

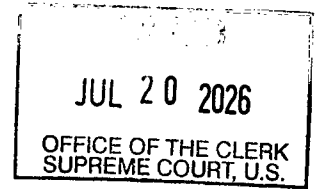
26-5890

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



BRENT DOUGLAS COLE — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Brent Douglas Cole
(Your Name)

Reg. No. 71911097- H4-16
P. O. BOX 1002 (FCI)
(Address)

Thomson, IL 61285
(City, State, Zip Code)

No phone
(Phone Number)

QUESTIONS

1. Did the trial court act without or in excess of its jurisdiction?
2. Was this cause removed to an improper venue?
3. Were judges assigned the cause by a recused judge? Were they disqualified thereby?
4. Was the trial court proscribed from removing the cause from the State's court using the irregular procedures and field agent to initiate the prosecution?

I challenged the constitutionality of CPC §§ 25850(a) & 25400(a)(1) in Superior Court of California before removal to the improper venue abrogated my right to trial in the vicinage.

5. Has the right of self-defense and/or the Second Amendment been eviscerated or diminished by this federal prosecution?
6. Are said California Penal Codes (CPC) ex post facto Laws or Bills of Attainder, or violative of the Second Amendment? That is: Are said Codes violative of Art. IV, § 2 or otherwise unconstitutional?
7. Does the right to 'keep and bear arms' include loaded weapons?
8. Is it fatal to a criminal prosecution for the corpus delicti not to exist?
9. Is a biased investigation a structural error or fatal to a criminal prosecution? Was FBI Agent FORRISTEL's failure/refusal to perform ballistic analysis or gunpowder residue tests plain error?
10. Is there prima facie evidence that shooting-involved-officers were committing the crimes of larceny and/or armed robbery?
11. Are the two officers' testimonies so contradictory that they constitute false evidence under 18 U.S.C. § 1623?
12. Do the degraded photos in ECF 336 compared to DktEntry (Dkt#) 9.4 photos in CA 9 No. 25-4263 pp. 235 & 237 vs. #336 pp. 33-35 evince a violation of 18 USC § 1512(c)?
13. The fact that the trial court (District) is an Article I court is evinced in supra, p. 14. It is proceeding in this cause in a quasi-in-rem-in personam-in maritime-jurisdiction: has been alleged by me, and the court has not denied it. Thus, the trial court is not bound by nor subject to Article III of the U.S. Constitution. Also, the Resolutions of the Stamp Act Congress 1765 and the Northwest Ordinance Compact/Treaty are valid against the United States under Article VI, U.S. Const. as Prior Engagements.
Is the U.S. District Court competent in its construction to receive the judicial Power of the United States?
14. Is Appx. Doc. 36, FD-302 BATES COLE 01808 and CHP Hardin's testimony clear and convincing evidence of subornation of perjury?
15. Has the Northwest Ordinance, Art. 2 (1787) Treaty been violated?
See Appx. Doc. 56 p. 106

LIST OF PARTIES

BRENT DOUGLAS COLE and the UNITED STATES OF AMERICA are the parties:
Petitioner Respondent(s)

RELATED CASES

1) UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT:

In re: BRENT DOUGLAS COLE v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (SACRAMENTO). Real Party In Interest: UNITED STATES OF AMERICA: PETITION FOR A WRIT OF MANDAMUS (Art.I, §9, cl.2 U.S. Const.) No. 25-1634 Privilage of the great Writ suspended since Jan. 2020 or 9/18/2014. NO. 25-1634, 25-1083, & 25-382. Petition Denied April 24, 2025 claiming failure to show 'right to'. Appellant requested this be a single appeal. The Court decided not. 10/31/25 Petition for Rehearing and En Banc Rehearing denied.

No. 25-4263, Caption:UNITED STATES OF AMERICA v. BRENT DOUGLAS COLE, DENIED Feb. 25, 2026 by ORDER Dkt-Entry 13.1. Petition for Rehearing and Rehearing En Banc DENIED April 24, 2026. The Rule 52(b) plain errors in Criminal cause No. 2:14-cr-00269-WBS-SCR-1 and the 28 USC § 2255 motion No. 2:19-cv-02274-WBS-SCR were never considered.

2) No. 15-10313 (9th Cir.),interlocutory merged with direct appeal No. 15-10459, opened 9/15/2015, UNITED STATES OF AMERICA v. BRENT DOUGLAS COLE. Judgment entered May 21, 2018.

3) No. 15-6826, DISMISSED per Rule 42-1 by Clerk of Court 3/21/16. This was a mutilation of pleading, ECF 79, "mandamus" by judge GEB.

4) No. 19-10019 (9th Cir.), UNITED STATES v. COLE, dismissed 4/25/19. Rehearing and Rehearing En Banc DENIED 10/30/ 2019.

5) No. 20-17203, DISMISSED Nov. 10, 2020, Certiorari DENIED 6/14/21.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

1) No. 22-3018, In re: BRENT DOUGLAS COLE v. R. D. KEYS, DENIED June 28, 2023. Rehearing and rehearing en banc DENIED Aug. 18, 2023.

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN

1) NO. 20-cv-453-wmc. DISMISSED October 11, 2022. COLE v. KEYS.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

1) No. 2:19-cv-02274-WBS-SCR, UNITED STATES v.COLE, DENIED 6/3/25, ORDER DISMISSING BOTH the § 2255 motion and the Rule 52(b) Plain-Error pleadings in the criminal cause No. 2:14-cr-00269-WBS-SCR in the same ORDER. The Motion To Reconsider was filed the day before, 6/2/25, and no consideration or reconsideration was ever given to the merits. The judgment of conviction,ECF 154, issued 9/10 (about)/2015.

RELATED CASES (cont.)

U.S.D.C. FOR THE EASTERN DISTRICT OF CALIFORNIA

2) No. 2:15-cv-00251-GEB, Judgment filed Feb. 20, 2015, ECF 68.

This was a Petition For Mandamus, -mutated into a 42 USC § 1983.

3) No. 2:14-mj-00212-EFB, devised to institute prosecution for an infamous crime without an indictment, -deprive due process, and circumvent the necessary process of habeas corpus ad prosequendum. It also served to deprive the petitioner of his right to self-represent, force unwanted non-functional "Counsel" upon the defendant by issue of ORDER, ECF #7, and deprive the defendant of the requisits to prepare a viable defense by placing him in solitary confinement in total separation deprived of all access to legal materials and the requisits to prepare meaningful legal pleadings. My Constitutional rights gone. It deprived me of my right to trial in the vicinage in the state where the alleged crime was supposed to have occurred, 9/18 and 9/25/2014.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA FOR THE COUNTY OF NEVADA

1) No. F14-00267, PEOPLE V. COLE: Nolle prosequi filed Sept. 25, 2014, in absentia COLE, who was unlawfully kidnapped Sept. 24, 2014, while in legal custody of the State Of California standing trial in two criminal trials and challenging the constitutionality of the statutes under which he was charged in the first case instituted. All remedy for the enforcement of private rights was thus circumvented.

2) No. M14-00388, ON TRIAL FOR LAWFUL EXERCISE OF SECOND AMENDMENT RIGHTS, LEGISLATED TO BE A CRIME BY CALIFORNIA PENAL CODES (CPC) §§ 25850(a) and 25400(a)(1). Petitioner's ANSWER WITH BILL OF EXCEPTIONS, which challenged the constitutionality thereof, was removed from the court's file and destroyed. Judgment for dismissal entered 5/15/2018.

SUPREME COURT OF THE UNITED STATES

ALL CASES ARE CAPTIONED "COLE v..UNITED STATES"

1) No. 23-5930, Jan. 8, 2024, In Forma Pauperis DENIED, rule 39.8 Sup. Ct. rules; Petition for rehearing DENIED, March 4, 2024.

2) No. 20-7567, Cert. DENIED April 19, 2021. 2021 U.S. LEXIS 2071.

3) No. 19-8148, Cert. DENIED 4/27/20; Reh. DENIED 6/22/20.

4) No. 18-5579, Pet. For Writ Of Mandamus, DENIED 10/1/18;

5) No. 18-6283, CERT. DENIED, Nov. 13, 2018. Filed w/o permission.

6) No. 16-5966, CERT. DENIED, Oct. 31, 2016.

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13.	DOCKET ENTRY for ECF# 10 "ORDER REASSIGNING CASE signed by District Judge Kimberly J. Mueller on 10/6/2014. Judge Mueller Judge Mueller is RECUSED from this action and District Judge Garland E. Burrell, Jr. is assigned for all further proceedings. All dates set before Judge Mueller are hereby vacated. ...".					23
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15.	ORDER OF REASSIGNMENT, ECF 338, 08/06/2024, by Judge Kimberly J. Mueller: "IT IS THEREFORE ORDERED that the above captioned case shall be and hereby is reassigned from Magistrate Judge Deborah Barnes to Magistrate judge Sean C. Riordan for all further proceedings. Entered in C.A.9, No 25-1634, 4/21/2025, Dkt# 11.1 NOTICE OF ELECTRONIC FILING, ECF# 338, 8/6/2024					25-26 26
16.	NOTICE OF ELECTRONIC FILING, ECF# 339, 8/15/2014, . . . "(NO Document ATTACHED)(TEXT ONLY) as to Brent Douglas Cole: Due to the previous referrals of motions [215]&[317] to the Magistrate Judge and the Reassignment of this case to Magistrate Judge Riordan, the COURT HEREBY ORDERS the NOTICE to correct Er- ror [336] filed 7/15/2024 also REFERRED to Magistrate Judge Sean C. Riordan. (Fancel M.)"					27
17.	"ORDER, (Text Only Entry) as to Brent Douglas Cole issued by Courtroom Deputy for Magistrate Judge Sean C. Riordan on 1/22/ 2025: A review of the docket indicates that movant's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. §2255 has been briefed by the parties. [216],[250]. Movant's additional motions related to his §2255 motion have also been fully briefed. ECF Nos.[227],[266],[267],[270], [275], [285],[299],[317],[336],[343]. All of these matters are deemed submitted on the papers pursuant to Local Rule 230(1). Unless Unless specifically authorized by the court, any additional motions or oppositions to any new motion related to the pending §2255 motion will be stricken from the docket and not considered." NOTE: F.R.Crim.Proc. Rule 55 requires the written ORDER be filed.					28
18.	ORDER, No. 25-1634, 4/4/2025, Dkt# 5.1, (FILEDBY RESPONDENT) No. 2:14-cr-0269-WBS-SCR, ECF 365. 3/31/2025					29-30

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18.	(cont.) Judge Shubb claims that I have not taken the appeals in good faith. That is calumny. It is my duty as a citizen to protect the integrity of the judiciary from the abuses of discretion and subversion of legal principles that is now being routinely practiced.					29-30
19.	No. 25-1083, 2/25/2025, Dkt# 4.1, ORDER, "Briefing is stayed" "The order is not appealable as a final judgment or as a collateral order, so the court appears to lack jurisdiction over this appeal. [Cites omitted]. ("denial of a motion to disqualify is not a final order nor one that should be treated as such.")					31-2
	I did not receive my mail timely and was locked down for months.					
20.	ORDER, No. 25-1083, DKT#9.1,, 5/28/2025, "not a final order nor one that should be treated as such."					33 DISMISSED.
21.	MANDATE, 25-1083, 6/27/2025, Dkt# 11,1, Judgment in EFFECT.					34
22.	ORDER, 2:14-cr-269-wbs-scr-1, and 2:19-cv-2274-WBS-SCR, "de novo review of this case. having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis. ..." DENIED CATEGORICALLY No disputed fact; claim, issue, ground, or evidence decided.					35-37
23.	JUDGMENT ON MOTION UNDER 28 USC §2255, No 2:14-cr-0269, ECF 382, 6/3/2025, dismissing everything in both the criminal case, which was reopened by "MOTION TO CORRECT PLAIN ERROR UNDER F.R.Crim.P.RULE 52(b)", and No. 2:19-cv-02274 "Companion Civil Case". The practice of issuing one order for both a civil case and a criminal case was used here to conceal the facts and to deprive me of due process of law by falsely claiming that the RULE 52(b) motion was connected to the 2255 proceeding, and concealing the assignment of the 52(b) motion by violating Rule 55 of F.R.Crim.P. using ECF# 339 (supra "16." NOTICE OF ELECTRONIC FILING). — Also, infra EXHIBITS (Ex.) 1-3 reveal that the trial court violated F.R.Civ.Proc. 79 by filing the final order and judgment, ECF 381 & 382 out of sequence and not docketed chronologically. ECF 383 being filed the day before. June 2, 2025. ECFs 381 & 382 were filed June 3, 2025.					38-39

APPENDIX 1(i)(ii): OTHER RELEVANT OPINIONS, ORDERS, AND CONCLUSIONS OF LAW ENTERED IN THE CASE BY COURTS OR ADMINISTRATIVE AGENCIES

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1. (Doc. 13)	RECUSAL, ECF 10, 10/6/14(1pg.) & p.3 of ECF 383,				40-42
(Ex. 1)	"MOTION TO RECONSIDER MAGISTRATE ORDER OF MAY 14, 2025" (Doc. 24)				
2.	ECF 381, ORDER, 6/3/25. (2pgs.) Final Order No. 2:14-cr-0269				43-44
(25)	Supra order 22 (Doc. 25 of PETITIONER'S APPENDIX.) (Doc. 25)				
	EXHIBIT 2 (Ex.) 2 (2pgs.), pp. 43-44				

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26.	Ex.3, Judgment on # 2:14-cr-0269-WBS-SCR, ECF 383, 6/3/25 Final Judgment on both criminal and civil cases 2:19-cv-02274-WBS-SCR in the same Order and judgment.			45
27.	Ex.4, "NOTICE OF SUBSTANTIVE CHANGE IN THE LAW INVOLVED" ECF# 332, 9/12/2022, N.Y. Ragle & Pistol Ass'n., Inc. v. Bruen, U.S. LEXIS 3055, No. 20-843. The trial court ignored it.			46-47
28.	Ex.5, ECF 7 filed 10/01/2014, No. 2:14-Mj-0212-EFB, <u>ORDER APPOINTING COUNSEL</u> , Structural Error. This was issued in breach of the court's consent decree on 9/25/14 in open court.			48
29.	Ex.6, California Misdemeanor Complaint, Case M14-0388 Prosecution was instituted Jan. 27, 2014, but could not state what the corpus delicti was. Prosecution kept stating that the "crime" was that the California penal code was violated.			49-50
30.	Ex.7, Email from FBI Agent FORRISTEL to attendees of the July 7, 2014 meeting at NCSO (Nevada County Sheriffs Office) containing the federal Criminal Complaint, supporting affidavit, and arrest warrant attachments. FORRISTEL irregularly proffered the Complaint to the court, and the court illegally accepted the proffer from a person without a bar license that is not an authorized representative of the United States in court.			51
31.	Ex.8, is p.2 of ECF 340, " <u>OBJECTION TO FAILURE TO PROVIDE SERVICE OF PROCESS</u> ", for the Government's OPPOSITION (#337) to #336 Motion To Correct Plain Errors pursuant to Rule 52(b) F.R.Crim.P. This page details the violation of Art.I, §9, cl.2 U.S. Const., and U.S. v. Cox, to establish vindictive prosecution.			52
32.	Ex.9, 2025 U.S. Dist.LEXIS 73610, excerpt of findings, ECF 369, Filed 4/17/2025, paraphrased trial testimony of the shooting-involved-officers. Yet another different story.			53-56
33.	Ex.10, ECF 23, 1/13/2015, " <u>MOTION IN LIMINE TO BAR A DEFENSE OF SELF-DEFENSE</u> ". AUSA McCoy paraphrases the testimony of FBI Agent FORRISTEL before the grand jury Oct. 2, 2014. See p.2 L.18-26 and n.1. See also PETITION p.27 for relevance.			57-60
34.	Ex.11, ECF 35, 1/23/2015, " <u>REPLY TO DEFENDANT'S OPPOSITION TO MOTION IN LIMINE</u> ". Here, on p.1 & n1 L.21-23, AUSA McCoy retracts the testimony of FORRISTEL before the Grand Jury. This constitutes a constructive amendment to the indictment. The Grand Jury was never informed of the retraction and this occurred eleven days before the trial began. This left NO evidence of the alleged crimes before the grand jury.			61-63
35.	ECF 155, excerpt 09/08/15, pp120-139, No.2:14-cr-0269, Forristel's Grand Jury Testimony Oct. 2, 2014. McCoy exam			64-67

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38.	ECF 176, 3/2/16, Trial Transcript (TT) excerpt, CHP HARDIN, who change his testimony from his initial interview. TO: I initially thought he had because he had-- I guess..."	75-78
39.	ECF 292, Filed 9/17/2021, Affidavit of Defense Counsel Jake Toney. Mr. TONEY claiming to have been a defense counsel for 39 years before this cause, asserts the "important question" in this cause was "who shot first." So the court and prosecution also seem to push on the jury. I believe who first drew a gun and targeted the other party is the correct statement of the law of assault and self-defense.	79
40.	ORDER, ECF 276, 5/27/2021, REFERRED ECF 275 "Motion to Set Aside Void Judgment" to Magistrate Judge Deborah Barnes for findings and recommendation pursuant to 28 USC § 636(b)(1) (B). I asserted on page 2 of ECF 275 it is exempt:DISPOSITIVE.	80-81
41.	ORDER, 5/14/2025, "Motion for Recusal", DENIED (ECF# 294) "Ninth Circuit has held... judge himself should rule on the legal sufficiency" (of ECF 370). 2025 U.S. Dist. LEXIS 92137.	82-83
42.	Ex.14, 2025 U.S. Dist. LEXIS 19069, 1/29/25, DENIED "Motion for Disqualification of Magistrate Judge and Judge." (Docket No. 294). Court notes "the case has since been reassigned to Magistrate Judge Sean C. Riordan for..." by the same recused Judge Kimberly J. Mueller that assigned all.	84
43.	ORDER, ECF 352, Filed in CA9 No. 25-1634, Dkt# 1.1 Judge shubb ignores the fact that appointments were made by recused judge Mueller and were invalid ab initio. It is required to recuse if a reasonable person might percieve bias. A recused judge would think it likely the bias exists. The appearance of bias is certain.	85-87
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45.	ECF 5, Filed 09/25/2024, No 2:14-mj-0212-EFB-1 <u>DETENTION ORDER</u> — I was held to answer for an INFAMOUS CRIME WITHOUT AN INDICTMENT or a judicial determination of the corpus delicti of any crime. There was only the hearsay affidavit of the FBI Lead Investigator, who was a judge/adjudicator and the "prosecutor" who proffered the complaint without STANDING, and the court should not have accepted it.	90-91

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49.	28 U.S.C. §547, Duties. "Except as otherwise provided by law, 97 each United States Attorney, within his district, SHALL — (1) prosecute for all offenses against the United States;..."
50.	28 U.S.C. §132. Creation and composition of the district courts Statutorily legislated courts are Article I courts (Black's 98 Law Dictionary 11th Ed (Black's 11th)), p.448 'legislative court' "created by statute"; not Article I, §8, cl.9, U.S. Const.
51.	Excerpt of <u>Morrison v. Olson</u> , 487 US 654, 709-711 (1988) . . . 99
52.	Excerpt of <u>Ex Parte Yarbrough</u> , 110 US 651, 653 (1884) . . . 100
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54.	<u>McGuin v. Texas Power and Light</u> , 714 F.2d 1255, 1261(5th Cir. 103 1983). <u>U.S. v. Marcus</u> , 560 US 258, 263, 176 LEd2d 1012 (2010)
55.	<u>Sivak v. Hardison</u> , 658 F.3d 898, 2011 US App.(9th Cir.) . 104 at 908-909; and <u>Napue v. Illinois</u> , 360 US 264, 269-70(1959);
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63.	CA public Records Act request and response, 07/09/2014 . . 149-50 "Index of Invitees". AUSA and numerous others not listed attended the meeting. State and Federal executive colluded against me.	149-50
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- Northwest Ordinance (NW Ord.), Articles 1 and 2 (1787): APPX.Doc.56,
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- Declaration of Independance ('Only Just Powers may be granted') . . 7, 28 L.34-40

MISC.

- Judiciary Act of 1789, § 13 (1 Stat.72-93, §§9-35) . . . 3, 6
§ 35 13, 16, 25, 31,

Enueratio infirmat regulam in casibus non enumeratis. Maxim 647,
Black's Law Dictionary, 11th Ed. (Black's 11th), p.1959:
Where powers are enumerated, the rule is disaffirmed in cases not
enumerated.

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

[X] For cases from federal courts:

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 02/25/2026.

☐ 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: 04/24/2026, and a copy of the order denying rehearing appears at Appendix B. (p.1)

☐ 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).

Superior Court of California In And For The County Of Nevada

Cases M14-00388 misdemeanor and F14-00267 were abrogated by the removal to the Federal District Court Eastern Dist. Of CA

☐ For cases from **state courts**: I was seized while standing trial, held without bail in the county jail, without notice or citation.

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).

JURISDICTIONAL STATEMENT

Jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1). The Petitioner wishes certiorari to the United States Court Of Appeals for the Ninth Circuit: Brent Douglas Cole is a natural born citizen of the United States of America, and prefers using first person singular. This appeal is from the ORDER, April 24, 2026, DktEntry (Dkt) 16.1, Case 25-4263 USCA 9th Cir. Petition for Rehearing and En Banc Rehearing, ORDER, 02/25/2026, Dkt 13.1; Which failed to acknowledge that the Privilege of the Great Writ has been suspended for over six (6) years in violation of Art.I, §9, cl.2, U.S. Const.; and failed to acknowledge that criminal case 2:14-cr-0269-WBS-SCR-1 was reopened by ECF 336, filed 07/15/24, seeking correction of plain errors pursuant to F.R.Crim.Proc. Rule 52(b), and a subsidiary Motion For Partial Summary Judgment for the Ultimate and dispositive issue of Improper Venue, the venue having been absent from the statute in 2014.

"The Judicial Act [1789], sec. 13, enacts that the Supreme Court shall have power to issue writs of prohibition...; and writs of mandamus in cases warranted, by the principles and usages of law, to any courts appointed, or person's holding offices under the authority of the United States. A mandamus to an officer is held to be an exercise of original jurisdiction, but a mandamus to an inferior court of the United States is in the nature of appellate jurisdiction." Ex parte Crane, 5 Pet. 190, 193 (1831). See Ex parte United States, 287 US 241, 245, 77 LED 283 (1932).

I urge that partial summary judgment is due on the ultimate issue of Improper Venue under F.R.Civ.P Rule 56, ECF 343, filed 12/06/2024 (Dkt 9.1 in No. 25-4263). Dkt 10.1 is "MOTION FOR "ENTRY OF DEFAULT" PURSUANT TO FRCP RULE 55(a)", FILED ABOUT Jan. 25, 2026 in USCA No. 25-4263. The lower courts have deprived me of the right to an adjudication on every claim, issue, or contested fact I have submitted to them. I am and have been, ab initio, denied my unalienable right to be heard, and my right to petition for redress of grievances.

1 CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3 The Bill of Rights except for Amend. 3, 7, and 9 are involved.

5 The Compact and Treaty formed by the Northwest Ordinance Articles
7 July 13, 1787, Prior Engagement (NW Ord.), esp. Art.2 are involved.

9 The statutes under which petitioner was prosecuted are 18 USC §§
11 111(a) &(b), a sentence enhancement, and 924(c) a second sentence
13 enhancement for having a gun to be able to defend: Double jeopardy.
15 Extraterritorial jurisdiction was added to §111 in 2022. P.L.117-59
17 added (c). The addition violated the Tenth Amendment and separation
19 of Powers Doctrine. It tears at the fabric of Federalism. APPX.pp.92-98.

21 18 USC § 3231 is claimed to establish jurisdiction in all cases.¹

23 There has been refusal to apply the other sentence in the statute:²

25 "Nothing in this title shall be held to take away or impair
27 the jurisdiction of the courts of the several states under the
 laws thereof." 18 USC § 3231, cl.2.

29 "The powers not delegated to the United States by the Constitu-
31 tion nor prohibited by it to the States are reserved to the
 States respectively; or to the people." Tenth Amend. U.S.Const.

33 The Constitution Art.I, §9, cl.2: "The Privilege of the Writ
35 of Habeas Corpus shall not be suspended, unless when in Cases
 of Rebellion or Invasion the public Safety may require it."

37 Cl.3 "No Bill of Attainder or ex post facto Law shall be passed."

39 "Section 10. No State shall ...pass any Bill of Attainder, ex
 post facto Law, ... or grant any Title of Nobility. Cl.1.

41 "Section 8. The Congress shall have Power To... To constitute
43 Tribunals inferior to the supreme Court; cl.9. Infra p.7 L.27-31.

 To define and punish Piracies and Felonies committed on
45 the high Seas, and Offences against the Law of Nations;"cl.10.

47 "Article II §1. The executive power shall be vested in a Presi-
 dent of the United States of America. ... Section 3. ... he
 shall take care that the Laws be faithfully executed, and shall
 Commission all of the Officers of the United States."

49 Article III Section 1. The judicial Power of the United States
51 shall be vested in one supreme Court, and in such inferior
 Courts as the Congress may from Time to time ordain and estab-
 lish. ... Section 2. The judicial Power shall extend to all Cases,
53 in Law and Equity, arising under this Constitution, the Laws of
 the United States, and Treaties made, or which shall be made,
 under their Authority;— to all Cases affecting Ambassadors,

1 other public Ministers and Consuls;— to all Cases of admiralty
3 and maritime Jurisdiction;— Controversies to which the United
5 States shall be a Party; ...; — Between a State and Citizens
6 of another State;— between Citizens of Different States;—be-
tween ..., and between a State, and the Citizens thereof, and
foreign States, Citizens or Subjects. (Art.3, §2, cl.1).

8 The Trial of all Crimes, except in Cases of Impeachment, shall
be by Jury; and such Trial shall be held in the State where the
10 said crimes shall have been committed;but when not committed
12 within any State, The Trial shall be at such Place or Places as
the Congress may by law have diredted. (Clause 3)."

13 "The Congress shall have Power to declare the Punishment of
15 Treason, but no Attainder of Treason shall work Corruption of
Blood, or forfeiture except during the life of the person at-
tainted."

17 Article IV

19 "Section 2.The Citizens of each State shall be entitled to
all Privileges and Immunities of Citizens in the several States.

21 ... Section 4.The United States shall guarantee to every State
23 in this Union a Republican Form of Government, and shall protect
each of them against invasion;..."

25 Article VI

27 "All Debts contracted and Engagements entered into, before the
adoption of this Constitution, shall be as valid against the
29 United States under this Constitution, as under the Confedera-
tion. The Constitution, and Laws of the United States which shall
be made in pursuance thereof; and all Treaties made, or which
31 shall be made, under the Authority of the United States, shall
be the Supreme Law of the Land;and the judges in every State
33 shall be bound thereby,anyThing in the Co'stitution or laws of
any State to the Contrary notwithstanding.

35 The Senators and Representatives before mentioned and the
37 Members of the several State Legislatures, and all executive
and judicial Officers, both of the United States, and of the
39 several States shall be bound by Oath or Affirmation to sup-
port this Constitution, but no religious Test shall ever be
41 required as a Qualification to any Office or public Trust un-
der the United States."

43 28 USC §§ 132, 137, 547 appear in the appendix. Pp.97,98 & 140.

45 I have no access to California State Codes or statutes. All copies
47 that I had when the shooting occurred have been seized and destroyed.
49 18 USC §924(c), as applied here, declared a lawful exercise of 2ond
51 Amendment right to be a felony crime in violation of the bar to (Doc.60)
53 double jeopardy and Art.I, §9,cl.3, U.S. Const. Supra p.4 L.37. Legis-
55 lative fiat overruled this Court's Busic holding. See Brady Fix Act.

1 THE BASIS FOR JURISDICTION IN THIS COURT

3 I committed no crime. It is conceded that CHP officer Hardin drew
5 first, and pointed his gun at me. I was consequently shot five times,
7 maimed for life, and accused of attempted murder while in Sutter
9 Roseville Trauma Center Intensive Care Unit (ICU). My requests for
11 ballistics and gunpowder-residue tests, which would prove I was shot
13 by the Ranger at about arms length, were denied and clothes destroyed.

15 I have been incarcerated for over twelve years without a fair
17 hearing, deprived of due process, and never has there been a judi-
19 cial determination as to whether the two officers had probable cause
21 for the warrantless attempted arrest, nor whether officers had law-
23 ful justification for the use of deadly force: A failure of justice.

25 The courts below deprived me of my rights under the Constitution
27 and laws of the U.S. The law of assault and of self-defense were mis-
29 construed: An abuse of discretion which obtained a wrongful convic-
31 tion. It diminished private rights and confidence in the judiciary.

33 The Privilege of the writ was suspended. Art. I, §9, cl.2, U.S.
35 Const. This Court's command in *Gerstein*, 420 US at 114, was not com-
37 plied with. The 9th Circuit precedent in Scott v. Heinrich, 39 F.3d
39 at 914 was disregarded. Irregular procedures, structural errors, and
41 the knowing use of perjured testimony have resulted in unjust powers.

43 The deprivation of the right to an impartial judge and right to
45 self-represent at trial was the denial of due process, which is syno-
47 nomous with fundamental fairness, constituted structural errors.
49 These are not separable from the main proceeding and are usurpation
51 of power. See Will v U.S., 398 US 90, 108, 19 L Ed 2d 305 (1967).

53 "[5] Supervisory mandamus refers to the authority of the courts
of appeals to exercise supervisory control of the District
55 Courts through their "discretionary power to issue writs of man-
damus." *United States v. Sanchez-Gomez*, 584 US 381, 390, 200 LEd
2d 792, 801, 138 S Ct 1532, 1540, 2018 U.S. LEXIS 2804 *14, 9/16/18.

CONCISE STATEMENT OF THE CASE

"A district court by definition abuses its discretion when it makes an error of law." Koon v. United States, 518 US 81, 100, 116 S Ct 2035, 2048, 135 L Ed 2d 392 (1996); Newtok Vill. v. Patrick, 21 F.4th 608, 2021 U.S. App. LEXIS 37924, *15 (9th Cir.).

The purpose of the People Establishing the Constitution is declared:

"to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." Preamble to the Constitution of the United States.

The Declaration of Independence declared "that to secure these rights

Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security —"

Whereas "just powers" are enumerated, the rule is disaffirmed in cases not enumerated. 'Enumeratio infirmat regulam in casibus non enumeratis.' Maxim 647, Black's Law Dictionary 11th Ed., p. 1959.

"The idea that an individual cannot be held criminally responsible for acts done in reasonable defense of his person is deeply rooted in our jurisprudence. ..." The use of force or violence upon <* pg. 1328> the person of another is justifiable when committed for the purpose of preventing a forcible offense against the person ...; provided that the force or violence used must be reasonable and apparently necessary to prevent such offense. ..." The Supreme court of Louisiana has recently intimated that this defense is available to a defendant charged with aggravated assault upon a police officer, if the asserted assault was committed after the officer attempted unlawfully to arrest the defendant. The second principle which the state courts might regard as dispositive in this case was announced by City of Monroe v. Ducas, 203 La 971, 14 So 2d 781 (1943): — The right of personal liberty is one of the fundamental rights guaranteed to every citizen, and any unlawful interference with it may be resisted. Every person has a right to resist an unlawful arrest; and in preventing such illegal restraint of his liberty, he may use such force as may be necessary." Wainright v. New Orleans, 392 US 598, 88 S Ct 2243 (1968); Gutierrez v. Aaenz, 606 US 305, 327, 2025 U.S. LEXIS 2495 (Citing the right of personal security and property).

"It is a settled and invariable principle, that every right, when withheld must have a remedy, and every injury its proper redress. 3Bl. Com.109." Marbury v Madison, 1 Cranch [5 US]137,147,163, 2 LED 60 (1803).

PURSUIING INVARIABLY THE SAME OBJECT

Recent murders of over 40,000 Iranians, over 42 million in the U.S.S.R., and scores of millions slaughtered throughout history by communists and autocrats evince the necessity of self-defense and the second Amendment. California legislated exercise of 2nd Amend. right to be a crime: Wherewith, I was charged, arrested, and put on trial by Russell Greene, No. M14-0388, CA Superior Ct., CPC §§25400 (a) & 25850(a)(1). I filed ANSWER 6/5/14 challenging constitutionality.

June 14, 2014 GREENE appeared minutes after the shooting as the "Lead Investigator" asserting there was no connection between NCSO and the shooting, and immediately called in FBI Agent FORRISTEL as "Federal Lead Investigator". This assured the desired results of a cover-up. Bureau of Land Management (BLM) Agent PULTORAK appeared at 11:30 A.M., instigated an altercation with me based on the claim the area and road were closed to the public, without posted notices. About 2:40 P.M. PULTORAK assaulted me with his firearm. I defended myself and urge that I was legally justified to do so, and did not use excessive force. Every proviso of the 14th and 5th Amendment due process clauses have been violated by the respondent and its agencies.

"Liberty from bodily restraint always has been recognized as the core of liberty protected by the Due Process Clause from arbitrary Governmental action." Youngberg v. Romeo, 457 US 307,316.

Officers had no warrant, no probable cause, nor lawful justification for their actions in taking my property unlawfully, nor assault with firearms to consummate the larceny they had committed. No gunpowder residue tests or ballistics analysis were done. Either would have evidenced that PULTORAK fired the first shot before he backed away, mortally wounding me. I was vicariously subjected to inquisitorial courts, which imputed and convicted me of felony crimes that did not occur. Due process was denied and a deliberate divesture of rights.

CONCISE STATEMENT OF THE CASE

Two Circuit Judges, CANBY and HURWITZ, ISSUED ORDER, DktEntry (Dkt#) 13.1, February 25, 2026, in 9th Circuit Appeals Court #25-4263:

"The court has considered all of appellant's filings, and construes them as a timely request for a certificate of appealability. So construed, the request is denied because appellant has not shown that jurists of reason would find it debatable whether the [2255 motion] states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. [Citations omitted]. Any pending motions are denied as moot. **DENIED.**" [Why has it taken over 6 years to decide it?].

Petitioner submits that DktEntry 5.1, filed 08/07/25, "DEMAND OF LAW, JUSTICE, AND THE APPELLANT: AND PETITION FOR AN EXTENSION OF TIME FOR FILING FOR A CERTIFICATE OF APPEALABILITY OF ISSUES", invoked the Appeals Court's jurisdiction under 28 USC § 1291 from the final decision of ORDER, ECF 381, Ex.2, and JUDGMENT, ECF 382, Ex.3: Both filed 06/03/25, the day after ECF 383, Ex.1, filed 06/02/25, "MOTION TO RECONSIDER MAGISTRATE ORDER OF MAY 14, 2025", in Case# 2:14-cr-0269 and 2:19-cv-02274-WBS-SCR. The criminal case had been reopened by ECF 336, Filed 07/15/2024, "MOTION FOR CORRECTION OF PLAIN ERROR PURSUANT TO FED. R. CRIM. P. RULE 52(b)". I had a tumorous bone in my left foot removed in August 2025. I was due judgment on ECF 343, MOTION FOR PARTIAL SUMMARY JUDGMENT on the Ultimate Issue of Improper Venue: Seeking correction in criminal case 2:14-cr-0269-WBS:

"Partial summary judgment is sought for the singular issue of improper venue, the remedy of which is vacature of the convictions, "not acquittal or dismissal with prejudice, ..." Smith v. United States, 599 US 236, 216 L Ed 2d 238, 252, 143 S Ct 1594, 1607, 2023 U.S. LEXIS 2546; U.S. v. Jackalow, 1 Black 484 (1862)

The Question is: Was the venue improper? Yes OR NO. But, like every other question, contested fact, issue, or claim that I have submitted or raised, since this persecution started, nothing is adjudicated, decided, or meaningfully considered.

A FAILURE OF JUSTICE

The trial court abused process and its discretion, resulting in a vindictive prosecution and a miscarriage of justice. The panel decision conflicts with decisions of the U.S. Supreme Court. McQuiggen v Perkins, 569 US 383, 392, 133 S Ct 1924, 1931, 185 LEd2d 1019, 1031. 2013 U.S. LEXIS 4068, *17: See APPX.Docs.27-41, pp.46-83:

"[A] credible showing of actual innocence may allow a prisoner to pursue his constitutional claims on the merits notwithstanding the existence of a procedural bar to relief." Lopez v Clark, 2022 U.S. Dist. LEXIS 42888 (9th Cir.).

"Among the historic liberties protected is the right to be free from, and to obtain judicial relief for unjustified intrusions on personal security." Vitek v. Jones, 445 US 480, 492, 63 L Ed 2d 552, 100 S Ct 1254 (1980).

"[1] The Due Process Clause ... "centrally concerns the fundamental fairness of government activity." Quill Corp. v. North Dakota, 504 U.S. 298, 312, 119 L Ed 2d 91 (1992)." N.C. Dep't of Revenue v Kimberly Rice Kaestner 1992 Trust, 2019 U.S. LEXIS 4198.

There exists no credible evidence that Petitioner committed an assault. I was molested and assaulted for lawful exercise of 1st & 2d Amendment rights. Respondent knowingly removed the cause to federal court by malicious abuse of process, as it was used to deprive me of due process, regular proceedings, and my right to trial in the vicinity, violating Art.3, §2, cl.3, U.S. Const., Sixth and Fifth Amend.

The only evidence of the alleged crimes before the grand jury was recanted. AUSA Michael McCoy retracted FBI agent FORRISTEL'S testimony on 1/23/2015, ECF 35, p.1 L.21-23 & n.1, REPLY TO OPP, from Agent FORRISTEL elicited, then rescinded it stating, "That is incorrect." He repudiated it 11 days before trial and concealed it from the Grand Jury. Judge Burrell was judicially informed of retraction.

AUSA Coppola and FORRISTEL suborned key witness Hardin about 11/21/2014 to change his trial testimony to contradict his initial claim.

See ECF 388, Ex.2, p.15, filed 6/20/25, FD-302, Bates "COLE_01808". See APPX,Doc.32 through 36.

A FAILURE OF JUSTICE

Rehearing from the panel decision affirming the ORDER of the trial court (Dkt 13.1 & ECF 381) was DENIED asserting that only a request for a COA was at issue. In Hohn v. United States, 524 US 236, 253:

"[1e][2b] We hold this court has jurisdiction under 1254(1) to review denials of applications for certificates of appealability by a circuit judge or a panel of a court of appeals. The portion of House v Mayo holding this Court lacks statutory certiorari jurisdiction over denials of certificates of probable cause is overruled. ... the judgment is vacated and case remanded".

"SEPARATE OPINION Justice Souter, concurring,

I would be content to decide this case on the authority of House v Mayo, 324 US 42, 89 L Ed 739, 65 S Ct 517 (1945), that common-law certiorari is available to review the denial of the certificate, leaving House's precarious future for another day when its precedential value might have to be squarely faced. ... House's holding on what may be " 'in' the court of appeals," id., at 44, ..., was virtually unreasoned, and the Court correctly notes our subsequent practice of honoring this rule in the breach. Given the weakness of the precedent, the advantage of having a clear majority for a rule governing our jurisdiction to reverse erroneous denials of certificates of appealability persuades me to join the others in overruling House insofar as it would bear on issuance of a statutory writ of certiorari under 28 USC § 1254(1)." ("Justice Scalia, with whom the Chief Justice, Justice O'Connor, and Justice Thomas join, dissenting.").

"Today's opinion permits review where Congress, with unmistakable clarity, has denied it. To reach this result, the Court ignores the obvious intent of the Antiterrorism and effective Death Penalty Act of 1996 (AEDPA), Pub.L. 104-132, 110 Stat. 1214, distorts the meaning of our own jurisdictional statute, 28 USC § 1254(1), and overrules a 53-year-old precedent House v. Mayo, ... I respectfully dissent.<*pg.261>"

" I — This Court's jurisdiction under 28 USC § 1254(1) is limited to "[c]ases in the courts of appeals." Section 102 of AEDPA provides that [u]nless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from ... the final order in a habeas corpus proceeding under section 2255", that is, a district court habeas challenging federal custody. Petitioner, who is challenging federal custody under 28 USC § 2255, did not obtain a certificate of appealability (COA). By the plain language of AEDPA, his appeal "from" the district Court's "final order" "may not be taken to the court of appeals." Because it could not be taken to Court of Appeals, it quite obviously was never in the Court of Appeals; and because it was never in the Court of Appeals, we lack jurisdiction under § 1254(1) to entertain it..

We have already squarely and explicitly endorsed this straightforward interpretation. In House v Mayo, 324, US, at 44 ...". DOC.36.

1 THE DISTRICT COURT WAS WITHOUT JURISDICTION

3 If the District Court ever had jurisdiction over this cause,
5 it lost jurisdiction during the course of the proceedings for
7 disregarding the rules of proceeding, enjoined by the law for
9 its exercise, so as to render the cause coram non judice. Cole's
11 case, 1 W. Jones, 170. The court had no jurisdiction over the
13 subject matter. It was prohibited by 18 U.S.C. §3231 from impair-
15 ing or defeating the State Court's jurisdiction, which the State
17 court first exercised, I was on trial for two alleged crimes, in
19 custody of the law of California, illegally denied bail. I had
21 served court papers on the court and Attorney General Kamala
23 Harris, challenging the constitutionality of the State statutes
25 under which I had been charged. The State had little or no voli-
27 tion over its proceedings, which was only a sham commanded by
29 the Federal executive, evidenced by the docket sheet in No. F14-
31 0267: It was only a wily subteruge for depriving the process of
33 law; It was a federal prosecution for the same act, and barred
35 by the Double Jeopardy Clause, Bartkus v. Illinois. The cause is
37 coram non judice: Feigned: See id., 359 US 121, 131 (1959):

39 "Such is the law in either case , ... so as to render the
41 case coram non judice." [cites omitted] Dynes v. Hoover,
43 20 How. 65, 80-81, 15 L Ed 838 (1858), Sec ECF 336, p. 36
45 of 39 (CA 9th No. 25-4263, Dkt 9, 4, p. 239).

47 "A sentence of a court pronounced against a party without
49 hearing him, or giving him an opportunity to be heard, is not
51 a judicial determination of his rights, and is not entitled
53 to respect in any other tribunal. ... Until notice is given,
55 the court has no jurisdiction in any case to proceed to
57 judgement, whatever ..." Hovey v. Elliot, 167 U.S. 409,
414-415, 42 L Ed 215 (1897).

51 "It is well settled that a judgment is void "if the court that
53 considered it lacked jurisdiction of the subject matter, or if
55 the parties or if [the court] acted in a manner inconsistent
57 with due process of law." Vol. 11, Wright and Miller, Federal
Practice and Procedure at 198, 200. Watts v Pinckney, 752 F.2d
406, 409, 1985 U.S. App. LEXIS 28685; Chambers v. Knight, 2021
U.S. App. LEXIS 30909 *2. (9th Cir.)

1 STRUCTURAL ERRORS AND MISTAKE OF LAW PERVADED

3 "Defense Counsel" JAKE TONEY was forced upon me by "ORDER APPOINTING
5 COUNSEL", Filed 10/1/14, case 2:14-mj-0212-EFB, ECF 7 (Appx. Ex.5),
7 in breach of the consent decree of the district court on 9/25/14,
9 ECF 174, disregarding 1 Stat.92, ch.xx, §35. Despite my demand to
11 Self-Represent at trial at the initial appearance, my right to be
13 heard in propria persona at trial was abrogated. In his Affidavit,
15 ECF 292, 9/17/21, p.4 of 102 (Vol.4), Appx. Ex.16, "Counsel" states:

17 "1. [T]his is the answer to Mr. Cole's claims to the best of my
19 recollection. 2..This incident occurred in seconds. Cole was
21 trying to recover his property. Shots were fired at almost the
23 same time. I never felt that any attempt to argue the exact
24 placement of the wounds would-under these circumstances-be of
any help. The simple fact was that shots were fired and wounds
were inflicted. One important question was not the exact posi-
tion of the wounds, but rather who shot first. ...5. ...".

26 Said ORDER, Ex.5, deprived me of my right to self-represent at
28 trial, due process, fundamental fairness, to be heard, and a trial.
30 The court, Prosecution, and Defense counsel promulgated a miscon-
32 struction, and perpetrated a mistake of law by an erroneous jury
34 charge, which constructively amended the indictment. The law of as-
36 sault, arrest, and self-defense were given to the jury as a misrep-
38 resentation of law. This constituted abuse of the court's discretion.

40 "A constructive amendment to the indictment occurs: "where the
42 jury instructions so modify the elements of the offense charged
44 that the defendant may have been convicted on a ground not al-
leged by the indictment." United States v. Luong, 965 F.3d 973,
984-85, 2020 U.S. App. LEXIS 22279 (9th Cir.).

46 Denial of an impartial judge is a structural error. Denial of
48 the right to self-represent is a structural error. The misrepresenta-
50 tion of law was an abuse of the court's discretion which resulted
52 in an erroneous reasonable doubt instruction: a structural error.
54 The constructive amendment requires the indictment be quashed. The
56 improper venue requires the indictment be quashed. Relief is due.

1 THE RIGHT TO AN IMPARTIAL JUDGE IS BASIC TO A FAIR TRIAL

3 ECF 383 being chronologically out of sequence in violation of
5 Fed. Rule of Civil Procedure (F.R.C.P.) 79(a)(2) "The following
7 items must be marked with the file number and entered chronologically
9 in the docket: (A) papers filed with the clerk; (B) process issued,
11 and proofs of service or other returns showing execution;; and
13 (C) appearances, orders, verdicts, and judgments." : Facilitated
15 avoiding the FACTS :1) Judge Mueller Recused herself Oct. 6, 2014
17 from no. 2:14-cr-0269: Then subsequently assigned every judge in
19 violation of 28 U.S.C.S. § 137(b) by issuing an ORDER in said case..

21 In appeal no.25-4263, Dkt 5.1,"Demand of Law ...", p.2, L.1-23:

23 "An appellate court can vacate all orders of a district judge
25 who should have been recused, ... "Public confidence in the
27 courts requires that [bias] questions be disposed of at the
29 earliest possible opportunity." [In re Bulger, 710 F.3d at 45.]"
31 In re Creech, 119 F. 4th 1114, U.S. App. LEXIS 26187 *22-24 (9th
32 Cir.) Oct. 16, 2024. Appeal is from the ORDER, ECF# 381, and
 judgment, ECF no.382, June 3, 2025, attached hereto: Specifically
 denied as "moot" are ten(10) at bar, and at issue motions dispu-
 ting facts and claims, having practical significance; some dis-
 positive, which I urge are not moot, but due to be decided."

34 I note the District court refused to proceed in equity. L.35-p.3 L.9.
36 Also, that my Sixth Amendment right to "be informed of the nature
38 and cause of the accusation and First Amendment right to "petition
40 the Government for a redress of grievances" infers a duty on the
42 Court to correct an accused if they have clearly not understood the
44 nature for cause of the accusation against them, and have so declared:
46 The failure to do so being refusal to pass on it at a minimum. I
48 note that per 28 USC § 132 and Black's 11th, p.448 "legislative court":
50 The district court is an article I court using a quasi-in-rem-in-per-
52 sonam-in-maritime jurisdiction-at-law to prosecute me. The district
54 court is not bound by Art.III U.S. Constitution. Is the district
56 court competent in its construction to receive the judicial Power?

DENIAL OF PETITION FOR REDRESS OF GRIEVANCES

In Rice v Wood, 77 F.3d 1138, 1141 (1966), 9th Circuit App.Ct.said:

"Adding to the list of rights which if violated amount to structural error. The examples in Arizona v Fulminante, 499 US 279, 309-10, 113 LEd2d 302, 111 S Ct 1246 (1991), ... denial of right to an impartial judge; Gideon v Wainwright, 372 US 335, 342, 345, 9 LEd2d 799, 83 S Ct 792 (1963): Explicitly recognized to be of this fundamental nature ... are the First Amendment's freedom of speech ... and petition for redress of grievances. Edwards v South Carolina, 372 US 229, 235, 9 LEd2d697, 83 S Ct 680 (1963), protected by the 14th Amendment."

J.TONEY did visit me in jail a few times for about 15 minutes..I was in solitary confinement continuously denied the requisits to prepare a legal pleading or a defense. I was held in "Total Separation"without ever having had a due process hearing. Mr. TONEY was a non-functional alcoholic who made many promises, but didn't keep them or advocate for me. He concealed almost all discovery and the record from me until 3 months after trial. He failed to prepare.

ECF 25 was received by the court 01/16/2015, but not docketed until 01/22/15, It enumerated six goals and demanded that "Counsel" resign if he had any problem with any of these goals or assertions, and stipulated that"Counselassented to support these goals by not resigning." ECF 25, p.4 L. 21-24, Ex.17. It declared on p.2 that:

"On or about Oct.19, 2014 defendant stated his goals & interests in writing,to Counsel:"I am being tortured continuously, subjected to inhumane unlawful treatment, which is cruel and unusual punishment. It is being maliciously inflicted by a plurality of hands, very deliberate; I did not consent to anyone representing me. The court ranover the top of me and my objections that were raised in open court on Sept. 25, 2014 [ECF 174, p.3 of 10, L.1-3 & L.25-p.4 L.9]..... My right to manage and present my own case was abrogated by gross violations and an assault upon my person in open court. You failed to object." [p.3:] " If I seem brash and abrupt in this letter, I am noted for being brutally honest and having no tact. My purpose is to clarify my position so as to avoid wasting my time or yours if you are unwilling or unable to pursue my immediate legal interests, which I do not consider to be even slightly negotiable: 1.) My concerns, allegations, objections, and goals must be immediately entered into the record so as to assure they are recorded timely in the record to preserve[

grounds for appeal, or resolve. 2.) The denial of medical attention must be ended A.S.A.P. Every day that goes by without it results in the permanent loss of some use of my left arm. ... 5.) My right to manage and present my own case congruously with the Judiciary Act of 1789, §35 MUST BE ENFORCED! 1 Stat.,ch.xx, §35." See Appx.17. P.4:"6.) The issue of the Oath required

by the Supremacy Clause of the U.S. Constitution having been taken prior to the "Officers" having exercised the duties of their office, and their being bound (by said Oath):

"... all executive and judicial Officers, both of the United States, and of the several states, shall be bound by Oath or Affirmation to support this Constitution...". See 5 U.S.C. § 3331: Statutory Construction is necessary!"

"I am innocent of the charges against me. I am the victim. I was viciously and violently attacked. The assault against me was deliberate, and premeditated using semi-automatic weapons wearing body armor. This is a conspiracy against rights and the deprivation of rights under color of law targeting the right of the People to keep and bear arms, ..." ECF 25, p.4 (Appx. Ex.17).

"If you have any problem with any of these goals or assertions then you need to resign as my assistance of counsel and my "representation". /s/ Brent D. Cole". [MOTION FOR CHANGE OF COUNSEL, ECF 25, Filed 01/16/2015: On the Caption page I DECLARED:]

"1.) On 9/25/14 I demanded that I be allowed to manage and present my case with the assistance of counsel in accord with the JUDICIARY ACT OF 1789 and the Sixth Amendment." P.1, ECF 25.

Upon recusal by ORDER, ECF 10, Appx. Ex.1, p.3, Judge Mueller had no authority to ORDER assignments of judges to this cause. Ex.1. Also see Appx. Ex.12, "IMPORTANT PUBLIC INTEREST ...", p.2, No. 25-1083, Dkt# 7.1, filed 04/08/2025. See also Appx. Ex.15, Dkt# 1.1, No. 25-1634, pp.34-53, MOTION FOR DISQUALIFICATION OF MAGISTRATE-AND JUDGE [ECF 294, Filed 09/21/2021, USDC #2:14-cr-0269].

This practice of improper assignment of judges imperils "a substantial public interest", violates the Congressional Command, McGuin v. Texas Power & Light Co., 714 F.2d 1255, 1261, 32 Fed. R. Serv. 2d 1575 (5th Cir. 1983), that "the disqualified judge be removed from all participation in the cause," and impugnes the judiciary. I was branded a "Constitutionalist" for lawfully attempting to protect rights guaranteed by the U.S. Constitution, to cover-up crimes.

1 THE FAILURE TO DECIDE PROMOTES ERROR'S DOMINANCE

3 My "GENERAL EXCEPTION TO FAILURE TO DECIDE MOTIONS ...", ECF#296,

5 Filed 09/30/21, asserted that the trial court lacks jurisdiction:

7 "over this cause and has from the very beginning. It is the Res-
9 pondent's burdon to affirmatively show jurisdiction and venue,
11 but the respondent has instead circumvented the necessary process
13 for the writ ad prosequendum, and failed to show it. COLE excepts
15 to the defect. (P.1). COLE takes general exception to the Respon-
17 dent insisting that this court continue to proceed without ever
19 having examined either venue or subject matter jurisdiction, af-
21 ter failing to respond to numerous motions and having lost the
23 right to now oppose those motions. The general exception extends
25 to this court's failure to decide those motions by either grant-
27 ing or denying: ECF 266, filed 2/1/21, 270, 3/25/21, 275 5/24/21,
29 and 279 6/28/21. Upon this movant filing #275, a dispositive mo-
31 tion, Judge Shubb ordered Magistrate Barnes to issue her findings
33 and recommendations, which she failed and/or refused to do. Upon
35 the respondent's continued failure to respond, COLE exercised his
 prerogative, and moved for default judgment. ECF 279. ...Fifty-
 seven (57) more days passed without a response or action by the
 court, and COLE filed ECF 285 on 8/23/21, seeking Default Judge-
 ment or a mandamus to enforce the Order, ECF 276. This Court
 denies the Defendant his entitlement to equal treatment and to
 proceedings according to the course of the common law by granting
 the respondent everything it asks for without ever allowing COLE
 an opportunity to oppose its motions, and either ignoring the
 Defendant's motions, or categorically denying even motions for
 needed evidence. (P.2). [¶] ECF 266 sought to bifurcate the issue
 of jurisdiction from all other issues because it is the duty of
 this and every court, to first determine that it has jurisdiction
 over the cause and persons essential to adjudication. --

35 COLE asserts that the executive branch was without authority
37 to act, when it came to this court[,] unlawfully soliciting this
39 court to abuse its authority by instituting a criminal prosecu-
41 tion for an infamous crime, without an indictment of a grand jury
43 by issuing a complaint and an arrest warrant, outside of its
45 venue, and wholly without its territorial jurisdiction for a
47 prisoner in the custody of the law, incarcerated without bail,
49 in a jurisdiction not the same. This court was proscribed by law
 law from exercising its jurisdiction or any of its processes to
 impair or defeat the state court's jurisdiction. This court acted
 in excess of its jurisdiction, and violated the law when it com-
 plied with the demands of the Executive Branch to institute a
 prosecution without the necessary process of the writ ad prose-
 quendum, and without leave of the people, or lawful cognizance
 of the cause. P.3, ECF 296, filed 09/30/2021,

51 "Without jurisdiction the court cannot proceed at all in any
53 cause. ...[T]he only function remaining to the court is that of
 announcing the fact and dismissing the cause." [Cite omitted]....
 [T]hat jurisdiction be established as a threshold matter... is
 "inflexible and without exception." [Cite omitted]." Steel Co. v
 Citizens For a Better Env't, 523 US 83, 94-95, 140 LEd2d 210 (1998).

1 STATEMENT OF THE CASE: -- Facts Essential To Understanding

3 Unjust powers are to be forborne by the State. Dec. of Indep.
5 The Second Amendment, right of self-defense, and right of remedy have
7 been eviscerated. The exercise of this Court's jurisdiction is due.
9 The Petitioner, Brent Douglas Cole, a living man, proceeds pro per:

11 I was arrested and charged, about January 25, 2014, and bound
13 for trial on two alleged misdemeanors for lawful exercise of right.

15 I was camping and panning for gold in a remote area of California
17 (CA) where the gold rush of 1849 occurred. I was accused of a crime
19 for having loaded firearms in my pickup truck. Ex.6, MISDEMEANOR
21 COMPLAINT. -- Does the right to keep and bear arms not include loaded?
23 I was in an area where problem bears that were removed from parks are.
25 No judicature or judicial inquiry occurred to determine wrongful
27 deeds that comprised the body of the alleged 'offenses': Nor to see
29 if there was probable cause to believe I committed THOSE offenses.
31 Does the failure to make said inquiries deprive one of due process?

33 I challenged the constitutionality of CA penal codes (CPC) §§
35 25850(a) and 25400(a)(1) on June 5, 2014, in the Superior Court of
37 CA for the County of Nevada, case #M14-00388, "ANSWER WITH BILL OF
39 EXCEPTIONS", by serving the prosecutor and court in open court, and
41 CA Attorney General Kamala Harris by certified mail. I asserted
43 said codes violated the Second and Fourteenth Amendments, and were
45 unconstitutional Bills of Attainder under Art.I, § 10, cl.1. Is it
47 fatal to a criminal prosecution for the corpus delicti not to exist?
49 Do said codes violate U.S. Const., Art.IV, §2 entitlements? I was a
51 North Dakota citizen. — "all Privileges and Immunities of".

53 I served "ANSWER WITH BILL OF EXCEPTIONS" June 5, 2014. On June
55 14, 2014 Federal Bureau of Land Management (BLM) ranger Tad PULTORAK
57 stopped me on "Come-Along-Road" for a "Traffic-Stop", in a service

1 truck. His pretext was his claim the area and road were closed. He
3 demanded license, registration, proof of insurance, and ID from both
5 of my passengers. My "want's (NCIC) check" revealed that I had no
7 warrants or criminal history, no history of violence, and my Class-A
9 CDL was clear with no points. It had endorsements for Tanker, Triples,
11 and HAZ-MAT, which requires a Homeland Security Clearance. He learned
13 that I was sixty (60) years old. He returned our documents at noon.

15 He asked me if I had any firearms. I told him I had a .44 Mag.
17 revolver and a .284 caliber rifle in the cab of my truck. I asked
19 him why he stopped us. He stated, because the road and area are
21 closed to the public. I pointed out that there were no signs or
23 notices. I asked him, "How were we suppose to know it was closed?"
25 He vehemently snapped, "I am the sign." I pointed out the road had
27 no gate, and the land is BLM managed public lands. That raised his
29 ire. He threatened me, asserting that if he saw me driving on the
31 road again that he would impound my vehicle and arrest me. He stuck
33 his head inside the driver's side window and very loudly yelled,
35 "I am the (expletive) law!" PULTORAK is 6'5" and I am 5'7".

37 He declined to issue any citation and told me to leave. I left.
39 By 12:10 P.M. he had found my tools, camping gear, and prospecting
41 equipment, looking for ways to injure or inconvenience me it seems.
43 He found two motorcycles in the area: Mike's 250 Honda with expired
45 tags, and a Kawasaki nearby under some trees with no plate. It had
47 been reported missing in March 2013, 15 months prior. In a single
49 transmission, PULTORAK called in the numbers to his dispatch, and
51 requested assistance to have the motorcycles impounded. He perjured
53 his trial testimony. He claimed he waited until his dispatch repor-
55 ted their status and then called for CHP to come out to assist.

1 That perjury is material because it concealed his malice and
3 propense to perjure himself to conceal his misconduct.

5 I returned about 2:40 P.M., parked at Grizzley Hill Rd., and
7 walked to the wilderness camp in order to comply with the Federal
9 agent's demands. When I approached the clearing, I watched them
11 take my backpack off of my prospecting tools, move it to the center
13 of the clearing, and load things in it. I heard them discussing who
15 would carry it back to their vehicles. They were committing larceny.

17 I announced my approach by making noise. PULTORAK stepped down
19 from the ridge where he could see me approaching. I announced that
21 he had stopped me on the road and I wished to fetch my property.
23 He told me, "OKAY." He directed me to come up to the ridge and into
25 the clearing. When I did and stepped on the roadbed, he said stop.
27 The trial transcripts (TT) evince that I amicably conversated with
29 the BLM agent, answering his questions. I made no provocations or
31 threats. My gun was in its holster on my right hip in plain view.
33 We were in a designated wilderness area a few miles from where a
35 bear had killed and eaten a man about four (4) months prior. There
37 was a food cache in a tree to keep the bears out of it. Neither of
39 them made any attempt to inform me of an intent or reason to arrest.

41 I stated clearly that the backpack, tools, and camping gear was
43 mine. I clearly informed the Federal agent that all I wanted was to
45 be permitted to fetch my property from the clearing. He agreed by
47 stating OKAY. Then directing me to come up. He pulled handcuffs out
49 then asked me "Are you armed?" When I answered "Yes, I am.": HARDIN
51 drew his gun and targeted me. Their testimonies contradict. Hardin
53 claims I said you're "not puttin' those on me." PULTORAK claims he
55 told me to turn around. Initial & trial testimonies are contradictory.

Applicable Precedents

Within twelve seconds of my responding, "Yes, I am.": The two officers had fired seventeen (17) bullets at me, hitting me with 5. It is conceded that CHP officer HARDIN drew his gun, and pointed it at me immediately upon hearing my response. My gun remained in its holster on my right hip for several more seconds. From the beginning, I have testified that Agent PULTORAK drew his gun at the same time as HARDIN, and shot me just below my naval, before he started backing up-away from me. The Ninth Circuit precedent is that:

"[W]hen a person, being without fault, and in a place where he has a right to be, is violently assaulted, he may, without retreating, repel force with force, and if, in the reasonable exercise of his right of self defense, his assailant is killed, he is justifiable. It seems to us that the real question in the case, when it was given to the jury, was whether the defendant, under all of the circumstances, was justified in the use of a deadly weapon in repelling the assault of the[persons wounded].

What we mean by this, did the defendant have reason to believe that what he did was necessary for the safety of his own life or to protect him from great bodily harm? On that question the law is simple and of easy solution, and has already been seen from the authorities cited above." Martin v. Ohio, 480 US 228, 243, 94 LEd2d 267, 107 S Ct 1098(1987)(quoting Beard v. United States, 158 US 550, 562, 39 LED 1086 (1895)).

Id., Beard became precedent in the 9th Circuit in Frank v. United States, 42 F.2d 623, 625, 1930 U.S. App. LEXIS 4322, 5 Alaska, Fed. 523, No. 6065, July 7, 1930. Id. Frank also invoked Rowe v. United States, 164 US 546, 558, 17 S Ct 172, 41 LED 547 (1896). Frank has never been revised, repudiated, disfavored or rescinded. These cases remain valid precedent in the Ninth Circuit.

"Deadly force is permissible only "if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm. Tennessee v. Garner, 471 US 1, 11, 85 LEd2d 1, 11 S Ct 1694 (1984).

It was not reasonable for the officers to believe that I posed any significant threat to them after they had just received a full check.

1 INCORRECT CONCLUSION OF LAW AND ERRONEOUS FINDING OF FACT

3 Navarro notes that "A robber who points a gun at the victim"
5 "makes an immediate threat of death by so doing, whether he adds
7 the word's "or, I'll kill you" or not." U.S. v. Navarro, 608 F.3d
9 529, 533-34, 2010 U.S. App. LEXIS 11935 (9th Cir.). The District
11 court abused its discretion by its incorrect conclusions of the law
13 of self-defense, the law of aggravated assault, and erroneous fin-
15 dings of fact to convict me. I had justification as a matter of law.

17 First, the record plainly shows at least one of the officers
19 drew his gun and pointed it at me, while my gun was still in its
21 holster, and I had made no threats or provocations. The law is:

23 "The use of deadly force is reasonable only if the police offi-
25 cer has probable cause to believe that the suspect poses a sig-
27 nificant threat of death or serious physical injury to the of-
 ficer or others." Hall v. Hayward Police Dep't, 2013 U.S. Dist.
 LEXIS 135940 *13 (9th Cir.).

29 "An assault occurs whenever the next move would complete the
31 battery. ...As a result, a specific intent to injure is not an
33 element of assault because the assaultive act, by its nature,
 subsumes such an intent." United States v. Grajeda, 581 F.3d
 1186, 1195-96, 2009 U.S. App. LEXIS 20863 (9th Cir.).

35 "Deadly force is permissible only "if the suspect threatens the
37 officer with a weapon or there is probable cause to believe
38 that he has committed a crime involving the infliction or
 Threatened infliction of serious physical harm." Tennessee v.
 Garner, 471 US 1, 11, 105 S Ct 1694, 85 L Ed 2d 1 (1985).

40 In Turk v. White, 116 F.3d 1264, 1266-67, 1997 U.S. App. LEXIS 14986

42 "In 1986, CALJIC 5.30, the instruction for "Self-defense against
44 assault," stated that Turk would be innocent of assault if he
45 had grounds for believing and did believe that bodily injury
 was about to be inflicted on him." (9th Cir. Appeals Court).

47 CALJIC 5.30 was still the current jury instruction in 2014. Berry .
49 v. Davis, 2014 U.S. Dist., LEXIS 148939 *56 n.11.

51 "A district court would necessarily abuse its discretion if it
53 based its ruling on an erroneous view of the law or on a clearly
54 erroneous assessment of the evidence." Cooter & Gell v. Hartmarx
 Corp., 496 US 384, 405, 110 L Ed 2d 359, 110 S Ct 2447 (1990).

56 The use of deadly force to arrest me for custodial detention: **Assault.**

1 THE OFFICERS' USE OF DEADLY FORCE WAS OBJECTIVELY UNREASONABLE

3 DISCUSSION: In Scott v. Heinrich, 39 F.3d 912, 914-15, 1994 U.S. App.

5 LEXIS 30487, No 91-35429, Nov. 2, 1994, the Ninth Circuit explained:

7 "Under the Fourth Amendment, police may use only such force as is
9 objectively reasonable under the circumstances. Graham v. Conner,
11 490 US 386, 397, ... (1989). An officer's use of deadly force is
13 reasonable only if "the officer has probable cause to believe
15 that the suspect poses a significant threat of death or serious
16 physical injury to the officer or others." Tennessee v Garner, 471
US 1, 3, 85 LEd2d 1, 105 S Ct 1694 (1985);... "In Fourth Amend-
ment unreasonable force cases, unlike in other cases, the quali-
fied immunity inquiry is the same as the inquiry made on the
merits." Hopkins v Andaya, 958F.2d 881, 885 n.3 (9th Cir.)(1992)."

18 FOR THE FACTS: I was doing nothing unlawful or wrong. I was without
20 fault and in a place where I had a right to be, and was violently as-
22 saulted, as a matter of law, by having gun(s) drawn and pointed at me.
24 We were in a designated wilderness area on public lands. Officers did
26 not make any attempt to tell me I was under arrest or any reason or
28 authority for doing so. At trial it was conceded officers desired
30 to place me in custodial detention but had no probable cause. Beard
32 v. United States, 158 US 550, 562, 39 LED 1086 (1895) is precedent in
34 the 9th Circuit. Frank v. United States, 42 F.2d 623, 625 (1930).

36 The question that should have been given the jury under Beard is:
38 Was Defendant, under all of the circumstances, justified in the use
40 of a deadly weapon in repelling the assault of the persons wounded?
42 The law of assault must be consulted to answer this question. The
44 facts that they shot at me seventeen (17) times and hit me with Five
46 (5) bullets within 12 seconds of drawing their guns informs the ques-
48 tion: Was it reasonable for the defendant to fear being killed or
50 seriously injured once one or more guns was targeting him?

52 I assert that officers drawing their guns on me constituted the
54 use of deadly force: Which is permissible only "if the suspect threat-
56 ens the officer with a weapon or there is probable cause to be-
lieve that he has committed a crime involving the infliction or

1 threatened infliction of serious pysical harm." Tennessee v Gar-
2 ner, 471 US 1, 11, 85 LEd2d 1, 11 S Ct 1694 (1984).

4 I did not threaten either officer. I made no provocations. The BLM
6 agent had stopped me on the road less than three hours prior to this,
8 and had dispatch run a check to find that I had no criminal history,
10 no history of violence, no warrants, and not even a traffic ticket.
12 They knew that I was sixty years old. They were being unreasonable
14 to believe that I posed a significant threat of death or serious
16 pysical injury to either of them. They had all information which can
18 can possibly be obtained by law enforcement on a person, and NOTHING
20 indicated that I posed any threat to anyone. They still cannot even
22 articulate what I was a "suspect" of. "Suspect" was just a label
24 that gave them a pretext to claim they were frightened. They claim
26 that they were frightened because a law abiding citizen was carrying
28 a gun in a holster in an area that is filled with problem bears?

30 This Nation has a Second Amendment to ensure the peoples' inherent
32 right to carry a loaded gun where it is appropriate. It was not in-
34 appropriate to have a gun capable of stopping a problem bear there.
36 These officers were committing the felony crime of stealing my pro-
38 perty. — I came upon them. Politely informed them that the prop-
40 erty they were taking was mine. I asked them to leave my property.
42 They were carrying guns. As a matter of law, when they drew their
44 guns on me they escallated the larceny to armed robbery and aggrar
46 vated assault. They were committing -felony-crimes. They were not
48 lawfully engaged in the performance of Federal duties.

50 Judge Burrell was so biased against me that he refused to even
52 consider the possibility that the officers might have acted unlaw-
54 fully. In so doing, he deprived me of the equal protection of the
56 law. See APPX.Doc.69, Transcript pp.10-11.

1 CONVICTION OBTAINED THROUGH USE OF FALSE EVIDENCE KNOWN TO BE SUCH

3 "[A] conviction obtained through use of false evidence known to
5 be such by representatives of the State, must fall under the
7 Fourteenth Amendment, Mooney v. Holohan, 294 US 103, 79 L ed 791,
9 55 S Ct 340, [cites omitted]. The same result obtains when the
11 State, although not soliciting false evidence, allows it to go
13 uncorrected when it appears. Alcorta v Texas, 355 US 28, 2 L ed
15 2d 9, 78 S Ct 103; [cites omitted]. See 3 L Ed 2d 1991 Due Pro-
17 cess-Perjured Testimony, and Mooney v. Holohan, 294 US 103, 112,
79 LED 791 (1935):[See Doc.33,p.58 L.20-26 & Doc.34, p.61 L.20-23, n.1].
[T]he requirement of due process ... cannot be deemed to be
satisfied by mere notice and hearing if a state has contrived
a conviction through the pretense of a trial which in truth is
but used as a means of depriving a defendant of liberty through
a deliberate deception of court and jury by the presentation of
testimony known to be perjured." [See Doc.35, p.65 L.13-20 & Doc.36,p.68].

19 On Sept. 25, 2014, I was haled into court without notice or
21 citation, without an indictment. The federal prosecution was fully
23 instituted for an infamous crime based only on a complaint proffered
25 by FBI agent Andrew FORRISTEL in violation of 28 USCS § 547, F.R.Crim.
27 P. Rule 7, the Fifth Amendment, and the prohibition of 18 USCS §3231
29 against defeating the State court's prior exclusive jurisdiction. I
31 was able to speak once to enter my demand that I be allowed to self-
33 represent. It was brought to the court's attention no indictment had
35 been obtained. ECF 174, p.2 of 10, L.15 to p.3, L.7. P.3 L.8 to 24,
37 Magistrate judge Allison Claire refuses to acknowledge my demand. I say:

39 "I understand. Basically I'm relying on the judiciary act of 1789
41 Chapter 20, Section 35 that I have the right to manage my own
case and to the assistance of counsel." ECF 174, p.3 L.25-p.4 L.3.

43 "THE COURT: There are-- well, ... I'm going to appoint the
45 Office of the Federal Defender to represent you right now. ..."
ECF 174, p.4 L.4-11. "So we'll come back to court next week
47 so that I can talk to you further after you've had a chance to
48 maybe meet with Mr. Galloway and talk some more about it. All
right?" P.4 L.13-16.

" THE DEFENDANT: Okay."

50 "THE COURT: So for now, the federal defender's Office is appoin-
51 ted." L.17-20. [See APPX.Doc.28, p.48 (ECF 7, 10/01/14)].

53 Thus, I was deprived of my right to self-represent AND denied
55 assistance of counsel. The Office never responded. I was held to an-
swer in solitary confinement and unwanted counsel forced upon me.

1 CONVICTION WAS OBTAINED BY KNOWING USE OF SUBORNED PERJURY

3 In C.A.No. 25-4263, Dkt# 8.1, 09/08/2025, "REPLY TO GOVERNMENT'S
5 OPPOSITION ...", P.1 asserts: "[N]o forensic tests were ever done
7 for gunpowder or ballistics." Last line (L.). Either would have been
9 clear and convincing evidence that I was shot before agent PULTORAK
11 backed away from me, from less than five feet, and his testimony is
13 perjury. P.2 L.13-25 evidence the permanent injury inflicted on me:

15 "The on duty doctor asked me questions, insisted on X-rays, then
17 informed me that I would not be getting an MRI at MERCYONE, or
19 any other hospital, EVER! The large amount of shrapnel in my
20 body, ALL from the two officers shooting me on June 14, 2014
21 with bullets that constitute a felony crime under 18 USC §2441,
22 precludes using an MRI machine on me. The magnet would pull the
23 metal fragments through the soft tissues and likely kill me. ...

25 The vindictive prosecution and subornation of perjury by
27 court officers is proved by ECF 388,p.9 and exhibits: Or see E.
29 R. [Dkt# 9.2] V.2 p.123 and exhibits 1&2 []pp.128 and 129. Rele-
30 vant transcripts are E.R.[Dkt# 9.3]pp.136-145. Hardin testified
31 at trial exactly as he was told to do in the last paragraph,
32 Ex.2. See ECF# 176, P.148 L.19-25, and p.151 L5-15." P.2, Dkt#
33 8.1 REPLY. See Dkt# 10.1 MOTION, p.9 and exhibits for conveni-
34 ance. See Appx. Ex. , and Ex. , for D.A. claim & FD-302..

36 Eight (8) issues are identified in Dkt# 8.1 as "ISSUES ON APPEAL".
38 There was no credible evidence before the grand jury to support the
40 claim I assaulted the officers after AUSA withdrew Forristel's tes-
42 timony in ECF 35, 01/23/2015, p.1 L.21-23 and n.1. This was before
43 trial, but the grand jury was never informed that the only "testi-
44 mony" put before the grand jury had been retracted. FBI at Grand J.:

46 "When Mr. Cole came into the campsite, he identified himself as
48 the person that the BLM Ranger had earlier contact with. He in-
49 dicated that this was his campsite, that these were his belon-
50 gings, and that he did not want law enforcement taking his
51 things." Trial Transcript (TT)p.12, ECF# 155, p.129, No.2:14-0269.

52 " Q. What did the BLM ranger do in response?" AUSA McCoy, L.12.

54 "A. The BLM ranger ended up removing a pair of handcuffs from
56 his duty belt. and upon seeing that, Mr. Cole backed up a little
57 bit and took kind of an aggressive stance." FBI FORRISTEL, L.13-
58 16, TT p.12, ECF 155, p.129, before Grand Jury 2014A Oct. 2,2015.

 "In response to Mr. Cole's actions, the BLM ranger asked Mr.

1 Cole if he was armed. Mr. Cole said he was. In response to that,
3 both of the law enforcement officers drew their weapons." L.17-20. TT p.12.

5 On 01/13/2015, AUSA McCoy filed ECF# 23, "MOTION IN LIMINE TO BAR
7 A DEFENSE OF SELF DEFENSE", wherein he paraphrased the testimony of
9 FBI Special Agent Andrew Forristel on p.2 thereof, which he had
11 solicited before the Grand Jury on October 2, 2014 from said agent.

13 "The two law enforcement officers returned to the campsite and
15 began to develop a plan for how to extract the two motorcycles
17 from the campsite and transport them to a location where the
19 tow truck could meet them. As the two law enforcement officers
21 were in the campsite, they both heard some rustling in the brush
23 near the campsite. Ranger Pultorak verbally identified himself
25 as the police and asked who was there. The Defendant emerged
27 from the brush and responded that he was the person Ranger Pul-
29 torak previously dealt with. The Defendant told Ranger Pultorak
31 that he did not want him taking his things.

33 Concerned by the Defendant's demeanor and the fact the Def-
35 endant had just emerged from the brush, Ranger Pultorak removed
37 his handcuffs from his duty belt and began to approach the
39 Defendant. The Defendant responded by backing away and taking
41 an aggressive stance. Observing this, Ranger Pultorak asked the
42 Defendant if he was armed, to which the defendant said he was.
in response to the Defendant's answer, both CHP Officer Hardin
and the ranger drew their weapons." ECF 23, MOTION, p.2 L.15-26.
AUSA Michael McCoy, Jan 13, 2015, paraphrasing Agent Forristel.

33 However, on Jan. 23, ten (10) days later, AUSA McCoy retracted
35 this testimony that he had given Jan. 13 in the MOTION IN LIMINE on
37 p.1 of "REPLY TO DEFENDANT'S OPPOSITION TO MOTION IN LIMINE". To wit:

39 "In his Opposition, the defendant asserts that not only did the
41 law enforcement officers draw their weapons first, but fired
42 first as well; and only then, and out of self defense, did the
defendant return fire." [P.1 & n.1]

45 ¹ In the factual basis section of the government's motion
47 in lime (sic), the undersigned incorrectly wrote that in response
48 to the defendant's admission that he was armed, both CHP Officer
49 Hardin and BLM Ranger Pultorak drew their weapons. That is in-
51 correct. Ranger Pultorak has repeatedly and consistently main-
tained that he withdrew (sic) his weapon only after the defen-
dant brandished his firearm.

53 This is an admission that the two testimonies are contradictory and
55 this was known to prosecutors. False evidence. 18 U.S.C. § 1623.
57 The Grand Jury was not informed the only evidence was retracted.

1 WHERE AN OFFICER FAILS TO IDENTIFY HIS PURPOSE

3 "The Court noted in Feola, "for example, where an officer fails
5 to identify ... his purpose, his conduct in certain circumstan-
7 ces might be reasonable interpreted as the unlawful use of force
9 directed either at the defendant or his property. In a situation
11 of that kind, one might be justified in exerting an element of
12 resistance, and an honest mistake of fact would not be consistent
13 with criminal intent. Id., United States v. Feola, 420 US 671,
14 684 (1975)." Furthermore, as with traditional types of assault,
15 defense of self is a defense to the charge. ..." United States
16 v. Morton, 999 F.2d 435, 437-38, 1993 U.S. App. LEXIS 18011(9th
17 Cir.)..."CALJIC 5.30 - "Self-defense Against - Assault states:
18 "It is lawful for a person to defend himself from attack, if as
19 a reasonable person, he has grounds for believing and does be-
20 lieve that bodily injury is about to be inflicted upon him. In
21 doing so that person may use all force and means which he believes
22 to be reasonably necessary and which would appear to a reasonable
23 person, in the same or similar circumstances, to be necessary to
24 prevent injury which appears imminent."

25 CALJIC 5.51 - "Self Defense - Actual Danger is Not Necessary. ..."

26 CALJIC 5.54 "Self-Defense by an Aggressor" states":

27 "The right of self defense is only available to a person who ini-
28 tiated an assault, if he has done all of the following:

29 1). He has actually tried in good faith, to refuse to con-
30 tinue fighting; 2. He has actually informed his opponant that
31 he wants to stop fighting; and 3. He has clearly informed his
32 opponant that he has stopped fighting. Then he has the right to
33 seek self defense." [This seems to assume altercations are fights.]

34 The Government prosecuting when officers are the aggressors who ins-
35 tigated the altercation is the exercise of an unjust-power which is
36 specifically prohibited by the Declaration of Independence having
37 specifically enumerated that only "just powers" could be derived
38 "from the consent of the governed", Maxim 647, Black's Law 11th ed.
39 "from the consent of the governed", Maxim 647, Black's Law 11th ed.

40 "[N]on-violent suspects accused of minor crimes, who have not
41 resisted arrest... are victims of constitutional abuse when po-
42 lice used [sic] extreme force to subdue them." Fils v. City of
43 Aventura, 647, F.3d 1272, 1289 (11th Cir. 2011).

44 "The necessity of self-defense is ... a principle of universal
45 law growing out of the natural right of self-defense belonging
46 to all persons." Anderson v. Dunn, 6 Wheat 204, 218-19, 5 LED
47 242 (1815).

48 "This right of the States [self-defense] has its foundation
49 in the sacred law of self defense, which no power granted to
50 Congress can restrain or annul." Smith v. Turner, 7 How. 283,
51 457, 12 LED 702 (1843).

1 THE LAW OF SELF DEFENSE AND ASSAULT IS WELL SETTLED

3 "[I]f a man reasonably believes that he is in danger of death
5 or grievous bodily harm from his assailant he may stand his
7 ground and if he kills him he has not exceeded the bounds of
9 lawful self-defense. That has been the decision of this Court."
10 Beard v. United States, 158 US 550, 559, 15 S Ct 962, 35 LED
11 1086 (1895); Brown v. United States, 256 US 335, 41 S Ct 501,
12 65 LED 961 (1921).

13 "We now hold, consistent with Heller and McDonald, that the
14 Second and Fourteenth Amendments protect an individual's right
15 to carry a handgun for self-defense outside the home. [213 L Ed
16 2d 401][142 S Ct 2122]. ... Aside from New York, then, only
17 California, the District of Columbia, Hawaii, Maryland, Massachu-
18 setts, and New Jersey have analogues to the "proper cause" stan-
19 dard. All of these "proper cause" analogues have been upheld by
20 the Courts of Appeals, save for the District of Columbia's, which
21 has been permanently enjoined since 2017. [Cites omitted]....
22 [213 L Ed 2d 405][597 US 17]... Courts of appeals have coalesced
23 around a "two step" framework for analyzing Second Amendment
24 challenges that combine history with means-end scrutiny.[142 S
25 Ct 2126][11] Today, we decline to adopt that two-part approach.
26 In keeping with Heller, we hold that when the Second Amendment's
27 plain test covers an individual's conduct, the Constitution pre-
28 sumptively protects that conduct. To justify its regulation, the
29 government may not simply posit that the regulation promotes an
30 important interest. Rather, the government must demonstrate that
31 the regulation is consistent [2022 U.S. LEXIS 21] with this
32 Nation's historical tradition of firearm regulation. Only if a
33 firearm regulation is consistent with this Nation's historical
34 tradition may a court conclude that the individual's conduct falls
35 outside the Second Amendment's "unqualified command," KONIGBERG
36 v. State Bar of Cal., 366 U.S. 36, 50, n.10, 81 S Ct 997, 6 LED
37 2d 105(1961). ...[142 S Ct 2131][597 US 26]

38 If the last decade of Second Amendment litigation has taught
39 this Court Anything, it is that federal courts tasked with making
40 such difficult empirical judgments regarding firearm regulations
41 [213 L Ed 2d 411] under the banner of "intermediate scrutiny" of-
42 ten defer to the determinations of legislatures. But while that
43 judicial deference to legislative interest balancing is understand-
44 able-and, elsewhere appropriate-it is not deference that the
45 Constitution demands here. The Second Amendment "is the very pro-
46 duct of an interest balancing by the people and it surely eleva-
47 tes above all other interests the right of law abiding, respon-
48 sible citizens to use arms for Self-defense." New York State Rifle
49 & Pistol Ass'n Inc. v. Bruen, 597 US 1, 8, 17, 21, 26, 142 S Ct
50 2111, 2131, 213 L Ed 2d 387, 401, 405, 411, 2022 U.S. LEXIS 3055
51 *9, 10, 16, 21, 31.

52 "It is reasonable to use a deadly weapon in defense against an
53 attack with a deadly weapon though, in general, defender must
54 use weapon in a reasonable manner, i. e. only to the extent he
55 reasonably thinks is required to save his own life or to avert
56 serious bodily harm." Inge v. United States, 356 F.2d 345, 123
57 123 U.S. App. D.C.6, 1966 U.S. App. LEXIS 7635 (D.C. Cir. 1966).

1 THE ACCUSED HAS THE RIGHT TO HAVE AN IMPARTIAL JUDGE

3 28 USCS § 455(a) requires "Any justice, judge, ... shall disqua-
5 lify himself in any proceeding in which his impartiality might
7 reasonably be questioned." It seems obvious that where a disqualified
9 judge issued an ORDER assigning the cause to a judge the assignees'
11 impartiality "might reasonably be questioned." And §144 requires
13 that: "Whenever a party ... files a timely and sufficient affida-
15 vit that the judge before whom the matter is pending has a personal
17 bias or prejudice... another judge shall be assigned to hear such
19 proceeding." The trial court has refused or failed to assign another
21 judge to even decide the sufficiency of the affidavit. See Doc.57p.107.

23 "The State must provide a trial before an impartial judge, ...
25 with counsel to help the accused defend against the state's
27 charge, ...". Rose v. Clark, 478 US 570, 577, 90 LE2d 460,
29 106 S Ct 3103 (1986): "Without these basic protections, a cri-
31 minal trial cannot reliably serve its function. ...and no
 criminal punishment may be regarded as fundamentally fair. Harm-
 less-error analysis thus presupposes a trial, at which the de-
 fendant ... may present evidence and argument before an impar-
 tial judge and jury." Id., 578.

33 Structural errors infected the entire trial process and rendered
35 all proceedings "fundamentally unfair" in this cause. Biased judges
37 and abrogation of the right to self-represent pervaded and vitiated.
39 These are structural errors and not subject to harmless-error-analy-
41 sis. A defective reasonable-doubt instruction was issued to the
43 jury, and instructions which essentially directed judgment in favor
45 of the prosecution. See Appendix (Appx.) #15, ECF 294, 09/21/21:
47 Filed in Appeal #25-1634, Dkt 1.1, pp.34-53: Appealed in 25-4263
49 under final order ECF#381, 2:14-cr-00269-WBS-SCR-1, but ignored.

51 "Structural errors infect the entire trial process," ... and
53 "necessarily render a trial fundamentally unfair," [cites omit-
 ted]." U.S. v. Knight, 56 F.4th 1231, 2023 U.S. App.LEXIS 87 *9.
 See Appx. excerpt: "Defining features of a structural error..."
55 See also Appx. Sivak v. Hardison, 658 F.3d 898, 908-09 (2011 9th Cir.).

1 THE DISTRICT COURT ABUSED ITS DISCRETION MAKING ERRORS OF LAW

3 By definition, the trial court abused its discretion when it
5 made errors of law. Id., Koon, 518 US at 100; Newtok Vill. v. Pat-
7 rick, 21 F.4th 608, 2021 U.S. App. LEXIS 37924, *15.(9th Cir.).

9 I believe these errors of law include the irregular procedures that
11 were employed to defeat the jurisdiction of the Superior Court of
13 California in violation of 18 U.S.C. § 3231, cl.2: "Nothing in this
15 title shall be held to take away or impair the jurisdiction of the
17 courts of the several States under the laws thereof."

19 Magistrate Judge Edmund F. Brennan instituted a federal prosecu-
21 tion for an infamous crime without an indictment in violation of
23 the Fifth Amendment, "No person shall be held to answer for a capital
25 or otherwise infamous crime, unless on presentment or indictment of
27 a Grand Jury, except[not applicable]." He opened No. 2:14mj212
29 by accepting a criminal complaint from FBI field agent Andrew FORRIS-
31 TEL with only a hearsay affidavit and no credible evidence, and issuing
33 an arrest warrant to remove the cause from the California court while
35 I was held without bail standing trial in M14-388 and F14-0267. This
37 circumvented the necessary habeas corpus ad prosequendum writ for
39 removing a prisoner from a jurisdiction not the same. Carbo v. United
41 States, 364 US 611, 614-620 (1961). It abrogated my right to trial
43 in the vicinage in both cases M14-388 and F14-0267 in violation of
45 Art. 3, §2, cl.3 and the Sixth Amendment, U.S. Const.; 28 USC § 547:

47 "Except as otherwise provided by law, each United States attorney
49 within his district, shall — (1) prosecute for all offenses
against the United States." [See 1 Stat.93, ch.xx, § 35.]

51 NO person who is not authorized to represent the United States
53 and no person who is not a licensed attorney and not taken the oath
55 represents the United States in any court. FORRISTEL and BRENNAN
57 obligated the United States to pay over \$500,000 to jail me to date.

1 FAILURE AND/OR REFUSAL TO HEAR, DECIDE, OR RECUSE

3 The Opinion by: WILLIAM B. SHUBB, June 3, 2025, 2025 U.S. Dist.
5 LEXIS 105369, USDC Eastern Dist. CA, ORDER: Only the 28 USC §2255
7 is mentioned as the sole matter,"referred to a United States Magis-
9 trate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and local rule 302."

11 "On April 17, 2025, the Magistrate judge filed findings and
13 recommendations herein which were served on all parties and which
15 contained notice to all parties that any objections to the fin-
 dings and recommendations were to be filed within twenty-one
 days. Movant filed objections to the findings and recommendations."

17 This claim does not comport with the facts. Thomson USP was locked-
19 down during this time period for about 35 days. All mail was sus-
21 pended and all inmates were locked in their cells 24 hours per day.
23 I did not receive it until the end of May. I sent notice, but the
25 "court" is deaf to the voice of reason and consanguinity. I'm not
27 heard. My claim is that all judges and magistrates assigned this
29 cause were assigned by a recused and patently DISQUALIFIED judge,
31 Kimberly J. Mueller. Her Orders, rulings, etc. in this cause are
33 VOID, not voidable, and cannot become valid with time. The cause
35 ab initio has been a malicious abuse of process and a vindictive
37 prosecution in an improper venue to destroy me for political pur-
39 poses. It was a show-trial instituted by irregular proceedings for
41 a pretended crime. My conviction has been despotically kept in place.

43 "The denial of a recusal motion is reviewed for abuse of disc-
 retion." Jurgenson v. Cassiday, 320 F.3d 906, 911 (9th Cir. 2003)..

45 Under 28 USC § 144, if "the judge before whom the matter is pending
47 has a personal bias or prejudice either against him or in favor
 of any adverse party, ...[he] shall proceed no further."

48 Under 28 U.S.C. § 455(a) "Any judge... shall disqualify himself in
50 any proceeding in which his impartiality might reasonably be
52 questioned. In Liteky v. United States, 510 US 540, 554-56, 114
 S. Ct 1147, 127 L Ed 2d 474 (1994), The Supreme Court held that
 the alleged bias must usually stem from an extra judicial source."

54 The Ninth Circuit appeals court has refused to consider the appeal.

1 THE FINAL ORDER, ECF# 381, and JUDGMENT, ECF# 382 OF THE TRIAL COURT

3 Appellant's "DEMAND OF LAW ...", DktEntry 5, filed 08/07/25,

5 asserted on p.1, the caption page, that pursuant to 28 USC § 1291:

7 "The court's of appeals shall have jurisdiction of appeals from
all final decisions of the district courts of the United States
9 except where a direct review may be had in the Supreme Court...".
(Dkt# 5) pp.1-2 [noting that "An appellate court can vacate all
11 orders of a district judge who should have been recused [cite
omitted], ... "Public confidence in the courts requires that
13 [bias] questions be disposed of at the earliest opportunity."
[In re Bulger, 710 F.3d at 45].]". In re Creech, 119 F.4th 1114,
15 U.S. App. LEXIS 26187 *22-24 (9th Cir.) Oct. 16, 2024. [L.15-43:]

17 [Petitioner declared:] "Appeal is from the ORDER, ECF# 381, and
JUDGMENT, ECF# 382, June 3, 2025 attached hereto: Specifically
19 denied as "moot" are ten (10) at bar, and at issue motions dis-
puting facts and claims, having practical significance; some
21 dispositive, which I urge are not moot, but due to be decided.

23 This Court is requested to take judicial notice that my:
"MOTION TO RECONSIDER MAGISTRATE ORDER OF MAY 14, 2025",
25 EXHIBIT 1, ECF no. 383, filed 06/02/25, attached hereto, was
26 filed the day before #381 and 382, the ORDER and Judgment.

27 They are not consecutively sequenced chronologically as required
by law.

29 THE DISTRICT COURT REFUSED TO PROCEED IN EQUITY

31 On May 19, 2025, I invoked my right to an "equitable cause of
action, and" sought "equitable relief." Twist v. Prairie Oil &
Gas Co., 274 U.S. 684, 47 S Ct. 755, 71 LED 1297. See "Motion
33 To Update-...", ECF 376, pp.1, 3-12, 14-17, 29-31, 34-40. Equity
34 was invoked." Case no. 25-4263, Dkt# 5, 08/07/25, p.2 L.1-43.

36 Chronicled thereafter is the abrogation of my right to choose
38 an equitable cause of action and seek equitable relief: Said right
40 is a constitutional right arising under Art.III, § 2, cl.1, U.S.

42 Const.: "The judicial power shall extend to all Cases in Law and
Equity arising under this Constitution, the laws of the United
44 States and the Treaties made or which shall be made under their
45 Authority; — [Including the Northwest Ordinance, 1787]." P.3.

47 The Motion, Ex.1, ORDER, Ex.2, and Judgment, Ex.3, appear in the
49 APPENDIX of this Petition and in Dkt# 5 of case no. 25-4263, pp.20-5.
51 Ex.1, ECF 383 was filed the day before ECF #381, 6/3/25, Ex.2, &
53 ECF #382, Ex.3: Which violated Fed. R. Civ. Proc. 79's requirement
55 that filings be filed sequential chronologically by number. It was
57 used to conceal that ECF# 343 is a 52(b) motion in the criminal case.

JURISTS OF REASON DO FIND IT DEBATABLE

The USCA 9th Circuit dismissed my appeal and request for a COA asserting I have not shown jurists "would find it debatable." Not so. See: Dkt#13.1, No. 25-4263 and Magistrate Riordan's Findings, 4/17/25 2025 U.S. Dist. LEXIS 73610, USDC Eastern Dist. of CA, 2:14-cr-0269-WBS-SCR-1; Reveals the suspension of the Privilege of the Great Writ from Nov. 12, 2019 until April 16, 2025 violating Art.I, §9, cl.2, U.S. Const. Delay is suspension. Service of this document was delayed until late May 2025 due to lock-down and mail suspension, so I was not accorded a proper service with time to respond. It declares my conviction on two counts of assault and one firearms charge, for which a Draconian sentence of 355 months was imposed on a 1st offense at age 61. Then it paraphrases "Prosecution's Case in Chief with the trial testimony of CHP HARDIN. On p.2 ¶2 (2025 U.S. Dist. LEXIS*3):

"When they reached the campsite Officer Hardin found an empty backpack and started putting the disassembled motorcycle parts into it so that he could take them to the area where a tow truck could come and pick them up. ECF No. 176 at 98. ..." (9th Cir.).

P.2, ¶4: "Ranger Pultorak and movant initially engaged in a normal conversation. Id. at 110-111. Movant told him his name and said, "You know me." Id. at 111. Movant also told him that it was his campsite or his stuff at the campsite and asked if he could have his stuff. Id. at 111, 114. Ranger Pultorak responded by taking out handcuffs from his duty belt. Id. [... Contested claims omitted]. Pultorak asked movant if he was armed and he said, "Yes, I am." Id. at 114. at that point Officer Hardin saw that movant had a gun in a holster on his hip. Id. at 114.

Officer hardin drew his .40 caliber service weapon and pointed it at movant. Id. at 115." 2025 U.S. Dist. LEXIS 73610.

¶ 2 above (L.29-32), combined with other testimony, implicates both officers as having been engaged in the taking of private property without a warrant, for their own use, with intent to deprive the owner permanently of its use. Black's Law Dictionary 11th Ed. (Black's 11th), p.1062: Larceny. They were not acting lawfully. Nor were they engaged in the performance of any of Pultorak's Federal duty.

1 Two essential elements are missing for a valid conviction under
3 18 U.S.C. § 111, proved by the finding of the Magistrate who urges
5 there is no merit in the 2255 Motion, with a trial testimony that
7 is brought into question by it. The prosecution has affirmed it.

9 ¶ 3 says, I made noise to announce my approach, and stepped into
11 the clearing. Now, they are stealing the property while I am present.
13 ¶ 4 states that I engaged in an amicable conversance with the BLM
15 agent Pultorak, and told him property at the campsite was mine.
17 My backpack was a parting gift from my mother just before she died.
19 I made no threats or provocations. I asked to be allowed to have
21 my property after stating my claim to it. I removed the contested
23 claims and discuss them separately, marked by "[...Contested...]".
25 The two testimonies of these officers are not compatible and are
27 false evidence before the court and jury under 18 USC §1623. This
29 is an abuse of discretion by Magistrate Riordan.

31 "A district court by definition abuses its discretion when it
33 makes an error of law." Koon v. United States, 518 US 81, 100,
34 116 S Ct. 2035, 2048, 135 L Ed 2d 392 (1996); Newtok Vill. v.
Patrick, 21 F.4th 608, 2021 U.S. App. LEXIS 37924, *15 (9th Cir.).

36 "A Robber who points a gun at the victim" "makes an immediate
38 threat of death by so doing, whether he adds the words "or I'll
39 kill you" or not." Navarro, 608 F.3d at 533-34, 2010 U.S. App.
LEXIS 11935 (9th Cir.).

41 I had reason to, and believed, these men were about to inflict
43 serious bodily injury on me or kill me. I announced my approach and
45 climbed-up as directed. I stated that property being taken was mine
47 and asked them not to take it. I overheard them discuss which of them
49 was going to carry it back to their vehicles. The BLM Agent suddenly
51 became aggressive, but said nothing about arresting me, nor any reason.
53 What OFFICIAL Federal duty were these men engaged in performing?
55 Grand larceny? Aggravated assault? Atrocious assault? Armed robbery?
57 This cause is nothing less than lawless violence. Covell, 111 US at 182.

1 "[A] conviction obtained through use of false evidence, known
2 to be such by representatives of the State, must fall under the
3 Fourteenth Amendment." [Cites omitted]. Id.Sivak at 909.(9th Cir).

4 Napue v. Illinois, 360 US 264, 269-270, 3 LE2d 1217, 79 S Ct 1173 (1959):
5 "[2] The principle that a State may not knowingly use false evi-
6 dence, including false testimony, to obtain a tainted conviction,
7 implicit in any concept of ordered liberty, does not cease to
8 apply merely because the false testimony only goes to the credi-
9 bility of the witness. The jury's estimate of the truthfulness
10 and reliability of a given witness may well be determinative of
11 guilt or innocence, and it is upon such subtle factors as the
12 possible interest of the witness in testifying falsely that a
13 defendant's life or liberty may depend. ...".
14

15 AUSA McCoy entered testimony about the involved officers' claims
16 of their actions during the shooting incident Jan. 13, 2015. ECF#
17 23, p.2 L.19-26, Motion In Limine. "Both CHP Officer Hardin and the
18 Ranger drew their weapons [on Cole simultaneously]."(Dkt 9.2 p.131).
19

20 AUSA McCoy then RETRACTED the testimony entered in the Motion
21 In Limine ten (10) days earlier on Jan. 23, 2025, ECF# 35, "REPLY
22 TO DEFENDANT'S OPPOSITION TO MOTION IN LIMINE", p.1 L.21-23 and n.1
23 [Footnote 1]. The testimony retracted was the testimony of FBI Agent
24 Andrew Forristel October 2, 2014 before Grand Jury 2014A USDC Eas-
25 tern District of CA. Here he swears that "Ranger Pultorak has
26 repeatedly and consistently maintained that he withdrew [sic] his
27 weapon only after defendant brandished his firearm." This is an ad-
28 misson that AUSA KNEW that the two testimonies were so incompatable
29 that both could not be true and constituted false evidence under
30 18 USCS § 1623. Knowing this, AUSA McCoy NEVER informed the Grand
31 Jury of the retraction of Forristel's testimony before the Grand
32 Jury. This testimony was the sole basis of the indictment. Retrac-
33 tion of this testimony left NO EVIDENCE of the alleged crime. The
34 two shooting-involved-officers testimony is impeached. They conflict
35 such: That both can not be true and no evidence is extant in them.
36 This occurred before trial and was concealed from the petite jury.

1 MISDESCRIPTION OF THE BURDEN OF PROOF WAS STRUCTURAL ERROR

3 The issue of mens rea (criminal intent) was prejudged by the
5 jury instructions. Actus reus was absent from my actions. So,
7 mens rea was certainly not extant. All of the jury instructions
9 were devised to remove the right of the jury to determine the facts.
11 This was especially true of actus reus and mens rea. Instruction No.
13 16, ECF 62, p.16, charged the jury with the misdescription: Doc.61.

15 "there is a "forceable assault when one person strikes another,
16 or willfully attempts to inflict injury on another. ...".

18 This instruction was intended to preclude lawful justification, in-
20 cluding self-defense. After the closing arguments, REVISED jury in-
22 struction No. 16, ECF 62, 02/10/15, was given to the jury. It con-
24 tained legal citations which purportedly contained precedents that
26 predetermined the questions of mens rea and actus reus in this case.

28 1) Alexander v. Cnty. of L.A. (about qualified immunity from a
mistaken identity arrest in a civil lawsuit); and

30 2) United States v. Basher (about a suppression motion after
31 consent to search had been given) under different facts.

33 The jury was handed a copy of said instruction and sent to the jury
35 room to deliberate and find a verdict. The jurors had no way to
37 check the citations. Also, another jury instruction (ECF 62, p.3)
39 ADMONISHED THE JURY THAT THEY MUST DO EXACTLY AS THE JUDGE INSTRU-
41 TED, and ACCEPT his assertions as to what the law is WITHOUT question.
43 Revised Jury Instruction 16, ECF 62, 02/10/15, p.2, declared:

45 "A law enforcement officer may stop and/or detain a person for
an officer safety purpose if, under the circumstances, it was
47 reasonable to do so.

49 When an officer reasonable believes doing so is necessary
to protect another person's safety, he may use handcuffs [or]
50 draw a weapon in connection with such a stop of detention."

51 The jury instructions as a whole withdrew the jury's right to deter-
53 mine the essential element[s] of actus reus (heinous act) and mens
55 rea (criminal intent). This is a misdescription of the burden of
57 proof, which vitiates the jury's findings by a constitutionally
59 deficient jury instruction as to the definition of reasonable doubt
60 and/or determination that a heinous act was actually perpetrated.
62 It is a structural error and/or a constructive amendment to the
64 indictment. It is not amenable to harmless error analysis. It always
66 invalidates a conviction, because there has been no jury verdict.
68 See Sullivan v. Louisiana, 508 US 275, 276, 124 LEd2d 182 (1993).

1 WHAT WE HAVE HERE IS FAILURE OF JUDICATURE

3 Judacature is defined: "(16c) 1. The action of judging or
5 administering justice through duly constituted courts." Black's
7 Law Dictionary, 11th Ed., 2019 (Black's 11th), p.1010.

9 There has been a complete failure of JUDACATURE for over twelve (12)
11 years in this instance. [I was] deprived of due process of law and
13 wrongfully convicted of an alleged crime which did not occur. ECF#
15 343, Filed 12/06/24, case 2:14-cr-00269-WBS-SCR, p.25 evinces the
17 routine deprivations of due process and vindictiveness employed:

19 "I am unable to construct a responsive pleading without a copy
21 of the Government's Opposition to my Rule52(b) motion, i.e.#337.
23 I see that a "Certificate of Service" was filed over 20 days
25 ago, But I have not received it. It was mailed to the correct
27 address, P.O. Box 1002, Thomson, IL 61285. I have a copy of
29 most of the record, but I am not permitted to access my court
31 papers most of the time due to policies. I am only able to keep
33 a small amount in my cell. Let the record show that the 2255
35 motion in this cause was filed on Nov. 8, 2019 and the Gov'm't
 ordered to respond in Dec. 2019. There has been no issues or
 facts adjudicated in almost five(5) years.

37 "JUSTICE DELAYED IS JUSTICE DENIED, the saying goes: At some point
39 delay must ripen into deprivation, because otherwise a suit al-
41 leging deprivation would be forever premature". [Caps added]
43 VETERANS FOR COMMON SENSE v. SHISEKI, 678 F.3d 1013, 1038, 2012
45 U.S. App. LEXIS 9230 (9th Cir.).

47 "A defendant may establish vindictive prosecution (1) "by produ-
49 cing direct evidence of the prosecutor's punitive motivation."
51 United States v. Jenkins, 504 f.3d 694, 699 (9th Cir. 2007) or
 by showing the circum-stances establish a "reasonable likelihood
 of vindictiveness," thus giving rise to a presumption that the
 government must in turn rebut, United States v. Goodwin, 457 US
 368, 373, 102 S Ct 2485, 73 LEd 2d 74 (1982) ["Motives are com-
 plex and difficult to prove. As a result, in certain cases...
 the court has found it necessary to "presume" an improper vin-
 dictive motive."] — "The mere appearance of prosecutorial
 vindictiveness suffices to place the burdon on the government
 because the doctrine of vindictive prosecution 'seeks to reduce
 or eliminate apprehension on the part of an accused' that she
 may be punished for exercising her rights." U.S. v. Jenkins at
 700...."United States v. Cox, 2024 U.S. App. LEXIS 8395."

53 The arrest of a person "is quintessentially a seizure required by
55 the Fourth Amendment to be reasonable." Payton v. New York, 445 US
 573, 584-87, 63 L Ed 2d 639 (1980).

1 REASONS FOR GRANTING THE WRIT

3 This cause, I cannot call a "case" because it was not brought
5 before the cognizance of the court lawfully by the regular course
7 of proceeding. It is a feigned suit, manifestly a case of justifi-
9 able self-defense against an assault with firearms without any
11 probable cause to arrest or lawful justification for the use of
13 deadly force to cover-up for the misconduct of law enforcement. It
15 is injustice for all the most odious and sinister reasons, and
17 this Court ought not countenance it, nor the lower courts allowing
19 it. It is conceded that CHP HARDIN first drew his gun and targeted
21 me while they were engaged in the unlawful taking of my property.
23 They had obtained my information from their dispatch hours before,
25 and it was unreasonable for them to believe I was a threat just
27 because I was exercising my Second amendment right in a wilderness.

29 Immediately the Federal agent fired before he backed away, and
31 their testimonies cannot be made compatible, besides being retrac-
33 ted by AUSA McCoy, and that retraction concealed from both juries.

35 The appointment of judges by a recused judge needs to be ended.
37 A showing of bias should not be required, and an invalid one cannot
39 become valid with the passage of time. Structural errors are replete.
41 The reasons for removal to an improper venue by irregular procedure
43 are vindictive to assure conviction with a life sentence. A U.S.
45 court of appeals has sanctioned such a departure by a lower court
47 as to call for an exercise of this Court's supervisory power.

49 This nation is beset by powers inimical to the United States.
51 The Second Amendment Right is the main obstacle and target of this
53 Nations enemies. This cause is evidence of the nefarious means that
55 they have employed for decades to abrogate that right.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Brent Douglas Cole

Date: October 6, 2026 Brent Douglas Cole, Petitioner

FOOTNOTES

1. — United States v. Marks, 530 F.3d 799, 811, 2008 U.S. App. LEXIS 12567 (9th Cir.)

2. Analysis

"The Government here met its burden of establishing both subject matter and personal jurisdiction. Under 18 U.S.C. § 3231, federal district courts have exclusive jurisdiction over "all offenses against the laws of the United States." Accordingly, the district court had subject matter jurisdiction in this case." [Quoting U.S. v. Williams, 341 US at 65-66, which asserts that "certain essential facts" must exist "to give any power to a court." ... "Absence of such facts makes the proceedings a nullity."]. — In Marks the appeals court held: "arguments were entirely without merit, the district court acted within its discretion in denying Marks's motions without a hearing."

2. — Ipsi dixit is used to declare jurisdiction in all cases and refuse to examine the court's jurisdiction. At n.4 it is stated that, "Marks does not contest that the District Court for the Western District of Washington was the proper venue for his prosecution."

F.R.Crim.Proc. Rule 7 requires that the prosecution for felony crimes must be instituted by grand jury indictment or presentment. The Fifth Amendment forbids holding a person to answer for an infamous crime without a grand jury indictment. I was held in the State jail for one-hundred-three days by a federal-ruse that a state trial was being conducted: Then I was kidnapped and haled into federal court without notice or citation. I was deprived of my right to self-represent 09/25/2014. I was denied due process. (Footnotes for 18 USC § 3231 (p.4 L.21-31))..

This Court's holding in Bracy v. United States, 435 US 1301, 1302 (1978), "that perjury by a witness would invalidate an indictment [] when his testimony was material", is applicable in this instance.