ORIGINAL

No. _____

005046

IN THE

SUPREME COURT OF THE UNITED STATES

1999 TERM

Supreme Court, U.S.
FILED
JUL 3 2000
OFFICE OF THE CLERK

PAUL L. ROBINSON — PETITIONER
(Your Name) In Propria Persona

VS.

JOSE VASQUEZ — RESPONDENT(S)
Warden, FPC Pensacola

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[ ] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

_____

_____

[XX] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Paul L Robinson
(Signature)

OFFICE OF THE CLERK
SUPREME COURT, U.S.

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IN THE

SUPREME COURT OF THE UNITED STATES

1999 TERM

PAUL L. ROBINSON, IN PROPRIA PERSONA, SUI JURIS, PETITIONER,	CASE NO._____
VS.	(Dist. Ct. No. 85-00223A (E.D. Vir.)
JOSE VASQUEZ, WARDEN, FPC PENSACOLA, UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, RESPONDENT.	

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MOTION FOR LEAVE TO FILE PETITION FOR COMMON LAW WRIT OF HABEAS CORPUS SECURED UNDER ARTICLE I, SECTION 9, CLAUSE 2, CONSTITUTION FOR THE UNITED STATES OF AMERICA

COMES NOW, Paul L. Robinson, Petitioner in the above styled cause, moving this Honorable Court, in its judicial capacity under Article III, Constitution for the United States of America, for Leave to File a Petition for a Common-Law Writ of Habeas Corpus, since this Petitioner is being unlawfully imprisoned under color-of-law by the United States.

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QUESTION PRESENTED

Can any United States court proceed further in any criminal prosecution case where in personal jurisdiction over the "person" of the accused has been challenged by him prior to a general appearance under coercion, before such in personam jurisdiction is proven by the accuser?

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Petitioner would show that this Court held in **Marbury v. Madison, 5 U.S. 137, 2 L.Ed. 60 (1803),** and restated in **Cohens v. Virginia, 19 U.S. 264, 304 (1821):**

> "It is most true that this Court will not take jurisdiction if it should not; but it is equally true, that it **must** take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." (Emphasis added.)

SUMMARY OF THE CASE

Petitioner was indicted by a federal grand jury, seated by a legislative tribunal, created by Congress under Article I, Section 8, clause 9, Constitution for the United States of America, in criminal case No. 85-00223A, Eastern District of Virginia, on October 16, 1985, without identifying the nature and cause in the indictment as required by the Sixth Amendment to the Constitution for the United States of America.

By Special Appearance Motion, filed May 5, 1989, this Petitioner challenged the jurisdiction of the Article I federal statutory tribunal issuing the indictment and the arrest warrant, setting out with specificity the denial of in personam jurisdiction of said federal district court over the 'person' of the Petitioner. (See attached Special Appearance Motion of Petitioner). This Special Appearance Motion was filed by Petitioner while incarcerated in Seattle, Washington, awaiting disposition of another cause.

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Despite the fact that no general appearance had occurred for the purpose of establishing in personam jurisdiction, the district court erroneously proceeded on the pretext of taking judicial notice, while classing Petitioner's Special Appearance Motion as "pro se", and adopted the government's partial and inadequate response, thus denying Petitioner's relief sought in the Special Appearance Motion. In violation of due process of law, the court failed to compel the accusing party to prove in personam jurisdiction over the accused as demanded in the Special Appearance Motion.

Over Petitioner's objections, the district court, upon commencement of these proceedings, in the forced presence of Petitioner, appointed counsel for Petitioner, which counsel fraudulently induced Petitioner to enter a plea of "not guilty" while Petitioner was under intense mental and emotional distress, thus permitting the continuation of court proceedings through coercion and duress.

The jury, at trial, found Petitioner guilty and the court sentenced Petitioner to a term of thirty-six months incarceration.

Appeal of said conviction was handled by the same counsel appointed by the court, with no addressing of the issue of in personam jurisdiction contested by Petitioner in his Special Appearance Motion.

ARGUMENT AND AUTHORITY

Petitioner states that he is being unlawfully held, under color-of-law, by Respondent at FPC Pensacola, Florida, serving

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DATE | DOCUMENT NO. | Docket No. 85 0022[illegible] 02 | MASTER DOCKET MULTIPLE DEFENDANT CASE / PROCEEDINGS DOCKET FOR SINGLE DEFENDANT | PAGE ___ OF ___ | VI EXCLUDABLE DE

(OPTIONAL) Show last names of defendants

V. PROCEEDINGS

1985
Oct 16 — 1 INDICTMENT, a true bill, returned to a Judge in open Court and filed. Bench warrant to be issued with no bond set upon the motion of the U.S. Atty. cs

Oct. 16 — BENCH WARRANT issued with no bond set and given to the Marshal for service. cs

Dec 11 — 2 APPLICATION of the United States for the Request for Judicial Assistance together with MEMORANDUM in Support of same - filed by U.S. mh

Dec. 11 — REQUEST FOR JUDICIAL ASSISTANCE - entered and filed. (AVB) Copies sent. mh

1986
Dec. 15 — 2 APPLICATION (UNDERSEAL) - filed by U.S. cs

Dec. 15 — ORDER (UNDERSEAL) - entered and filed. Copies sent. (AVB) cs

1989
May 5 — (3) SPECIAL Appearance to deny jurisdiction - filed by the deft. Paul Robinson - pro se. jec

May 18 — (4) RESPONSE to deft.'s special appearance and request to dismiss indictment for lack of jurisdiction - filed by U.S. kb

May 18 — (5) ORDER that the pro se motion of the deft. to dismiss the indictment in this case because of lack of jurisdiction over him is denied. Entered and filed. Copies sent. (AVB) kb

Aug. 24 — 6 SPECIAL Appearance to dismiss indictment on grounds of fraud by prosecution - filed by deft. kb

Aug. 29 — 7 ORDER denying without prejudice to the defts' right to raise the matters contained in the motion when they appear in this district for trial. Entered and filed. Copies sent. (AVB) cs

1990
Mar. 16 — TRIAL PROCEEDINGS: Judge Bryan. Reporter: McCoy. This matter came on for arraignment. Deft. w/counsel and U.S. Atty. appeared. Deft. WFA, PNG, and demanded trial by jury. 20 days to file motions - to be heard 5-11-90 at 9:00 a.m. All exhibits, etc. to be filed w/Clerk w/i 5 working days before trial. Case set for trial by jury on 5-21-90 at 10:00 a.m. Deft.'s motion to proceed pro se argued and Court advise deft. of rights and consequences. Mr. Hopkins will remain as C.A. counsel to assist deft. Deft. released on present bond. sp

Apr. 2 — 8 MARSHAL'S return on bench warrant executed on 3/15/90 - filed. kb

Apr. 5 — 9 MOTION for extension of time in which to file motion to strike overt acts in furtherance of conspiracy and for dismissal of mail fraud counts - filed by U.S. bjs

Apr. 6 — ORDER granting motion for extension of time in which to file motion to strike overt acts in furtherance of consp. and for dismissal of mail fraud cts. Entered and filed. Copies sent. (AVB) kb (order w/ motion)

Apr. 9 — 10 MOTION for extension of time during which to file motions - filed by deft. bjs

Apr. 9 — 11 ORDER granting motion for extension of time to file motions that any motions to be filed pre-trial shall be received by the Court on or before 4/19/90. ENtered & filed. Copies sent. (AVB) bjs

Apr. 23 — 12 MOTION to dismiss and for access to Grand Jury materials - filed by deft. kb

Apr. 23 — 13 MOTION to dismiss for lack of jurisdiction - filed by deft. kb

Apr. 23 — 14 MOTION to recuse or for change of venu - filed by deft. kb

Apr. 23 — 15 MOTION for a bill of particulars - filed by deft. kb

Apr. 23 — 16 MOTION to dismiss for lack of jurisdiction over the subject matter - filed by deft. kb

Apr. 23 — 17 NOTICE of proposed redacted indictment - filed by U.S. bjs

EXHIBIT I

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