held: "This is the extent of power to punish crime expressly conferred."

The Following year, the Supreme Court in Bradley v. Fisher, 80 US 335, 351-352 (1872), observed and held: "A distinction must be here observed between excess of jurisdiction and the clear absence of all jurisdiction over the subject-matter. Where there is clearly no jurisdiction over the subject-matter, any authority exercised is an usurped authority when the want of jurisdiction is known to the judge, no excuse is permissible."

Six years after Bradley, the Supreme Court in United States v. Fox, 95 US 670, 672 (1878), observed and held: "There is no doubt of the competency of Congress to provide, by suitable penalties, for the enforcement of all legislation necessary and proper, to the execution of powers with which it is entrusted...Any act committed with a view of evading the legislation of Congress passed in the execution of any of it's powers, or of fraudulently securing the benefits of such legislation, may properly be made an offense against the United States...

But an act committed within a State, whether for a good or bad purpose, or whether, with an honest of criminal intent, cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress, or to some matter within the jurisdiction of the United States; an act not having any such relation is one in respect to which the State alone can legislate."

A year after Fox, the Supreme Court in Patterson v. Kentucky, 97 US 501, 505 (1879), observed and held that: "The police power of the States was not surrendered when the People of the United States conferred upon Congress the general power to regulate commerce with foreign nations and between the several States."

Later that same year, almost on the heels of Patterson, the Supreme Court in United States v. Hall, 98 US 343,345-346 (1879) held that: "Courts possess no jurisdiction over crimes and offenses committed against the authority of the United States, except what is given to them by the power that created them; nor can they be vested with such jurisdiction beyond what the power ceded to the United States by the Constitution authorizes Congress to confer...

Congress may provide for the punishment of counterfeiting the Securities and current Coin of the United States. may pass laws to define and punish piracies and felonies committed on the high Seas, offenses against the law of nations, and treason."

The year after Hall, the Supreme Court in Tennessee v. Davis, 100 US 257, 282 (1880), had reaffirmed the Worrall court and held that: "Federal courts have no common-law jurisdiction in criminal cases."

Four years after Tennessee, the Supreme Court in Ex Parte Yarbrough, 110 US 651, 653 (1884), held that: "It is equally well settled that when a prisoner is held under sentence of any court of the United States in regard to a matter wholly beyond or without the jurisdiction of that court, it is not only within the authority of the Supreme Court but it is it's duty to inquire in to the cause of commitment when the matter is properly brought to is's attention, and if found to be as charged, a matter of which such court had no jurisdiction, to discharge the prisoner from confinement."

That next year, the Supreme Court in Ft. Leavenworth R.R. v. Lowe, 114 US 525, 530-531 (1885), observed and held:"We are of the opinion that the right of exculsive legislation within the territorial limits of any State can be acquired by the United States, only in the mode pointed out in the Constitution, by purchase or consent of the legislature of the State in which the same shall be, for erection of forts, magazines, aresenals, dockyards and other needful buildings.. The essence of that provision is that the State shall freely cede the particular place to the United States for one of the enumerated objects, this jurisdiction cannot be acquired tortuously by disseisin of the State; much less can it be acquired by mere occupancy, with the implied or tacit consent of the State."

That next year, the Supreme Court in Van Brocklin v. Anderson, 117 US 515, 167-168 (1886), could not have made it more simpler, when it observed and held: "Upon admission of a State into the Union, the State doubtlessly acquires general jurisdiction, civil and criminal...except where it has ceded jurisdiction to the United States ...The rights of local sovereignty vests in the State, and not in the United States."

Six years following Van Brocklin, the Supreme Court in Logan v. United States, 144 US 263, 283 (1892) observed and held that: "The Constitution contains no grant, general or specific, to Congress of the power to provide for the punishments of crimes, except piracies and felonies committed on the high Seas, offenses against the law of nations, counterfeiting the Securities and current Coin of the United States, and treason."

Two years after Logan, the Supreme Court in Caha v. United States, 152 US 211, 221 (1894), held that: "Generally speaking, within any

State of this Union, the preservation of the peace and the protection of person and property are the functions of the State government, and are no part of the primary duty, at least, of the Nation. The Laws of Congress in respect to those matters, do not extend into the territorial limits of the States, but have force only in the District of Columbia and other places that are within the exclusive jurisdictions of the National Government."

As to the enforcability of the laws of Congress are concerned, it appears that Caha made it perfectly clear that they do not extend into the territorial boundaries of the several 50 Union States, in which have their own laws and statutes to regulate the same alleged criminal conduct, conduct that the Framers did not enumerate in the Constitution for application and enforcement in a nationwide manner and scope.

Shortly after Caha, the Supreme Court in United States v. Ill. Cent. Rail Co., 154 US 225, 241 (1894), had held that: "All powers which properly appertain to sovereignty, which have not been delegated to the Federal Government, belong to the States and to the People( paraphrasing the Tenth Amendment)."

The next year, the Supreme Court in Mattox v. United States, 156 US 237, 243 (1895), observed and held that: "We are bound to interpret the Constitution in the light of the law as it existed at the the time it was adopted."

Two years after Mattox, the Supreme Court in United States v. McMillan, 165 US 504, (1897), in reaffirming a similar case, had observed and held that: "Doubtlessly, the courts of a territory are not, strictly speaking,[Article III] courts of the United States."

That next year, the Supreme Court in United States v. Wong Kim Ark, 169 US 690 (1898), observed and held: "Every independent State has as one of the incidents of it's sovereignty, the right of municipal legislation over all persons within it's own territory; no sovereignty can extend it's jurisdiction beyond it's own territorial limits."

Three years after Wong, the Supreme Court in Downes v. Bidwell,182 US 244, 380-382 (1901). held that "The source of national power in this country is the Constitution of the United States, and the government, as to our internal affairs, possesses no inherent power not derived from that instrument, and inconsistent with it's letter and spirit."

Three years following Downes, the Supreme Court in Wabash Rail Co. v. Pearce, 192 US 179, 188 (1904), had observed and held: "The power of regulation continues until the final delivery of the imported articles."

That next year, the Supreme Court in So. Carolina v. United States, 199 US 437, 448-450 (1905), held that: "The Constitution is a written instrument; As such, it's meaning does not alter...that which it meant when it was adopted, it means now...any other rule of construction would abrogate the Judicial character of this Court, and make it the reflex of the popular opinion or passion of the day."

Two years after So. Carolina, the Supreme Court in Kansas v. Colorado, 206 US 46. 87-88 (1907), observed and held: "The last paragraph of the section which authorizes Congress to 'make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the government of the United States or in any department or officer thereof', is not a new and independent power, but simply provision for making effec-

ive the powers theretofore mentioned."

Two years after Kansas, the Supreme Court in Keller v. United States, 213 US 138, 146 (1909), considered what type of conduct of offense would be proper for the Federal Government's enforcability and jurisdiction to be exercised properly, and had observed and held that: "Generally it may be said, in respect to laws of this character, that although resting upon the police powers of the States, they must yield whenever Congress, in the exercise of the power granted to it, legislates upon the precise subject-matter;...For that power, like all other reserved powers of the States, is subordinate to those in terms conferred upon the Nation. No urgency for it's use can authorize a State to exercise it in regard to a subject-matter which has been conferred exclusively to the discretion of Congress by the Constitution."

Or, simply put, subject-matter jurisdiction, according to Keller, supra, means the objects of legislation that the Framers had enumerated in Article I, section 8, clauses 6 & 10, and in Article III, section 3, clause 2 of the Constitution for the nationwide application and enforcement without the need for a properly submitted and ratified Constitutional Amendment to apply and enforce in a nationwide manner, whereas any criminal legislation passed by Congress, with the belief that it can be applied and enforced nationally, requires a properly sibmitted and ratified Constitutional Amendment, for application and enforcement in a nationwide manner.

Six years after Keller, the Supreme Court in Southern Surety Co. v. Oklahoma, 241 US 582, 586 (1915), observed and held that: "Of course, we eclude from the present consideration, forts aresenals, and like places within the limits of a State, but over which exclusive jurisdiction has been ceded to the United States, because

they are regarded not as part of a State, but as exceped out of it."

The Petitioner states that, like the several 50 Union States, the Federal Government can only punish purported Federal crimes committed within or upon their own lands(geographic locations)ceded by each of the several 50 Union States, which <u>are</u> under the Federal Government's exclusive jurisdiction; Any felony acts committed within or upon those geographic locations and exclusive jurisdiction, can be prosecuted and punished just the same as any State would prosecute and punish any felony acts committed within or upon it's own lands and jurisdictions.

In the case at bar, since the State of Ohio under Baldwin's civil statutes, did not cede over to the United States Government, any criminal enforcability and jurisdictional powers over any purported Federal crime(regardless of the Commerce, Necessary and Proper clauses or 18 USC §3231)committed beyond the Federal Government's geographic locations and exclusive jurisdictions, the Federal Government could not legally assume any jurisdiction over the purported crime, because it did not have a general jurisdiction over the exact location where the purported crime occurred, and the State of Ohio has it's own laws and statutes under Title 29 of the Ohio Revised Code (2907.322), which governs the same types of offenses.

Simply put, the Federal Government has no jurisdiction over any purported Federal crimes committed beyond their geographic locations and exclusive jurisdiction within any of the several 50 Union States because they are not sovereign over any other lands within a State's boundaries, except what had been ceded over to the Federal Government, and are incapable of being conferred with a general jurisdiction over any lands beyond what was ceded.

Three years after Southern Surety, the Supreme Court in Hammer v. Dagenhart, 247 US 251, 275 (1918), held that: "Our Federal Government is one of enumerated powers. The control by Congress over interstate commerce cannot authorize the exercise of authority not entrusted to it by the Constitutuion. In interpreting the Constitution, it must never be forgotten that the nation is made up of individual States to which are entrusted the powers of local government. And to them and to the People, the powers not expressly delegated to the national government, are reserved."

Seven years following Hammer, the Supreme Court in New York Cent. Rail Co. v. Chisholm, 268 US 29, 31-32 (1925), held that: "Legislation is presumptively territorial and confined to the limits over which the lawmaking power has jurisdiction. All legislation is prima facie territorial."

The following year, the Supreme Court in Myers v. United States, 272 US 52, 181-182 (1926), had held that: "It should never be lost sight of, that the Government of the United States is one of limited and enumerated powers, and that a departure from the true import and sense of its powers is pro tanto the establishment of a new Constitution. It is doing for the People what they have not chosen to do for themselves. It is usurping the functions of a legislator, and deserting those of an expounder of the law. Arguments drawn from impolicy or inconvenience ought here to be of no weight. The only sound principle is to declare "ita lex scripta est..."

Two years after Myers, the Supreme Court in Olmstead v. United States, 277 US 438, 479 (1928), a prominent jurist gave a warning within his dissenting opinion and stated: "In a government of laws, existence of the government will be imperiled if it fails to observe

the law scrupulously...Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy...

To declare that in the administration of criminal law, that 'the end justifies the means' - to declare that the Government may commit crimes in order to secure the conviction of a private criminal - would bring terrible retribution. Against that pernicious doctrine, this Court should resolutely set it's face."(Brandeis, J, dissenting)

The following year, the Supreme Court in Ex Parte Bakelite Corp., 279 US 438, 458-460 (1929), held that: "Other articles invest Congress with powers in the execution of which it may create inferior courts and clothe them with functions deemed essential or helpful in carrying into execution. But there is a difference between the two classes of courts;

Those established under the specific power given in section 1 of Article III are called 'constitutional' courts. they share in the exercise of the judicial power defined in that section, can be vested with no other jurisdiction, and have judges who hold office during good behaviour with no power in Congress to provide otherwise.. On the other hand, those created by Congress in the execution of other powers are called 'legislative' courts, their functions always are directed to the execution of one or more such powers and are prescribed by Congress independently of section 2 of Article III, and their judges hold for such terms as Congress prescribes, whether it be for a fixed period of years, or during good behaviour."

Four years after Bakelite, the Supreme Court in O'Donoghue v. United States, 289 US 516, 546 (1933), made it clear when it observed

and held: "The fact that Congress, under another and plenary power, has conferred upon these courts jurisdiction over non-federal causes of action, or over quasi-judicial or administrative matters, does not affect the question...

In dealing with the District(of Columbia), Congress possesses the powers which belong to it in respect of territory within a State..... in other words, it posesses a 'dual-authority' over the District (of Columbia) and may clothe the courts of that District, not only with the jurisdiction and powers of Federal courts in the several States, but with such authority as a State may confer upon her courts.. Since Congress, then, has the same power under Article III of the Constitution to ordain and establish inferior courts in that Districtof Columbia, as in the [several] States....the judicial powers thus conferred is not and cannot be affected by the additional legislation under Article I, section 8 - imposing upon such courts, other duties which, because that special power is limited to the District of Columbia, Congress cannot impose upon inferior Federal courts elsewhere....

But the observation, read in the light of what was said in Keller in respect of the dual power of Congress in dealing with the courts of the District of Columbia, should be confined to the Federal courts of the [several]States; and thus confined, it is not in conflict with the view that Congress derives from the District Clause distinct powers in respect of the constitutional courts of the District of Columbia which Congress does not possess...outside the District of Columbia."

In simpler terms, Congress does not possess the Constitutional power and authority to legally confer upon any inferior district court outside the District of Columbia within the boundaries of any of the

several 50 Union States with 'such authority as a State may confer upon her courts', meaning, with any criminal jurisdictional powers beyond it geographic locations and exclusive jurisdictions.

Three years after O'Donoghue, the Supreme Court in United States v. Butler, 297 US 1, 67-69 (1936), held that: "Congress cannot, under the pretext of executing delegated power, pass laws for the accomplishment of objects not entrusted to the Federal Government. And, we accept as established doctrine, that any provision of an Act of Congress ostensibly enacted under the power granted by the Constitution not naturally and reasonably adapted to the exercise of such power, but soley to the achievement of something plainly within the power reserved to the States, is invalid and cannot be enforced."

Later on that year, the Supreme Court in United States v. Corrick, 298 US 435, 440 (1936), held that: "if an alleged Federal offense was committed within the jurisdiction of any State, but not within the exclusive jurisdiction of the Federal Government, the purported conviction would be rendered 'null and void' to the point of the conviction being reversed and the Bill of Indictment dismissed with prejudice."

Three years after Corrick, the Supreme Court in Bowen v. Johnston, 306 US 19, 22 (1939), made a similar observation as in Corrick concerning the Federal Government's power to prosecute and to punish crimes, and held: "Crimes are cognizable - when committed within, or on lands reserved or acquired for the exclusive use of the United States under the exclusive jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State."

Four years after Corrick, the Supreme Court in Adams v. United Sta-

tes, 319 US 312 (1943), observed and held that: "Unless and until the United States has so filed and published acceptance of jurisdiction, it is to be conclusively presumed that no jurisdiction has been accepted."

In the venacular, the Federal Government has no jurisdiction over purported Federal crimes committed beyond their geographic location and exclusive jurisdiction within any of the several 50 Union States because they are not sovereign over any other lands within a State's boundaries, except what had been ceded over to the Federal Government, and are incapable of being conferred with a general jurisdiction over any lands beyond what was ceded.

That next year, the Supreme Court in Screws v. United States, 325 US 91, 129-130 (1944), had observed and held that: "Ignorance of the Law is no excuse for men in general. It is less an excuse for men whose special duty is to apply it, and therefore to know and observe it. When they enter such a domain in the dealing with citizen's rights, they should do so at their own peril, whether that be created by a State or Federal law; For their sworn and first duty, are to uphold the Constitution."

Eight years after Screws, the Supreme Court in Steele v. Bulova Watch Co., 344 US 280,290 (1952) had observed and held that: "The canon of construction which teaches that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States is a valid approach, whereby unexpressed congressional intent may be ascertained."

Ten years after Steele, the Supreme Court in Glidden v. Zdanok, 370 US 530, 543-544 (1962), while pondering the issue concerning consitutuional courts and legislative courts, when the issue had turn-

ed to the question of the inferior district courts, whether they were constitutional or legislative courts, the Court held that: "These courts, then, are not constitutional courts in which the judicial power conferred by the Constitution on the general government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of that clause which enables Congress to make all needful rules and regulations, respecting the territory belonging to the United States."

The Petitioner states that while during the course of his research, he found nothing within the congressional minutes record that could clearly define the Petitioner's sentencing court, or any other inferior district court, as being an Article III constitutional court, therefore, the Petitioner identifies these courts as 'legislative' courts created by Congress under Article I, section 8, clause 17 of the U.S. Constitution, which is incapable of being conferred with subject-matter jurisdiction as an Article III constitutional court is conferred with.

The year following Zdanok, the Supreme Court in Fay v. Noia, 372 US 391, 450 (1963), observed and held that: "An imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity; and it is not a nullity if the court has general jurisdiction of the subject-matter."

The Petitioner states that the inferior district court that sentened him is a legislative court, which cannot be legally conferred with subject-matter jurisdiction, and cannot exercise a general jurisdiction beyond it's geographic location and exclusive jurisdiction within the boundaries of the State of Ohio(or any other of the 50 Union States) regardless of either the Commerce clause, Necessary and Proper clause,

or even 18 USC §3231 conjunctively.

Thirteen years after Fay, the Supreme Court in Kleppe v. New Mexico, 426 US 529, 543 (1976), had observed and held: "We have noted, for example, that the Property clause gives Congress power over public land to control their occupancy and use, to protect them from trespass and injury, and to prescribe the condition upon which others may obtain their rights in them: Absent consent or cession, a State undoubtedly retains jurisdiction over Federal lands in it's territory. The Federal Government does not assert exclusive jurisdiction over public lands, and the State is free to enforce it's criminal & civil laws on those lands."

The Petitioner states that the Federal Government will contend that an inferior district court's power over subject-matter jurisdiction of criminal offenses comes from 18 USC §3231, but during the course of his research; however, the Petitioner had also found in the congressional minutes record, that Congress failed to duly enact 18 USC §3231 into positive law, due to a conflict of law caused by an unconstitutional extension of Article IV power to circumvent Article III, sections 1 & 2 judicial power, the 5th and 14th Amendment "due process of law" clauses, and the express repeal of former 28 USC §41(2).

The Petitioner states that the Federal Government and the inferior legislative district courts have uncostitutionally adopted and implemented 18 USC §3231 as their grounds to prosecute and punish, purported Federal offenses under the guise of both the Commerce and Necessary and Proper clauses conjuctively.

Thirteen years after Kleppe, the Supreme Court in Pennsylvania v. Union Gas Co., 491 US 1, 26 (1989), had observed and held: "Cases

are legion, holding that a party may not waive a defect in subject-matter jurisdiction or invoke Federal jurisdiction simply by consent...This must be particularly so, in case in which, the Federal courts are entirely without Article III power to entertain the suit."

Six years after Pennsylvania, the Supreme Court in United States v. Lopez, 514 US 549, 584-585 (1995), held that: "Each State in the Union is sovereign as to all powers reserved. It must be necessarily so, because the United States have no claim to any authority but such as the States have surrendered to them."

Two years after Lopez, the Supreme Court in Printz v. United States, 521 US 898, 923 (1997), had observed and held that: "The Constitution is the supreme Law of the Land, ordained and established by the People. All legislation must conform to the principles it lays down. The question is not what power the Federal Government ought to have, but what powers in fact have been given by the People.

When a Law for carrying into execution the Commerce clause violates the principle state of sovereignty reflected in the various constitutional provisions we mentioned earlier, it is not a Law proper for carring into execution the Commerce clause and is thus merely an act of usurpation which deserves to be treated as such."

Two years after Printz, the Supreme Court in Saenz v. Roe, 526 US 489, 508 (1999), held that: "Article I of the Constitution grants Congress broad power to legislate in certain areas. Those legislative powers are, however, limited not only by the Framer's affirmative delegation, but also by the principle that they may not be exercised in a way that violates other provisions of the Constitution."

Six years after Saenz, the Supreme Court in Gonzales v. Raich, 545

US 1 (2005), held that: "Regulating...conduct, however, is not necessary and proper for carrying into execution..the Commerce nor the Necessary and Proper Clauses."

Six years after Raich, the Supreme Court in Carroll v. United States, 562 US 1163 (2011), had observed and held: "This Court has consistently recognized that the Constitution imposes real limits on Federal power. The Powers of the legislature are defined, and limited; and that those limits may not be mistaken or forgotten, the Constitution is written. It follows from the enumeration of specific powers that there are real boundaries to what the Federal Government may do. The enumeration presupposes something not enumerated."

Right on the heels of Carroll, the Supreme Court in Bond v. United States(Bond I), 131 SCt 2355 (2011), had observed, held, and made the the statement lound and clear that: "A law beyond the power of Congress, for any reason, is no law at all."

So, with no true delegated powers upon Congress or the Federal Government by either the Constitution or the legislatures of the several 50 Union States in the form of a properly submitted and ratified Constitutional amendment to create, define, legislate, enact, enforce, regulate, or punish any moral conduct issues or morality itself to apply and enforce in a nationwide manner, then the nationwide application and enforcement of all statutory provisions defined in Chapter 110 of Title 18 USC, are illegal and unconstitutional when applied and enforced in a nationwide manner beyond the Federal Government's or it's inferior legislative court's geographic locations and exclusive jurisdictions within the boundaries of any of the several 50 Union States.

The year after Bond I, the Supreme Court in N.F.I.B. V. Sebelius,

132 SCt 2566, 2577 (2012), had observed and held that: "the enumeration of the powers of Congress by the Framers is also a limitation of powers, because the enumeration presupposes something not enumerated."

The next year after Sebelius, the Supreme Court in United States v. Kebodeax, 133 SCt 2496 (2013), had held that: "The Necessary and Proper Clause authorizes congressional action incidental to[an enumerated] power...no great sbustantive and independent power can be implied as incidental to other powers, or used as a means of executing them."

The following year, the Supreme Court in Bond v. United States(Bond II), 134 SCt 2077, 2087 (2014), had observed and held that: "The Constitution confers upon Congress not all governmental powers, but only discrete, enumerated ones. And of course, enumeration presupposes something not enumerated."

The Government will allege and contend that the issues presented are without merit an frivolous, but yet refuse to acknowledge and abide by this Court's precedent in the cases cited by the Petitioner and will only cite their own circuit court precedent but cannot cite any Supreme Court cases, past or present, that can counter cases cited within this Petition, which are still standing cases and are further supported by the U.S. Constitution itself.

The Petitioner states that the U.S. Constitution is, has been, and always will be, according to Article VI, clause 2: "the supreme Law of the Land", and that by this document, all members of the Federal gpvernment within the three branches that this document had created, took a sworn Oath(or Affirmation)to uphold that said document, and it should never be disregarded, ignored, or evaded.

The Petitioner states that he has shown, demonstrated, and even pro-

ven by the arguments and authorities presented, that the Federal Government does not have any criminal jurisdiction, enforcability, or adjudicational powers(regardless of the Commerce, Necessary and Proper Clause or even 18 USC §3231)for any purported Federal offense committed beyond the Federal Government's and it's inferior legislative district court geographic locations and exclusive jurisdictions within the State of Ohio's or any other State's boundaries.

The Petitioner states that he has shown and proven that the Federal Government and it's inferior legislative courts have repeatedly neglected and abandoned their duty and sworn Oath to uphold the U.S. Constitution, thereby committing Treason against the Constitution.

The Petitioner staes that he has shown, demonstrated and proven, that the Federal Government does not possess the Constitutional power and authority to create, define, legislate, enact, enforce, regulate, or punish any moral conduct issues or morality itself, and are in fact, legislating morality.

## CONCLUSION

Therefore, pursuant to the arguments and authorities presented within this Petition, the Petitioner respectfully asks and prays this Honorable Court to nullify and void the Petitioner's conviction & sentence in this case, granting this Petition, and in the spirit of Justice AND in obeying and fulfilling it's sworn duty to uphold the U.S. Constitution, to release the Petitioner from confinement.

Respectfully Submitted,

Roy A. Nichols

(Petitioner, in pro se)