Janice Sue Taylor 86355008
Bryan FPC,
P.O. Box 2149,
Bryan TX 77805

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

JANICE SUE TAYLOR,
Petitioner

v.

UNITED STATES OF AMERICA
Respondent

CR-10-400-PHX-DGC
CV-12-1666-PHX-DGC-BSB

C.A. No._____

Verified

MEMORANDUM OF LAW IN SUPPORT OF MOTION PURSUANT TO 28 U.S.C. § 2255 AND REQUEST FOR DECLARATORY RELIEF AND DISMISSAL OF INDICTMENT AND JUDGMENT AND COMMITMENT ORDER

Comes now Janice Sue Taylor, a living woman, and hereby files this habeas corpus petition, seeking immediate relief from unlawful constraints which are in violation of the Constitution and laws of the United States of America.

As established by facts sought to be judicially noticed herein, no set of facts exists which makes Public Law 80-772 (Title 18, the Criminal Code) constitutional.

No set of facts exists which authorizes Title 26 to be enacted into law as no implementing regulations exist according to the Requirements by the Code of Federal Regulations.

Petitioner has a right to bring her petition pursuant to the original habeas corpus and pursuant to the Constitutional right to be discharged from her unlawful confinement and her right to prevent the government from suspending the Writ of Habeas Corpus.

The court further violated Petitioner's Constitutional rights when, presented with the jurisdictional issues, the court failed to raise the issue of jurisdiction on its own motion and instead left petitioner illegally imprisoned. The Supreme Court has made clear that federal district courts are courts of limited jurisdiction and the court must raise the issue of its own jurisdiction on its own motion.[1]

Petitioner is currently incarcerated at Federal Register Number 86355-008, Bryan FPC, P.O. Box 2149, Bryan TX 77805. Her conviction, **Ref. 2:10-CR-00400-DGC-PHX,** and resulting imprisonment was and is illegal since the court claims its jurisdiction pursuant to 18 UNITED STATES CODE, hereinafter "USC", § 3231. However, as established by the facts stated herein, no possible set of facts exists which makes Public Law 80-772 (Title 18, the Criminal Code, 1948) Constitutional. Since Public Law 80-772 is a nullity, then 18 USC § 3231, part of the fraudulent enactment of Title 18, is likewise invalid. Without authority on Public Law 80-772, the court cannot impose jurisdiction under a prior enactment of Title 18, 1940, because that statute was repealed in 1948, and cannot impose jurisdiction under the 1909 enactment of Title 18 because the use of that statute would be in violation of the Fair Warning Doctrine.

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[1] All case cites in footnotes are cited as "in the nature of".
Article III subject matter jurisdiction questions can be raised at any time and addressed by federal courts at any time on their own motion. *McGrath v. Kristensen*, 340 U.S. 162, 95 L.Ed. 73, 71 S.Ct. 224 (1950). Lack of Article III jurisdiction cannot be waived and cannot be conferred upon a federal district court by consent, by action, or by stipulation. *California v. LaRue*, 400 U.S. 109, 112, 34 L.Ed. 342, 93 S.Ct. 390 (1972). The validity of an order on sentencing of a federal district court depends upon that court having jurisdiction over both the subject matter and the defendant. *Stoll v. Gottlieb,* 305 U.S. 171-172, 83 L.Ed 104, 59 S.Ct. 134 (1938). Unless the power or authority of the court to perform a contemplated act can be found in the constitution or laws enacted there under, it is **without jurisdiction** and its **acts are invalid** (emphasis added). *Angel v. Bullington*, 330 U.S. 183, 67 S.Ct. 657, 91 L.Ed. 832 (1947); *LeMieux Bros. Inc. v. Tremont Lumber Co., Ltd.*, 140 F.2d 387, 389 (5th Cir. 1944); *Thomas v. Arn*, 474 U.S. 140, 88 L.Ed.2d 435, 106 S.Ct. 466 (1985)(quoting *United States v. Payner*, 447 U.S. 727, 65 L.Ed. 2d 468, 100 S.Ct. 2439 (1890))("[e]ven a sensible and efficient use of the supervisory power [of the court] however, is invalid if it conflicts with constitutional or statutory provisions. A contrary result would confer on the judiciary power to disregard the considered limitations of the law it is charged with enforcing.").

Without authority, any attempt at sentencing was illegal and a violation of Petitioner's Constitutional rights.

As established herein, the court is without jurisdiction to sentence Petitioner or keep Petitioner imprisoned as stated because; a.) Public law 80-772 had no quorum in place when enacted and because; b.) Title 26 of the United States Code has no valid regulating implementations), c.) the United States Department of Justice (hereinafter, "DOJ") committed fraud and conspired against Petitioner, rendering the indictment and conviction null and void; d.) The Court failed to find that the locus delecti of the crimes were committed outside the District of Arizona in order to find the petitioner guilty; failure to do so acts as the equivalent of a not-guilty verdict; e.) the Court had no territorial jurisdiction to prosecute Petitioner, said court is not an Article III court; f.) and the court acts as a subsidiary of the DOJ pursuant to a transfer of authority by Executive Order under the States of Emergency, a violation of the Separation of Powers Doctrine and a direct conflict of interest for the court.

The court is hereby moved to make specific findings of fact and law related to the issues presented herein and each sub-issue related to the arguments, for example, related to the fraud surrounding the "enactment of Public Law 80-772 and related to the enactment clauses of Title 26. The Justice Department has admitted that no valid enactment occurred for Public Law 80-772 on May 12, 1947 by the House of Representatives as no quorum was present according to Congressional Records and no quorum was present on June 22 and June 23, 1948 according to Congressional records. The USC Title 1 affirms in the list of Titles that Title 26 has no implementing regulations. No implementing regulation exists related to Title 26 as that statute has no

valid Code of Federal Regulations and any clause related to the enactment is related to Title 27.

Public Law 80-772 and by definition, 18 USC § 3231 were never enacted into positive law, are each unconstitutional on their face, and are null and **void ab initio**, meaning that the court has no jurisdiction over Petitioner. Petitioner's conviction is thereby ***null and void*** ab initio, from the beginning. The lack of a quorum on May 12, 1947 and on June 22 and June 23, 1948 related to the enactment voids the law.

Since Petitioner brings this Petition pursuant to her Constitutional right to demand relief under the original doctrine of habeas corpus, and since it challenges the court's very jurisdiction to indict and convict defendant, then ***no procedural hurdle exists and no time bar exists***. In the nature of *United States. v. Peter*, 310 F.3d 709 (11th Cir. 2002). Since Petitioner's claims are jurisdictional, no valid plea or waiver, jury verdict, or sentencing exists as a matter of law. Therefore, Petitioner has a Due Process right to raise these claims and a Due Process right to be discharged from her unlawful constraints. Jurisdiction is a threshold issue and may be raised at any time.[2]

Also, since Petitioner presents this as a habeas petition, and since counsel did utterly fail to research the facts and law of the court's jurisdiction to prosecute Petitioner, Petitioner's Sixth Amendment rights have been violated, because Petitioner's counsel

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[2] *United States v. Cotton*, 535 U.S. 625, 630, 2002 Lexis 3565 (2002) (the term "jurisdiction" means the courts' statutory or constitutional power to adjudicate the case. This concept of subject-matter jurisdiction, because it involves a court's power to hear a case, can ***never be forfeited or waived***. Consequently, defects in subject matter jurisdiction require correction regardless of whether the error was raised in district court); *United States v. Peter*, 310 F.3d 709, 712 (11th Cir. 2002) (jurisdictional error has historically been recognized as fundamental, and for which collateral relief has accordingly been available. Habeas corpus has long been available to attack convictions and sentences entered by a court without jurisdiction. Since jurisdictional error implicates a court's power to adjudicate the matter before it, such error can never be waived by parties to litigation. The doctrine of procedural default does not apply).

was ineffective as a matter of law (cause and prejudice), and, therefore, petitioner has a right to present her claims and be freed from an illegal conviction and an illegal sentence.

Petitioner is also entitled to immediate discharge since Title 26 has no implementing regulations as required by the Federal Register Act and therefore any charges are illegal as a matter of law. As such, no crime exists, as a matter of law, and Petitioner's indictment and conviction are null and void.

Petitioner is further entitled to relief since the DOJ committed fraud on the court when it knowingly indicted and convicted Petitioner even though it knew that the statutes it used for the indictment and conviction were nullities.

Petitioner is further entitled to relief since Petitioner's counsel was ineffective as a matter of law, failing to research and investigate the trial court's jurisdiction over Petitioner. Had counsel researched the court's jurisdiction as required by the Model Code of Professional Conduct and pursuant to the Sixth Amendment of the UNITED STATES, hereinafter "U.S." Constitution, then counsel would have filed a Rule 12(b) and/or motion to dismiss before trial. Having done so would have resulted in Petitioner's indictment being dismissed and she never would have been subjected to illegal imprisonment. Cause and prejudice is shown herein when counsel(s) utterly failed in their requirements to assert Petitioner's rights pursuant to the Sixth Amendment.

Petitioner is also entitled to immediate [discharge] release because the court has no territorial jurisdiction over the crimes charged, the court is not an Article III court, and the Emergency Powers transferred the courts under the Department of Justice is in violation of the Separation of Powers Doctrine and a direct conflict of interest.

Petitioner also moves the court to take judicial notice of her entitlements as a

matter of law pursuant to the petition and expects the court to honor her Rights including Due Process:

1) Petitioner is entitled to have her claims taken as true until proven otherwise or until dis-proven by affidavit or evidence.[3]

2) Petitioner is entitled to discovery related to her jurisdictional claims.[4]

3) Petitioner is entitled to have her Petition treated as presented pursuant to Supreme Court precedent.[5]

4) Petitioner is entitled to have rulings and findings of fact and law made on all of her claims.[6]

5) Petitioner is entitled to have judicial notice taken on the facts and law of Public Law 80-772 and Title 26 and to have a ***directed verdict*** declaring those statutes unconstitutional. [7]

6) Petitioner is entitled to a fair tribunal and an unbiased court, and has Constitutional rights to have the court, once it learns of the invalidity of the statutes in question, to follow the Constitution for the United States, and to make rulings that follow the law, ***no matter how costly and inconvenient to the government.*** [8]

A. Jurisdiction

Petitioner moves the court to take judicial notice that Petitioner has a right to habeas petition pursuant to the original habeas corpus as authorized by the Constitution

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[3] *Kohlberg v. Lehlback*, 160 U.S. 293, 16 S.Ct. 304, 40 L.Ed. 432 (1895) (facts duly alleged are deemed true unless denied or controverted by evidence

[4] Where issues arise as to jurisdiction or venue, discovery under the federal rules of civil procedure (rules 26-27) is available to ascertain the facts bearing on such issues. *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350-351, 57 L.Ed.2d. 253, 98 S.Ct. 2380 (1978).

[5] *Castro v. United States*, 540 US 375 (2003).

[6] F.R.Civ.P. 52(a) and F.R.Civ.P. 54(b).

[7] F.R.E. 201. *U.S. v. Boyd*, 289 F.3d 1254. 1258 (10th Cir. 2002); *Werner v. Werner*, 267 F.3d 288, 295 (3d Cir. 2001); *General Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F. 3d 1074, 1083 (7th Cir. 1997).

[8] Constitution for the United States; Separation of Powers Doctrine.

for the United States of America. See Article I, Section 9, Clause 2 "***The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the Cases of Rebellion or Invasion the Public Safety may require it***".

B. Venue:

Venue is proper in this Court due to the following:

Pursuant to 28 USC section 2255, this petition/motion must be filed in the original court in which the Petitioner was charged and convicted. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless in Cases of Rebellion or Invasion as the public Safety may require it. Article I, Section 9, Clause II, of the Constitution. This court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2255, et seq.

C. Parties to the Proceedings

Petitioner is currently incarcerated, restrained of her liberty by an illegal Verdict imposed by the United States District Court for the District of Arizona. She was the victim of a fraudulent indictment, conviction, and sentencing, because all parties to the proceedings knew of the fraud and knew or should have known that the statutes used by the court to obtain its jurisdiction are nullities. Petitioner is in the Care, Custody and Control of United States Attorney General and the Bureau of Prisons.

Respondent/Defendant Attorney General and the Office of United States Attorneys are sued in their official capacity as the United States of America. In their capacity, they are responsible for the indictment, conviction, and imprisonment of Petitioner and have assigned the custody of Petitioner to the Warden of Petitioner's place of confinement. They are responsible for Petitioner's illegal indictment, conviction and imprisonment.

D. Issues Presented

Petitioner will establish herein by indisputable facts and settled issues that:

ISSUE ONE:

Public Law 80-772 and therefore, 18 USC § 3231 are nullities, were never enacted into positive law, are unconstitutional on their face, and are void ab initio, because no quorum existed on May 12, 1947 when the House voted on the bill and no quorum existed on June 22 and June 23, 1948 when the Speaker of the House and President pro tempore of the Senate signed the bill after Congress had adjourned sine die on June 20, 1948 at 7 AM. Petitioner's Indictment and conviction are null and void as a matter of law. **Nullum Crimen, Sine Lege, Nulla Poena, Sine Lege.** The attorney general's position on the Constitution and the federal courts and the position of the Department of Justice regarding adjournments of Congress support Petitioner's argument. The government is estopped from arguing otherwise.

1. The House of Representatives allegedly passed H.R. 3190 (Public Law 80-772) in the first session of the 80th Congress, on May 12, 1947, when in fact no quorum existed at that time, in violation of the Quorum Clause of the Constitution.
2. The bill mysteriously showed up in the Senate near the end of the second session of the 80th Congress. The bill was allegedly signed into law by signature of the President pro tempore of the Senate and the Speaker of the House on June 22 and June 23, 1948, when in fact Congress had adjourned on June 20, 1948 at 7 AM. Therefore, no quorum existed at the time of the signatures, the bill was not presented in open court, and therefore a second quorum violation occurred.
3. Congress adjourned ***sine die*** on June 20, 1948, terminating their legislative existence, and preventing any return of the bill to Congress.
4. The Speaker of the House and President pro tempore of the Senate signed the bill on June 22 and June 23, 1948, after Congress was fully and completely adjourned sine die.
5. Public Law 80-772 (The Criminal Code) was not published in the Federal Register, and thus the public was not given fair warning about the statutes, rendering them null and void from their inception.

ISSUE TWO:

The government comes to these proceedings having committed a **fraud on the court**, **conspiracy**, **bad faith**, and in violation of the principle of **fair dealing**. The DOJ's official position regarding the requirements to constitutionally pass legislation has been that **any adjournment** over **3 days** by Congress constitutes a **sine die adjournment** and kills all pending legislation. That position has been presented to and argued before Congress and is established as DOJ's official policy to the American people. Although that is the government's official position before Congress and the

people of the United States, the DOJ has been violating its own policy by illegally imprisoning people for years pursuant to statutes that **they know** are **unconstitutional** on their face and **null and void** ab initio. In other words, the DOJ has been talking out of both sides of its mouth, pretending to follow their official policies as professed to Congress, while illegally imprisoning U.S. citizens at the same time. The doctrines of **fraud, conspiracy, bad faith, and unfair dealing** all apply herein, barring the government from relief, and requiring that Petitioner's indictment and conviction be dismissed with prejudice.

ISSUE THREE:

The court failed to establish that the crimes were committed in the District of Arizona. The failure to find the essential element of the locus delecti of the crimes acts as the equivalent of a not-guilty verdict.

ISSUE FOUR:

The Court never had authority to prosecute Petitioner because it has no territorial jurisdiction, no Article III authority, and because it was transferred into the Department of Justice as part of the Emergency Powers and in violation of the Separation of Powers Doctrine.

ISSUE FIVE:

The Petitioner was denied effective assistance of counsel. By failing to investigate the court's jurisdiction and the legal basis for Petitioner's indictment and conviction, Petitioner was denied the effective assistance of counsel guaranteed by the Sixth Amendment.

E. Waiver and Procedural Hurdles

Petitioner's claims are jurisdictional in nature and can be raised at any time. No procedural hurdle exists if a court has a lack of jurisdiction over Petitioner. A violation of Due Process voids jurisdiction from that point forward. Lack of Article III jurisdiction cannot be waived and cannot be conferred upon a federal district court by consent, by action, or by stipulation. In the nature of*California v. LaRue*, 400 U.S. 109, 112, 34 L.Ed. 342, 93 S.Ct. 390 (1972). **The validity of an order** on sentencing of a federal district court depends upon that court having **jurisdiction** over both the subject matter and the

defendant. In the nature of*Stoll v. Gottlieb,* 305 U.S. 171-172, 83 L.Ed 104, 59 S.Ct. 134 (1938). Petitioner's counsel had a duty to protect Petitioner's Sixth Amendment rights by investigating the facts and law related to the court's jurisdiction, and since jurisdiction is a threshold matter, the failure of counsel to investigate the facts and law and to know the court's jurisdiction renders her ineffective as a matter of law.

All issues presented in the Petition are jurisdictional in nature, or allow Petitioner to raise them as Constitutional violations due to the trial court's lack of jurisdiction, ab initio. Since the trial court never had jurisdiction over Petitioner, Petitioner is imprisoned for committing no crime, and thus Petitioner's indictment and conviction are null and void, ab initio. The Government, further, came to these proceedings through fraud, conspiracy, by unfair dealing, and in bad faith, rendering the indictment and conviction null and void ab initio.

F. The Attorney General's Official Position Regarding the Federal Courts and the Constitution for the United States

Petitioner, requests the court to take judicial notice of the position of the Attorney General of the United States regarding an independent judiciary and the Constitutional charter. In prepared remarks at George Mason University (Oct 18, 2005 Newswire), the Attorney General stated the views of an independent judiciary:

"Within our system of self-government, the judiciary plays a vital but often-misunderstood role. As Chief Justice Marshall explained In the nature of*Marbury v. Madison*, 'It is emphatically the province and duty of the judicial department to say what the law is.' But that was true only to the extent that the judiciary was implementing duly enacted laws that represented the **people's will**.

"James Madison said in Federalist 49: 'The people are the only legitimate

fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived.' Therefore, when judges import their personal preferences into constitutional decision making, it is as inconsistent with democratic ideals as if the judge had ignored the clear text of a statute.

If a court strays from this role, its decisions will not command respect- nor should they. The surest way for courts to cede legitimacy is to ignore the will of the people as enshrined in the Constitution and in statutes, that is, for an unelected and unaccountable branch to impose its policy preferences on the nation. To do so is to undermine the consent of the governed, to deny the people their rightful ability to express their will-our will-through the democratic process.

The framers of the Constitution conceived a separate branch of government where judges would be independent and impartial. Of course, independence means federal judges are relatively unaccountable. So the system **only works** when the judiciary respects its place in it--which is why President Bush sought to appoint judges who do not come to the bench with an agenda. This is not to say that a judge cannot have personal views on a subject, but judges must be disciplined and not allow those views to affect their decisions.

It stands a fortiori that if the Attorney General expects the federal judiciary to be truly independent and uphold the Constitution, then he/she expects his/her own staff to uphold the ideals of the Constitution as well.

G. Separation of Powers Doctrine

Petitioner requests the Court to take judicial notice of the Oath of Office sworn to by the officers of the Court and U.S. attorneys. The first law of the United States of

America, enacted in the first session of the first Congress on 1 June 1789, was statute 1, chapter 1: an act to regulate the time and manner of administering certain oaths, which established the oath required by civil and military officials to support the Constitution. Although the wording of the oath has changed several times in the past two centuries, the basic foundation has withstood the test of time. The oath is more than a mere formality – it provides a foundation for leadership decisions. Violations of the oath of office are punishable under Title 18 U.S.C. Section 1621 for Perjury of Oath of Office, which carries a five year felony prison sentence and a $2,000 fine.

One of the fundamental principles of the United States system of government is the doctrine of separation of powers, which divides the functions of government into executive, legislative, and judicial categories and requires that each type of function be exercised by a separate department, so that none of these departments or branches of government can impose upon another functions that are not proper to it or usurp the powers of the other. One aspect of the doctrine is the ban on delegation of powers: The proper functions of each branch of government must be performed by that branch and cannot be passed on or be exercised by others. 16 Am Jur 2d, Constitutional Law, § 332. Thus, for example, since the Constitution of the United States assigns the legislative function to the legislative branch of government—that is Congress, USCS, Constitution, Art. I, § 1—the power to enact, suspend, or repeal laws may not be delegated by Congress to any other authority or body, regardless of any exigency or emergency which may arise. 16 AmJur 2d, Constitutional Law, § 335.

The true meaning of the general doctrine of the separation of powers seems to be that the whole power of one department should not be exercised by the same hands which

possess the whole power of either of the other departments. Thus, it is generally recognized that constitutional restraints are overstepped where one department of government attempts to exercise powers exclusively delegated to another,[9] and that officers of any branch of the government may not usurp or exercise the powers of either of the others.

H. Procedural History of Petitioner's Case

Petitioner's docket sheet shows that she was indicted on 3/30/2010, charged with evasion of assessment and willful failure to file, all Title 26 crimes.

I. Legal Standard for Void Judgments

"[B]asic to a defendant's right [is] to have all critical stages of a criminal case conducted by a person with jurisdiction to proceed." In the nature of*Gomez, v. United States*, 490 U.S. 858, 104 L.Ed. 2d 923, 940, 109 S.Ct. 2237 (1989). "Federal courts are not courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto." In the nature of*Marbury v. Madison*, 1 U.S. 137, 173-180, 2 L.Ed.60 (1803); In the nature of*Bender v. Williamsport Area School* District, 475 U.S. 534, 541, 106 S.Ct. 1326, 89 L.Ed. 2d 501, 511 (1986).[10]

For that reason, every federal court has a special obligation to "satisfy itself of its own jurisdiction in a cause under review" even though the parties are prepared to concede it. In the nature of*Mitchell v. Maurer*, 293 U.S. 237, 244, 79 L.Ed. 338, 55 S.Ct. 162 (1934); In the nature of*Marbury v. Madison*, 1 U.S. 137. The jurisdiction of the federal

[9] *Smith v. Dearborn Financial Services, Inc.*, 982 F.2d 976 (6th Cir. 1993)

[10] Where issues arise as to jurisdiction or venue, **discovery** under the federal rules of civil procedure (rules 26-27) is available to ascertain the facts bearing on such issues. *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350-351, 57 L.Ed.2d. 253, 98 S.Ct. 2380 (1978).

courts **cannot be expanded** by judicial decree. In the nature of*Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S.Ct. 1673, 1675, 128 L.Ed. 391 (1994).

The U.S. Supreme Court has ruled that if the record discloses that the lower court was without jurisdiction, the court will notice the defect although the parties make no contention concerning it. When the lower federal court lacks jurisdiction, we have jurisdiction on appeal, not of the merits, but merely for correcting the error of the lower court for entertaining the suit. In the nature of*U.S. v. Corrick*, 298 U.S. 435, 440, 56 S.Ct. 829, 80 L.Ed. 1263 (1936); See also; In the nature of*Sumner v. Mata*, 449 U.S. 539, 547-548 n.2, 101 S.Ct. 764, 66 L.Ed.2d 722 (1981); In the nature of*Louisville & Nashville Rail Co. v. Mottley*, 211 U.S. 149, 152, 29 S.Ct. 42, 53 L.Ed. 126 (1908) (citing cases); In the nature of*Capron v. Van Noorden*, 2 Cranch 126, 127, 2 L.Ed. 229 (1804).

The obligation to notice defects in a court's subject matter jurisdiction assumes a special importance when a constitutional issue is presented. In a long and venerable line of cases, the Supreme Court has held that without proper jurisdiction, a federal court cannot proceed at all, but can only note the jurisdictional defect and dismiss the cause for lack of jurisdiction. See In the nature of*Capron v. Van Noorden*, 6 U.S. at 127.As a result, there is an initial **presumption** that federal courts lack subject-matter jurisdiction to resolve a particular suit. Id. Subject-matter jurisdiction cannot be waived or conferred by agreement of the parties. In the nature of*Simon v. Wal-Mart Stores, Inc.*, 193 F.3d 848, 850 (5th Cir. 1999).

It is well-settled that jurisdiction is established as a threshold matter, which springs from the nature and limits of the judicial power of the United States and is inflexible and without exception. In the nature of*Mansfield C&L.M.R. Co. v. Swan*, 111

U.S. 379, 382, 28 L.Ed. 462, 4 S.Ct. 449 (1884); In the nature of*Steel Company v. Citizens For a Better Environment*, 523 U.S. 83, 93-102, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998). In the nature of*Rhode Island v. Massachusetts*, 37 U.S. 657, 12 Pet. 657, 9 L.Ed. 1233 (1838). The principle is grounded in "two centuries of jurisprudence affirming the necessity of **determining jurisdiction before proceeding to the facts.**" *Steel Co.*, 523 U.S. at 98-102. This reiterates the absolute purity of the Rule that Article III jurisdiction is **always an antecedent question.** Id.

Article III subject matter jurisdiction questions can be raised at any time and addressed by federal courts at any time on their own motion. In the nature of*McGrath v. Kristensen*, 340 U.S. 162, 95 L.Ed. 73, 71 S.Ct. 224 (1950). Lack of Article III jurisdiction **cannot be waived and cannot be conferred upon a federal district court by consent,** by action, or by stipulation. In the nature of*California v. LaRue*, 400 U.S. 109, 112, 34 L.Ed. 342, 93 S.Ct. 390 (1972).

The validity of an order on sentencing of a federal district court depends upon that court having jurisdiction over both the subject matter and the defendant. In the nature of*Stoll v. Gottlieb,* 305 U.S. 171-172, 83 L.Ed 104, 59 S.Ct. 134 (1938).

Unless the power or authority of the court to perform a contemplated act can be found in the constitution or laws enacted there under, it is **without jurisdiction** and its **acts are invalid.** In the nature of*Angel v. Bullington*, 330 U.S. 183, 67 S.Ct. 657, 91 L.Ed. 832 (1947); In the nature of*LeMieux Bros. Inc. v. Tremont Lumber Co., Ltd.*, 140 F.2d 387, 389 (5th Cir. 1944); In the nature of*Thomas v. Arn*, 474 U.S. 140, 88 L.Ed.2d 435, 106 S.Ct. 466 (1985)(quoting In the nature of*United States v. Payner*, 447 U.S. 727, 65 L.Ed. 2d 468, 100 S.Ct. 2439 (1890))("[e]ven a sensible and efficient use of the

supervisory power [of the court] however, is invalid if it conflicts with constitutional or statutory provisions. A contrary result would confer on the judiciary power to disregard the considered limitations of the law it is charged with enforcing.").

The presumption is that causes are not within the jurisdiction of the federal courts unless the contrary affirmatively appears. It is to be **presumed** a cause lies outside the limited jurisdiction and the burden of establishing the contrary rests upon the government. In the nature of*Bess v. Preston*, 11 U.S. 252, 258-262, 4 S.Ct. 407 (1884); In the nature of*Hanford v. Davis*, 163 U.S. 273, 278-280, 16 S.Ct. 1051, 1052-1054, 41 L.Ed. 157 (1896) ('It is well settled that ...jurisdiction of a circuit court of the U.S. is limited in the sense that is has no other jurisdiction than that conferred by the Constitution and laws of the U.S."). **There is no presumption in favor of the jurisdiction of the courts of the U.S.** *Ex parte Smith*, 94 U.S. 455, 24 L.Ed. 165 (1877).

A federal court is further obliged to note lack of subject matter jurisdiction sua sponte. In the nature of*Mansfield, C&L.M Ry. V. Swan*, 111 U.S. 379, 4 S.Ct. 510, 28 L.Ed. 482 (1884); In the nature of*Louisville & Nashville R.Co. v. Mottley*, 211 U.S. 149; In the nature of*Sumner v. Mata*, 449 U.S. at 548, n.2.

Simply stated, without Article III subject matter jurisdiction, a court cannot proceed at all on a cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. In the nature of*Ex Parte McCardle*, 74 U.S. 506, 514, 19 L.Ed. 264, 73 S.Ct. 318 (1868); In the nature of*Steel Co. v. Citizens for a Better Environment*, 523 U.S. at 94. A litigant's failure to clear a jurisdictional hurdle can never be harmless

or waived by the court. In the nature of*Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 322-324, 101 L.Ed. 2d 285, 108 S.Ct. 2405 (1988).

An order or judgment obtained in violation of **due process**, obtained by **fraud**, obtained by **collusion** of the parties, or obtained without **jurisdiction** is **void**. See, e.g., In the nature of*Williams v. New Orleans Public Service, Inc.*, 728 F.2d 730, 735 (5th Cir. 1984); In the nature of*New York Life Insurance Co. v. Brown*, 84 F.3d 137, 143 (5th Cir. 1996); In the nature of*Government Financial Services One L.P. v. Peyton Place*, 62 F.3d 767, 772-773 (5th Cir. 1995); In the nature of*Stoll v. Gottlieb*, 305 U.S. 165, 59 S.Ct. 134, 83 L.Ed. 104 (1938); In the nature of*Bradley v. Fisher*, 80 U.S. 335, 351-352, 13 Wall 335, 20 L.Ed. 646 (1871)(When there is clearly no jurisdiction over the subject matter, any authority exercised is **usurped authority**, and no excuse is permissible if the **judge knows** of his or her lack of authority); In the nature of*Angel v. Bullington*, supra. **No time limit exists for an attack on a void judgment.** See In the nature of*Briley v. Hidalgo*, 981 F.2d 246, 249 (5th Cir. 1993). A void judgment is one that, **from its inception**, is a complete ***nullity*** and without legal effect. In the nature of*Holstein v. Chicago*, 803 F. Supp. 205, (N.D. Ill. 1992), recons. denied, 149 FRD 147, and affirmed, (7th Cir. 1994), US App LEXIS 17428; In the nature of*Jones v. Giles*, 741 F.2d 245 (9th Cir. 1984). A court has **no discretion** regarding a **void judgment** and the right to relief is **absolute**. See In the nature of*Brazosport Towing Co. v 3,838 Tons of Sorghum Laden,* 607 F.Supp. 11, 15 to 16 (S.D. Tex. 1984) affirmed without opinion, 790 F.2d 791 (5th Cir. 1985); In the nature of*Recreational Properties v Southwest Mortgage Services, Inc.* 804 F.2d 311, 314 (5th Cir. 1986); In the nature of*Burnham v Superior Court of California*, 495 US 604, 609, 110 S.Ct. 2105, 109 L.Ed.2d 631 (1990)(the proposition that a judgment of a court

is **void** traces back to the English Year Books and is embodied in the phrase ***Coram non judice)***[11]

Petitioner is entitled to relief from the judgments and orders of the district court on her habeas petition because evidence exists **beyond a reasonable doubt** that the judgment and orders were obtained in violation of Due Process, were obtained in violation of the Constitution and laws of the United States, were obtained by fraud, and were obtained in excess of the court's jurisdiction, rendering any judgment and orders **void** as a **matter of law**. The fraud and Constitutional violations prevented Petitioner from previously raising her claims on the merits and deprived Petitioner of her right of access to the court and the right to prove her innocence and be free from unlawful constraints.

Settled law also **entitles** Petitioner to an **evidentiary hearing** when she alleges facts which, if proven, would warrant habeas relief. Petitioner's petition is verified and her pleadings are presented in affidavit form supported by evidence. See In the nature of*Townsend v. Sain*, 372 US 293, 307-309, 311 83 S.Ct. 745, 9 L.Ed. 2d 770 (1963); In the nature of*United States v. Barboa*, 777 F.2d, 1420, 1422 (10th Cir. 1985); In the nature of*United States v. Hayman*, 342 U.S. 205, 72 S.Ct. 263, 96 L.Ed. 232 (1952) (A petitioner's allegations **must be taken as true** and where petitioner's allegations, if proven, would entitle him/her to relief, he/she is **entitled to an evidentiary hearing** and an opportunity to prove the truth of the matters asserted).

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[11] Petitioner presents her filings to the court in affidavit form, supported by evidence. The evidence is judicially noticed to the court and **must be taken as true**. See *Kohlberg v. Lehlback*, 160 U.S. 293, 16 S.Ct. 304, 40 L.Ed. 432 (1895)(facts duly alleged are deemed true unless denied or controverted by evidence); 3 AmJur2d, Affidavits, §20("The courts **MUST** accept an affidavit as true if it is uncontradicted by a counter-affidavit or evidence").

A judgment may not be rendered in violation of Constitutional limits and guarantees. See In the nature of*Hanson v. Deckla,* 357 U.S. 235, 256, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958). A fundamental requirement of **Due Process** is the **opportunity to be heard** at a **meaningful time** and in a **meaningful manner.** In the nature of*Const. Amend. V; Mathews v. Eldridge*, 424 US 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976); *Armstrong v. Manzo*, 380 US 545, 552, 85 S.Ct. 1187, 14 L.Ed. 2d 62 (1965); In the nature of*Hammond Packing Co. v. State of Arkansas*, 212 US 322, 29 S.Ct. 370, 3 L.Ed. 530 (1909). Due Process forbids even the **appearance of vindictiveness**. In the nature ofBordenkircher *v. Hayes*, 434 US 357, 362, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978). Due Process also includes the right to introduce evidence and have judicial findings made on that evidence. In the nature of*Jenning v. Maloney,* 404 US 25, 92 S.Ct. 180, 30 L.Ed.2d 146 (1971); In the nature of*Jenkins v. McKeithen*, 395 U.S 411, 89 S.Ct. 1843, 23 L.Ed. 2d 404 (1969), rehearing denied, 396 US 869 (1969). Without jurisdiction, any judgment is without **DUE PROCESS** and ineffectual and all proceedings are **VOID** and of no value. *16b Am Jur 2d, Constitutional Law, §966.*

The right of access to the courts is a corollary to the right to petition for habeas corpus and may not be abridged. See In the nature of*Johnson v. Avery,* 393 US 483, 485-487, 89 S.Ct. 747, 21 L.Ed.2d 718 (1968); In the nature of*Mathews v. Eldridge*, 424 US 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). In the nature of*Bounds v. Smith,* 430 U.S. 817, 821-822, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977) (**"the state and its officers may not abridge or impair petitioner's right to apply to a federal court for a writ of habeas corpus**"). A departure from established modes of procedure can render the judgment void where the **procedural defects** are of sufficient magnitude to constitute a violation of

Due Process or so unfair to deprive the proceedings of vitality or the irregularities are serious enough to be deemed jurisdictional. In the nature of*Windsor v. McVeigh*, 93 U.S. 274, 282, 23 L.Ed. 914 (1876); In the nature of*Eagles v. United States*, 329 U.S. 304, 314, 91 L.Ed. 308 (1946).

J. Legal Standard for Unconstitutional Statutes

Penal laws are construed strictly because legislatures, not courts, define crimes and establish punishments. In the nature of*Yates v. United States*, 354 U.S. 298, 304, 775 S.Ct. 1064, 1 L.Ed. 2d 1356 (1957), overruled on other grounds, In the nature of*Burks v. United States*, 437 U.S. 1, 98 S.Ct. 2141, 57 L.Ed. 2d 1 (1978). Article I, Section 5, Clause 4 of the Constitution requires that "Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for **more than three days**, nor to any other Place than that in which the two Houses shall be sitting." Article I, Section 7, Clause 2 requires every bill to have **passed both Houses** of Congress and be presented to the President before it can become law. Thus, **a bill must pass both houses of Congress** to be valid. Article I, §7, Clause 2, U.S. Constitution; In the nature of*Field v. Clark*, 143 U.S. 649, 36 L.Ed. 294, 12 S.Ct. 495 (1892); In the nature of*National Bank of Oregon v. Insurance Agents,* 508 U.S. 439, 455, 124 L.Ed. 2d 402, 418 n. 7, 113 S.Ct. 2173 (1993).

The law is well established that to sustain a crime, the statute alleged to have been violated must have been **duly enacted** by the legislature. See In the nature of*Hotch v. United States*, 212 F.2d 283, 284 (9th Cir. 1954)("a law which has not been duly enacted is **not a law**, and therefore a person who does not comply with its provisions cannot be guilty of any crime. An act repugnant to the Constitution is **void**. In the nature of*Cooper*

v. Telfair, 4 Dal 14, 1 L.Ed. 721 (1900); In the nature of*Marbury v. Madison*, 5 U.S. 137. The Constitution must prevail where the inconsistency with a statute is clear. In the nature of *Powell v. Pennsylvania*, 127 U.S. 678, 33 L.Ed. 253, 8 S.Ct. 992 (1888); In the nature of*Brimmer v. Rebman,* 138 U.S. 78, 11 S.Ct. 213, 3 L.Ed. 862 (1891)(A statute that violates the Federal Constitution is **void** regardless of the purposes of its recitals); In the nature of*Cooper v. Telfair*, 4 U.S. 14, 1 L.Ed. 721 (1800). ***Longevity does not insure that a statute is constitutional.*** In the nature of*Brennan v. U.S. Postal Service*, Per Marshall, J. as circuit justice, 439 U.S. 1345, 58 L.Ed. 2d 51, 98 S.Ct. 22 (1978). "The question is not how long the parties assumed a certain state of law, but whether that state of law is merely an assumption. ***The passage of time, the acquiescence of the parties, the assumptions of officials, even all taken together cannot enact a statute.*** Legislation only comes into existence through **bicameral** congressional enactment and presentment to the President of the United States. In the nature of*Independent Insurance Agents of America, Inc. v. Clarke*, 965 2d 1077, 1078 (D.C. Cir. 1992).[12] Normal Congressional procedures require that any legislation that is terminated **sine die** in the first session of Congress to be **reintroduced** as new legislation under a new number in the next session. See, e.g., HR 4233, which died sine die in the first session of the 79th Congress, and its reintroduction as HR 6723 in the second session of the 79th Congress. "**Adjournment sine die means final adjournment for the session**. See Black's Law Dictionary 1385 (6th Ed. 1990)." *Vanderbilt v. Babbitt*, 113 F.3d 1061, 1068 FN (9th Cir. 1997).

[12] Petitioner requests that the court take **judicial notice** of the Constitution of the United States, which establishes the requirement for legislation to be valid; see *Marbury v, Madison*, 1 Cranch 137, 5 U.S. 137, 2 L.Ed. 60 (1803)(Courts of the United States are bound to take notice of the Constitution). Petitioner also requests the court to take **judicial notice** of the records of the 80th Congress as referenced herein, which establishes the invalidity of the passage of Public Law 80-772 and Public Law 80-773 of the U.S. Code.

Imprisonment under a void order is without authority of law and one so imprisoned will be discharged on habeas corpus. *In re Ayers*, 123 U.S. 443, 31 L.Ed. 216, 8 S.Ct. 164 (1887); *Fay v. Noia*, 372 U.S. 414, 423, 9 L.Ed. 2d 837, 83 S.Ct. 822 (1963); *Ex Parte Siebold*, 100 U.S. 371, 25 L.Ed. 717 (1879). "[T]he rule, springing from the nature and limits of the jurisdictional power of the United States is ***inflexible and without exception***, which requires the court of its **own motion**, to deny its jurisdiction, and in the exercise of its appellate power, that all other courts of the United States in all cases where such jurisdiction does not affirmatively appear on the record." In the nature of *Mansfield, C&L.M. Ry. V. Swan*, 111 U.S. 379, 382, 28 L.Ed. 462, 4 S.Ct. 510 (1884). As the statutes pursuant to which Petitioner was indicted, convicted, and sentenced were never enacted into positive law, are unconstitutional on their face, and are null and void ab initio, Petitioner' indictment and conviction are null and void and the court has a duty to issue an order for her release.

A legislature's failure to act on a pending bill or other matters needing legislative approval, before the legislature **adjourns sine die**, effectively kills that bill or matter. Appendix. *See, e.g.,* In the nature of*Watkins v. Board of Trustees of Alabama State University, 703 So. 2d 335,* 122 Ed. Law Rep. 1316 (Ala. 1997). As stated In the nature of*Anderson v. Dunn, 19 U.S. (6 Wheaton) 204, 5 L. Ed. 242 (1821).* ". . . although the legislative power continues perpetual, the legislative body **ceases to exist** on the moment of its adjournment or periodical dissolution... Continuity of a session of Congress is broken **only by an adjournment sine die**; In the nature of*Blanchette, et al. v. United States*, 419 U.S. 102; 95 S. Ct. 335; 42 L. Ed. 2d 320 (1974).

The issues presented herein are not legal rocket science. ***Even a federal prosecutor could figure them out.*** Elementary school civics lessons establish the unconstitutionality of the legislation of both Public Law 80-772 and Public Law 80-773. ***Different bills were passed by the House than were passed by the Senate.*** A similar problem, for example, now exists related to the Deficit Reduction Omnibus Reconciliation Act of 2005, for which **Public Citizen** has filed suit against the government. "For anyone who took fifth-grade social studies or sang 'I'm just a bill,' how legislation turns to law is pretty simple. The House passes a bill, the Senate passes the same bill, and the President signs it. 'This is simple elementary-school civics', said Public Citizen Lawyer Adina H. Rosenbaum, announcing that the group that had filed suit in U.S. District court to nullify the Deficit Reduction Omnibus Reconciliation Act of 2005. 'The courts should **declare void** laws passed in an unconstitutional manner.' 'The Constitution is broad and vague on a number of things, but this is not one of them,' Attorney Jim Zeigler has said. ***'The same bill must be passed by House and Senate and signed by the President. Otherwise it's not law. Case over.***'"[13] Just like in the Deficit Reduction Omnibus Reconciliation Act, both Public Laws 80-772 and 80-773, the twin statutory enactment frauds of the 80th Congress, are nullities, not law.

K. Evidence Now Shows that President Truman Was a Dishonest President

It would be possibly acceptable for the government to argue the validity of the statutes signed into law by President Truman if he had not committed crimes in other areas of his administration. Since evidence now shows that he set up the CIA to secretly conceal billions of dollars of World War II loot, it is ***presumed*** that anything he did was

[13] Available for download at www.washingtonpost.com/wp-dyn/content/article/2006/03/21/AR2006032101763_p

dishonest, including the fraudulent enactment of the statutes provided herein. As provided in the years of research by Peggy and Sterling Seagraves, former Washington Post reporters, in their book, *Gold Warriors*[14], and their threatened murder for disclosing the evidence, President Truman set up a secret fund to hide Yamashita's gold. He then set up the CIA in 1947 to be unaccountable to Congress and to cover up the secret fund and to avoid his duties according to the Constitution and laws of the United States. Therefore, the presumption in these proceedings is that the statutes were fraudulently enacted with his cooperation.

L. The Statutes Violate the Presentment Clause, Rendering Said Statutes Nullities

The government obtains the jurisdiction of the court pursuant to 18 U.S.C. § 3231 (1948). That statute was part of the enactment of Public Law 80-772 (derived from H.R. 3190) in the 80th Congress of the United States. The court's jurisdiction, like Public Law 80-772, is a nullity because that statute is a **nullity**. Public Law 80-772 was never enacted into positive law, is unconstitutional on its face, and is null and void ab initio.[15] Likewise, 18 U.S.C. § 3231 is also a nullity as it is part of the fraudulent enactment of

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[14] *Gold Warriors*, Peggy and Sterling Seagraves, ISBN No. 1859845428, Verso, October 2003.

[15] The Supreme Court has repeatedly made clear that "sovereign immunity would not shield an executive officer from suit if the officer acted either 'unconstitutionally or beyond her statutory powers.'" *Dalton*, 511 U.S. at 472 (quoting *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 691, n.11 (1949))(emphasis added by *Dalton* Court). As the Court explained in *Larson*:

> There may be, of course, suits for specific relief against officers of the sovereign which are not suits against the sovereign...A second type of case is that in which the statute or order conferring power upon the officer to take action in the sovereign's name is claimed to be unconstitutional. Actions for habeas corpus against a warden and injunctions against the threatened enforcement of unconstitutional statutes are familiar examples of ther type. Here, too, the conduct against specific relief sought is beyond the officer's powers and is, therefore, not the conduct of the sovereign. The only difference [from a case in which the officer lacks even a colorable claim of authority] is that in this case the power [that] has been conferred in form by the grant is lacking in substance because of its constitutional invalidity.

337 U.S. at 689-90; see also *Dugan v. Rank*, 372 U.S. 609, 621-22 (1963); *Malone v. Bowdoin*, 369 U.S. 643, 647 (1962); *Scranton v. Wheeler*, 179 U.S. 141, 152-53 (1900).

Public Law 80-772, rendering Petitioner's indictment **null and void.** Title 18 conflicts with the procedural requirements of the **Presentment Clause** because the House and Senate passed different bills; because the law was never passed by the House on May 12, 1947 since the vote was 38 to 6 when 435 members were in the House, and since the President Pro tempore of the Senate and Speaker of the House signed the bill on June 22 and June 23, 1948.

The House and Senate passed different bills for Public Law 80-772 and manipulated the legislative proceedings, in violation of the Presentment Clause and the Separation of Powers Doctrine. H.R. 3190 ***died sine*** **die twice** in the first session of the 80th Congress without the Senate passing the same bill. The December 19, 1947 adjournment was announced as a ***sine die*** adjournment, and can be confirmed as such in the Statutes at Large. The **dead bill** surfaced near the end of the second session of the 80th Congress, **still as a House bill.** The Senate **amended the bill, then "passed" the amended bill.** The Senate did not pass the bills as a Senate bill, but as the same House bill, H.R. 3190. Since the bill passed by the House is different that the bill passed by the Senate, it violates the "single, finely wrought" Constitutional procedure for making laws, In the nature of*INS v. Chadha*, 462 U.S. 919, 951 (1983), which is indivisible.[16] The bill is further unconstitutional because it violates the Separation of Powers Doctrine, does not have a valid enactment clause, and was enrolled by fraud.[17]

The Constitution vests legislative responsibility in a bicameral Congress subject to a limited check by the President. The Presentment Clause establishes **precise and detailed procedural requirements** governing the presentment by Congress and approval

[16] Other than requiring that revenue bills originate in the House, the Constitution's lawmaking system is the same for all bills.
[17] It is a fundamental principle that Congress is presumed to legislate with an awareness of existing law.

by the President of any "Bill". Art. I, § 7, Cl. 2. That Presentment Clause, which defines the requirements to pass Constitutional legislation, carries a 230 year pedigree.

The framers imposed no restrictions on the number or variety of provisions that a single "Bill" may contain. Congress' typical practice has been to combine numerous and disparate bills into a single bill, to be approved or returned by the President in its entirety. The effect of this ***in toto requirement*** is to compel the President to make an **all-or-nothing** choice regarding a broad and multifarious legislative package, even though he might prefer to accept some items and reject others. The ***in toto requirement*** serves to ensure that Congress retains ultimate authority to define the range of choices available to the President.[18] Furthermore, the Statutes at Large show no severability clause for Public Law 80-772.

When Congress presents the President with a bill under Article I, Section 7 of the Constitution, the bill can become law in one of three ways: the President can sign it, he can let it become law without her signature; or, if the President vetoes the bill by returning it with her objections, Congress can override the veto by a two-thirds vote in each House. These requirements govern "amendment and repeal of statutes, no less than enactment of them." In the nature of*INS v. Chadha*, 462 U.S. at 954.

The Framers built on the principle, long settled in England, that the Executive should not alter legislation, but be limited to approving or disapproving laws. They rejected proposals to grant the President an absolute final power to disapprove bills,

[18] By the Constitution's design, the requirement that the approval or veto power of the President applies to entire bills also tempers that power. Informed by having presided at the Constitutional Convention, George Washington understood the President's unavoidable constitutional choice, to accept the bad (in the President's eyes) with the good, or reject the good with the bad. In a 1793 letter to Edmund Pendleton, Washington wrote: "You do no more than Justice when you suppose that from motives of respect to the Legislature (and I might add from my interpretation of the Constitution), I give my Signature to many Bills which my Judgment is at variance…From the nature of the Constitution, I must approve all of a Bill, or reject it in toto. To do the latter can only be Justified upon the clear and obvious ground of propriety;…"

and instead provided the Executive with a limited role in the legislative process. The requirement that the House and Senate, elected on different electoral principles, must agree before any new law is made or an existing one is changed or repealed, is an essential feature of the Framers' lawmaking system. The Constitution mandates the concurrence of both Houses to the final contents of spending and tax bills as well as other legislation. Therefore, the lawmaking system established by the Constitution operates on a simple principle. **Both the Senate and House have to agree to <u>every</u> legislative measure or it cannot become law.** ***The steps are precise***. Every bill must first "have passed the House of Representatives and the Senate." "Before it becomes a Law," each bill must "be presented to the President." The President's choices are exactly stated: "If he approve he shall sign it, but if not he shall return it." The manner of return is prescribed: the bill is to be accompanied by "her Objections," it is to go "to that House in which it shall have originated," and that House "shall enter the Objections at large on their Journal." Art. I, Section 7, Cl. 2. Either House may "propose" amendments to any bill, but each needs to concur in the other's amendments before the bill may become law, **following the principles established by the Constitution**. The President may "return" a bill for "reconsideration", id. cl. 2, but has no power to alter any bill. See U.S. Const., Art. I, § 7, cl. 1.

Not only is the "concurrence of separate and dissimilar bodies required in every public act," *The Federalist* No. 63, p. 427 (Madison), but each House through the amending process has an equal opportunity to shape every law, subject to the concurrence of the other House. The accommodation of differences is a vital task in a representative

democracy. The Constitution provides ground rules for revisiting compromises. They require that the two Houses agree in order to change the terms of a bargain between them.

Public Law 80-772, as "passed", undermines the public's interest in faithful adherence to the separation of powers. The Act violates Article I because it violates the Presentment Clause and the Separation of Powers Doctrine. The bill was passed by the House in the first session of the 80th Congress, **died *sine die* twice** when the Senate did not vote on it, then the Senate passed the dead bill in the Second Session of the 80th Congress, **with amendments**. Therefore, the House bill "passed" in the First Session is different than the House bill "passed" by the Senate in the Second Session, a direct violation of Article I, Section 7, cl. 1 of the Constitution. In "produc[ing] laws in violation of the requirement of bicameral passage," J.S. App. 27a, Public Law 80-772 undermines the genius of the Constitution's lawmaking system. It is fundamental Constitutional law. The actions of the 80th Congress regarding Public Law 80-772 compromised essential responsibilities under the Constitution, and disrupted other balances struck by the Framers.

The constitutional requirements to enact legislation also keep in good repair the fabric that allows separate political branches to work in mutual respect to "integrate the dispersed powers into a workable government." In the nature of*Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring). The different course taken by the 80th Congress damaged that fabric. The Court has repeatedly held that the separation of powers is not merely an intramural interest of the branches of government. Abridgement of the separation of powers threatens harm to all whose "liberty and security" are its "ultimate purpose." In the nature of*Metropolitan*

Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252, 272 (1991); see also In the nature of*United States v. Munoz-Flores*, 495 U.S. 385, 395 (1990) (allocation of lawmaking authority under Art. I, § 7, cl. 1 of the Constitution "safeguard[s] liberty").

The public has a further stake in faithful adherence to the separation of powers in lawmaking: "effective and accountable" government. In the nature of*Loving v. United States*, 517 U.S. 748, 757 (1996). Effectiveness is promoted because Article I's requirements of representation and bicameralism make Congress "the branch most capable of responsive and deliberative lawmaking." Public accountability is aided because the "clear assignment of power to a branch, furthermore, allows the citizen to know who may be called to answer for making, or not making, those delicate and necessary decisions essential to governance." Id. at 757-758. Public Law 80-772 fails on these counts. The separate Houses of Congress, together with the President, knowingly manipulated the Constitutional requirements of the Presentment Clause to enact legislation that is **unconstitutional on its face**. Liberty and security are threatened when the House, Senate, or President are allowed to ignore the rules created by the Framers to enact Constitutional legislation, and together, manipulate those procedures to pass legislation that effects the American people. Accountability is diminished when, as occurs under these Acts, responsibility for the final content of legislation is blurred.

M. Petitioner Has a Right to Judicial Notice of the Facts and Law

1. Petitioner Requests Judicial Notice of Facts

Judicial notice dispenses with formal proof of a fact that is easily determinable from reliable sources. It is a rule of convenience that saves time by eliminating the need for proof of facts about which there is no real controversy. FRE 201.

The facts from the Congressional Record, which establish the unconstitutionality of the referenced statutes on their faces, are judicially noticeable as they were not subject to reasonable dispute and were capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, i.e. the Congressional Record. FRE 201(b); In the nature of*U.S. v. Boyd*, 289 F.3d 1254, 1258 (10th Cir. 2002); In the nature of*LaSalle National Bank v. First Conn. Holding Group, LLC*, 287 F.3d 279, 290 (3d Cir. 2002); In the nature of*Ritter v. Hughes Aircraft Co.*, 58 F.3d 454, 458 99th Cir. 1995); In the nature of*Lussier v. Runyon*, 50 F.3d 1103, 1113-1114 (1st Cir. 1995); *York v. AT&T*, 95 F.3d 948, 958 (10th Cir. 1996; In the nature of*Cantrell v. Knoxville County Development Corp.*, 60 F.3d 1177, 1180 (6th Cir. 1995).

The court is required to take judicial notice of the legislative facts presented herein since there is absolutely no argument against them. See FRE 201(d) (the court **must** take judicial notice of adjudicative facts when properly requested and supplied with the necessary information).

If those facts are judicially noticed, those facts are established as a matter of law. See FRE 201(g); 1972 Notes to FRE 201 at ¶ 31. In other words, by judicially noticing the facts that establish as a matter of law that Public Law 80-772 and 18 U.S.C. § 3231 (1948) were never enacted into law, are unconstitutional on their face, and are null and void ab initio, it has the same effect as ***directing a verdict against Respondent*** related to the judicially noticed facts. In the nature of*U.S. v. Boyd*, 289 F.3d 1254. 1258 (10th Cir.

2002); In the nature of*Werner v. Werner*, 267 F.3d 288, 295 (3d Cir. 2001); In the nature of*General Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F. 3d 1074, 1083 (7th Cir. 1997). The court must also take judicial notice that no implementing regulations exists for Title 26 of the United States code as the implementing regulations either do not exist or refer to Title 27 (Alcohol, Tobacco & Firearms), rendering Title 26 unlawful. See Titles of United States Code, non-positive law titles only establish prima facie the laws of the United States 1USCS § 204 (a).

2. Petitioner Requests Judicial Notice of the Law

Petitioner is entitled to have judicial notice taken of the law of this case. The law is a fact and the court is presumed to know the law or where to find it. In the nature of*United States v. Rivero*, 532 F.2d 450 (5th Cir. 1976). A matter of law may be judicially noticed as a matter of fact, that is, the court can look to the law not as a rule governing the case before it, but as a social fact with evidentiary consequences. In the nature of*City of Wichita v. U.S. Gypsum Co.*, 72 F.3d 1491, 1496 10th Cir. 1996). Petitioner requests the court to take judicial notice of the law:

1. Penal laws are **construed strictly** because legislatures, not courts, define crimes and establish punishments. In the nature of*Yates v. United States*, 354 U.S. 298, 304, 775 S.Ct. 1064, 1 L.Ed. 2d 1356 (1957), overruled on other grounds, In the nature of*Burks v. United States*, 437 U.S. 1, 98 S.Ct. 2141, 57 L.Ed. 2d 1 (1978).

2. "Neither House, during the Session of Congress, shall, without the Consent of the other, **adjourn for more than three days**, nor to any other Place than that in which the two Houses shall be sitting." Article I, Section 5, Clause 4 of the Constitution.

3. Every bill must **pass both Houses** of Congress and be presented to the President before it can become law. Article I, §7, Clause 2, U.S. Constitution; In the nature of*Field v. Clark,* 143 U.S. 649, 36 L.Ed. 294, 12 S.Ct. 495 (1892); In the nature of*National Bank of Oregon v. Insurance Agents,* 508 U.S. 439, 455, 124 L.Ed. 2d 402, 418 n. 7, 113 S.Ct. 2173 (1993).

4. To have a valid enactment clause, a statute must have Constitutionally passed both Houses of Congress and must have been enacted in Congress assembled. 1 U.S.C. § 101.

5. To sustain a crime, the statute alleged to have been violated must have been **duly enacted** by the legislature. See In the nature of*Hotch v. United States*, 212 F.2d 283, 284 (9th Cir. 1954)("a law which **has not been duly enacted** is **not a law**, and therefore a person who does not comply with its provisions cannot be guilty of any crime.

6. An act repugnant to the Constitution is **void**. In the nature of*Cooper v. Telfair*, 4 Dal 14, 1 L.Ed. 721 (1900); In the nature of*Marbury v. Madison*, 5 U.S. 137.

7. The Constitution must prevail where the inconsistency with a statute is clear. In the nature of*Powell v. Pennsylvania*, 127 U.S. 678, 33 L.Ed. 253, 8 S.Ct. 992 (1888); In the nature of*Brimmer v. Rebman,* 138 U.S. 78, 11 S.Ct. 213, 3 L.Ed. 862 (1891)(A statute that violates the Federal Constitution is **void** regardless of the purposes of its recitals); In the nature of*Cooper v. Telfair*, 4 U.S. 14, 1 L.Ed. 721 (1800).

8. ***Longevity does not insure that a statute is constitutional.*** "The question is not how long the parties assumed a certain state of law, but whether that state of law is merely an assumption. ***The passage of time, the acquiescence of the parties, the assumptions of officials, even all taken together cannot enact a statute.*** In the nature of*Brennan v. U.S. Postal Service*, Per Marshall, J. as circuit justice, 439 U.S. 1345, 58

L.Ed. 2d 51, 98 S.Ct. 22 (1978).

9. Legislation only comes into existence through **bicameral** congressional enactment and presentment to the President of the United States. In the nature of*Independent Insurance Agents of America, Inc. v. Clarke*, 965 2d 1077, 1078 (D.C. Cir. 1992).

10. Continuity of a session of Congress is broken **only by an adjournment sine die.** In the nature of*Blanchette, et al. v. United States*, 419 U.S. 102; 95 S. Ct. 335; 42 L. Ed. 2d 320 (1974); ". . . although the legislative power continues perpetual, the legislative body **ceases to exist** on the moment of its adjournment or periodical dissolution…" In the nature of*Anderson v. Dunn, 19 U.S. (6 Wheaton) 204, 5 L. Ed. 242 (1821).* A legislature's failure to act on a pending bill or other matters needing legislative approval, before the legislature **adjourns sine die**, effectively kills that bill or matter. *See, e.g.,* In the nature of*Watkins v. Board of Trustees of Alabama State University, 703 So. 2d 335,* 122 Ed. Law Rep. 1316 (Ala. 1997). "**Adjournment sine die means final adjournment for the session**. See Black's Law Dictionary 1385 (6th Ed. 1990)." In the nature of*Vanderbilt v. Babbitt*, 113 F.3d 1061, 1068, FN (9th Cir. 1997). Normal Congressional procedures require that any legislation that is terminated **sine die** in the first session of Congress be **reintroduced** as **new legislation** under a new number in the next session. See, e.g., HR 4233, which died sine die in the first session of the 79th Congress, and its reintroduction as HR 6723 in the second session of the 79th Congress. An adjournment sine die results in the death of all pending legislation, (*see* Floyd M. Riddick, The United States Congress: Organization and Procedure 56 (1949)), making passage and presentment to the

President **impossible.** *See* U.S. Const. Art. I, §§1, 7; *The Pocket Veto Case,* 279 U.S. at 681 (1929) (final adjournment of Congress "terminates the legislative existence of the Congress").

11. Imprisonment under a void order is without authority of law and one so imprisoned will be discharged on habeas corpus. *In re Ayers*, 123 U.S. 443, 31 L.Ed. 216, 8 S.Ct. 164 (1887); In the nature of*Fay v. Noia*, 372 U.S. 414, 423, 9 L.Ed. 2d 837, 83 S.Ct. 822 (1963); *Ex Parte Siebold*, 100 U.S. 371, 25 L.Ed. 717 (1879).

12. "[T]he rule, springing from the nature and limits of the jurisdictional power of the United States is ***inflexible and without exception***, which requires the court of its **own motion**, to deny its jurisdiction, and in the exercise of its appellate power, that all other courts of the United States in all cases where such jurisdiction does not affirmatively appear on the record." In the nature of*Mansfield, C&L.M. Ry. V. Swan*, 111 U.S. 379, 382, 28 L.Ed. 462, 4 S.Ct. 510 (1884).

13. "You have asked this office to analyze the legal effectiveness of a congressional subpoena issued **after a sine die adjournment of Congress**. In a **1982 opinion**, the Office concluded that a congressional subpoena issued during a session of Congress lacks present force and effect after the adjournment sine die of Congress. Continuing Effect of a Congressional Subpoena Following the Adjournment of Congress, 6 Op. O.L.C. 744 (1982). ***According to that opinion, the lapse in legal effectiveness 'results from the same factors that produce, at the same time, the death of all pending legislation not enacted..."*** Memorandum for Janet Reno, Attorney General, November 12, 1996, pg. 1:

14. "Prorogation or dissolution, constitutes there what is called a session; provided some act is passed. In this case, all matters depending before them are discontinued, and at their next meeting are to be taken up de novo, if taken up at all. 1 Blackst., 186.... If convened by the President's proclamation, this **must** begin a new session, and of course, determine the preceding one to have been a session." 107th Congress House Rules Manual. See page 1, Modes of Separation

15. "The Senate and the House of Representatives [of the 80th Congress] adjourned on June 20, 1948, under a 'conditional final adjournment' resolution, H. Con. Res. 218; 94 Cong. Rec. 9158. Pursuant to the resolution, the two Houses were to stand in adjournment until December 31, 1948, unless recalled into session earlier by specified Senate and House leaders. **In effect, the adjournment was a *sine die* adjournment, not an intrasession adjournment.** On July 26, 1948, Congress convened pursuant to a proclamation of President Truman. The President **pocket vetoed** 14 bills presented to him after the adjournment of June 20, 1948" No record exists that Congress left a messenger behind to receive correspondence from the President or the return of bills." In the nature of*Kennedy v. Sampson*, 511 F.2d 430, 444, Apendix N-4(D.C.Cir. 1974).

16. "[T]he **determinative question** in reference to an 'adjournment is not whether it is a **final adjournment** of Congress or an **interim adjournment**, such as an adjournment of the first session, but whether it ... prevents the President from returning the bill to the House in which it originated within the time allowed." In the nature of*The Pocket Veto Case (Oskanogan v. United States)*, 279 U.S. 655, 681, 73 L.Ed. 894, 49 S.Ct. 463 (1929).

17. An enrolled bill is to be in the identical form as the engrossed bill. 1 U.S.C. § 106.

18. "A bill signed by the Speaker of the House of Representatives and by the President of the Senate, presented to and approved by the President of the United States, and delivered by the letter to the Secretary of State, as an act of Congress, does not become a law of the United States if it had not in fact been passed by Congress..." In the nature of*Field v. Clark,* 143 U.S. 649, 36 L.Ed. 294, 12 S.Ct. 495 (1892); In the nature of*Mistretta v. United States,* 488 U.S. 361, 381, 102 L.Ed. 2d 714, 109 S.Ct. 647 (1989). Congress may not control execution of laws **except through Article I procedures.**

19. "The Constitution of the United States is the Supreme Law of the Land and binds every forum whether it derives its authority from a state or from the United States." In the nature of*Cook v. Moffat & Curtis,* 46 U.S. 295, 12 L.Ed. 159 (1847); *Dodge v. Woolsey,* 59 U.S. 331, 15 L.Ed. 401 (1855); *Ex Parte Siebold,* 100 U.S. 371, 25 L.Ed. 717 (1879).

20. "The words used in the Constitution are to be taken in their natural and obvious sense. In the nature of*Martin Fairfax v. Hunter*, 14 U.S. 304, 4 L.Ed. 97, 1 Wheat 304, 326 (1814), and are to be given the meaning they have in common use unless there are very strong reasons to the contrary, In the nature of*Tennessee v. Whitworth*, 117 U.S. 139, 147." In the nature of*Patton v. United States*, 281 U.S. 276, 74 L.Ed. 854, 50 S.Ct. 253 (1930).

21. "[T]he rule, springing from the nature and limits of the jurisdictional power of the United States is **inflexible and without exception**, which requires the court on its own Petition, to deny its jurisdiction, and in the exercise of its appellate power, that all other courts of the United States in all cases where such jurisdiction does not affirmatively appear on the record." In the nature of*Mansfield, C&LM. Ry. V. Swan,* 111 U.S. 379, 382, 28 L.Ed. 462, 4 S.Ct. 510 (1884).

22. **Without jurisdiction, the power of the court is invalid.** In the nature of*Hanford v. Davies,* 163 U.S. 273, 41 L.Ed. 147, 16 S.Ct. 1051 (1896); In the nature of*Angel v. Bullington,* 330 U.S. 183, 67 S.Ct. 657, 91 L.Ed. 832 (1947).

23. A charge of crime **must have clear legislative basis**. In the nature of*United States v. Smull,* 236 U.S. 405, 59 L.Ed. 641, 35 S.Ct. 349 (1915).

24. "No stipulation by an executive official purporting to operate under a statute and a party affected by the official's actions can bring that statute into existence, even for purposes of a judicial decision as to its construction." In the nature of*Independent Insurance Agents of America, Inc. v. Clarke,* 965 F.2d 1077, 1078 (D.C. Cir. 1992). ***Nullum Crimen, Sine Lege, Nulla Poena, Sine Lege.***

25. "It is emphatically the duty of the judicial department to say what the law is." In the nature of*Marbury v. Madison,* 5 U.S. at 177.

26. Judicial intervention is appropriate "when the failure of Congress to adhere to its own rules implicates constitutional rights." In the nature of*Metzenbaum v. Federal Energy Regulatory Commission,* 673 F.2d 1282, 1287(D.C. Cir. 1982).

27. The requirement that a court have jurisdiction over the person **before rendering judgment** is rested in Due Process and is a basic requirement that must be satisfied before a valid judgment can be had or enforced. In the nature of*Insurance Corp v. Ireland, Ltd. V. Compagnie Des Bauxites de Guinee,* 456 U.S. 694, 702, 72 L.Ed. 2d 492, 102 S.Ct. 2099 (1982). That requirement stems from Article III of the Constitution. If the court lacked jurisdiction, the judgment is invalid.

28. "If the law which defines the offense and prescribes its punishment is void, the court was without jurisdiction, and the prisoner must be discharged." *Ex Parte Yarborough,* 110 U.S.

651, 654, 4 S.Ct. 152, 28 L.Ed. 274 (1884); *In re Ayers,* 123 U.S. 443, 31 L.Ed. 216, 8 S.Ct. 164 (1887); In the nature of*Fay v. Noia,* 372 U.S. 391, 414, 423, 9 L.Ed. 2d 837, 83 S.Ct. 822 (1963); *Ex parte Siebold,* 100 U.S. 371, 2 L.Ed. 717 (1879)(an unconstitutional act is **no law** at all, and **no court has a right to imprison a citizen who has violated no law**; such restraint even if exercised under the guise and form of law, is as **subversive of the right of the citizen** as if it were exercised by a person not clothed with authority).

29. "Where there is clearly no jurisdiction over the subject matter [,] any authority exercised is a **usurped authority** and for the exercise of such authority when the want of jurisdiction is known to the judge, no excuse is permissible." In the nature of*Bradley v. Fisher,* 80 U.S. 335, 351-352, 20 L.Ed. 646 (1871).

30. "Even a minimal amount of additional time in prison has Constitutional significance." In the nature of*Glover v. United States*, 531 U.S.198, 203, 121 S.Ct. 696, 148 L.Ed.2d 604 (2001).

Petitioner has now judicially noticed the facts and the law which establish as a matter of law that Public Law 80-772 and 18 U.S.C. § 3231, and Title 26 were never enacted into positive law, are unconstitutional on their face, and are null and void ab initio. Petitioner is entitled to a **directed verdict** on the facts and law and an order for dismissal of her indictment.

N. Issue One: Petitioner Committed No Crime Since Public Law 80-772, 18 USC §§ 3231 are Unconstitutional On Their Face and Void Ab Initio. Nullum Crimen, Sine Lege, Nullum Poena, Sine Lege

1. Background Facts Introducing H.R. 3190

No quorum was in place on May 12, 1947 when the House of Representatives voted on Public Law 80-772 by a vote of 38 to 6 and no quorum was in place on June 22 and June 23, 1948 when the Speaker of the House and the President pro tempore of the Senate signed Public Law 80-772 as Congress had completely and fully adjourned sine die on June 20, 1948.

After numerous failed attempts, a bill - H.R. 3190 - was introduced with a Report by the Committee on the Judiciary, House of Representatives, and committed to the Committee of the entire House of Representatives on the State of the Union of the First Session of the 80th Congress (1947), entitled "Crimes and Criminal Procedure."[19] See House Report No. 304 (April 24, 1947), cover & pg. 1 **(App. A)**. See also 94 Cong Rec. D556-557 (Daily Digest) (charting H.R. 3190) **(App. B)**. H.R. 3190 differed from "five ...bills which...preceded it... [because] it constitute[d] a revision, as well as a codification, of the Federal laws relating to crimes and criminal procedure." 93 Cong. Rec. 5048-49 (May 12, 1947) **(App. C)**. The Bill was intended (1) to revise and compile **all** of the criminal law, (2) to "restate[]" and "consolidate[]" "existing statutes," (3) to "repeal" "obsolete, superseded, redundant and repetitious statutes," (4) to coordinate the Criminal Code with the "Federal Rules of Criminal Procedure" formerly enacted, and (4) to "clarify and harmonize" penalties of the "many acts" passed by Congress which were found to be "almost identical." (Id.). "The bill was ordered to be engrossed and read a third time, was read a third time, and passed" the House on May 12, 1947, id; 94 Cong. Rec. D56-557, supra **(App. B)**, sent to the Senate and there "referred to the Committee on the Judiciary." 93 Cong. Rec. 5121 **(App. D)**.

2. Congress Adjourned *Sine Die* Without the Senate's Passage of H.R. 3190

On July 27, 1947, Congress conditionally adjourned pursuant to S. Con. Res.

[19] May 12, 1947.

33, without the Senate ever taking up H.R. 3190. See 93 Cong. Rec. 10439, 10522 (July 26, 1947) **(App. E)**. "In effect the [July 27, 1947] adjournment was a ***sine die*** adjournment, not an intersession adjournment." In the nature ofKennedy v. Sampson, 511 F.2d 430, 444, Appendix n.4 (D.C. Cir. 1974).[20]

3. Congress Adjourned *Sine Die* A Second Time Without the Senate's Passage of H.R. 3190

On November 17, 1947, Congress reconvened pursuant to a Presidential proclamation. Yet, Congress again "adjourned ***sine die*** on December 19, 1947," without the Senate passing H.R. 3190. Kennedy, 511 F.2d at 444, Appendix n.4. Thus, the First Session of the 80th Congress adjourned ***sine die*** **twice** and closed without H.R. 3190 passing both houses as required. See also House Concurrent Resolution No. 127, 80th Congress, 1st Session, Dec. 19, 1947, 61 Stat 1029 (declaring the Dec. 19, 1947 adjournment to be an adjournment ***"sine die"*** "notwithstanding the provisions of Sen. Con. Res. 33") **(App. F);** United Code Service, Laws of the 80th Congress, First Session, West Publishing Co. & Ed. Thompson Co. 1947, Adjournment Resolutions, H. Con. Res. 127, pg. LXXXIX (Dec. 19, 1947 adjournment was ***sine die***) **(App. G).**

4. H.R. 3190: The Mysteriously Immortal Bill

[20] Noting that [t]he President ***pocket vetoed*** 19 bills presented to him after the adjournment," id., establishing that the adjournment was unequivocally ***sine die***. Kennedy v. Sampson, 511 F.2d 430, 444, Appendix, N. 4 (D.C.Cir. 1974) ("The Senate and the House of Representatives [of the 80th Congress] adjourned on July 27, 1947, under a 'conditional final adjournment' resolution, H. Con. Res. 33; 93 Cong. Rec. 10400. Pursuant to the resolution, the two Houses were to stand in adjournment until January 2, 1948 unless recalled into session earlier by specified Senate and House leaders. In effect, the adjournment was a ***sine die*** adjournment, not an intra session adjournment. On November 17, 1947, Congress convened pursuant to a proclamation of President Truman and adjourned ***sine die*** on December 19, 1947. The President ***pocket vetoed*** **19 bills** presented to him after the adjournment of July 27, 1947").

H.R. 3190 was never reintroduced by the House of Representatives during the Second Session of the 80th Congress, which began on January 2, 1948. Nevertheless, the Senate Committee on the Judiciary purported to resurrect H.R. 3190 with amendments on June 14, 1948, under S. Rep. No. 1620, without regard that it had ***died***, not once, but ***twice***, upon the ***sine die*** adjournments of the 80th Congress' First Session. The Bill was purportedly reintroduced (under the same number no less) as if it had passed the House in the Second Session, which it did not. 94 Cong. Rec. 8075 (June 14, 1948) **(App. H)**. Compare 94 Cong Rec. D556-557, supra **(App. B)** (showing only introduction of H.R. 3190 by the House of Representatives on April 24, 1947).

Significantly, H.R. 3190 was purportedly introduced into the Senate under S. Rep. No. 1620 with a "large volume of amendments" explaining that "the new Federal Rules of Criminal Procedure [were] keyed to the bill and [were] reflected in part II of [the new proposed] title 18." The supporters of the Bill proffered that, by passing the bill, "[u]ncertainty will be ended." Its supporters wanted "the amendments adopted en bloc," including a new jurisdictional section for Title 18.

In fact, H.R. 3190 was not included in S. Rep. No. 1620 and only the text of the proposed amendments were included, therein. See, S. Rep. No. 1620 **(App. I).**

"[T]he amendments were considered and agreed to en bloc" after which they were read and then "ordered to be engrossed." 94 Cong. Rec. 8721-22 (June 18, 1948) **(App. J).** The bill itself – wholly separate from the "amendments – was "ordered…to be read a third time" which it was and it "passed" the Senate. It was moved that "the Senate insist upon its amendments" to H.R. 3190 in the House. (Id. at 8722).

The House subsequently received Sen. Rep. No. 1620 purporting to contain H.R. 3190 with proposed amendments. The House clerk "read the Senate amendments" into the record, with which the House concurred. 94 Cong. Rec. 8864-65 (June 18, 1948) **(App. K).** The House **never** voted on the text of H.R. 3190 amended or otherwise at that time or at any other time during the Second Session of the 80th Congress. Other than concurring with the Senate amendments, the House took no action on H.R. 3190, which was reintroduced into the Second Session of the 80th Congress by the Senate through S. Rep. No. 1620 for the first time on June 18, 1948. Specifically, H. Con. Res. 219 resolved

> That notwithstanding the adjournment of the two Houses until December 31, 1948, the Speaker of the House of Representatives and the President pro tempore of the Senate be, and they are hereby, authorized to sign enrolled bills and joint resolutions.

See concurrent Resolutions, Second Session, Eightieth Cong., H. Res. 219, June 20, 1948, 62 Stat. 1436 **(App. L).**

5. By House Resolutions 218 and 219, Congress Agreed to Adjourn *Sine Die* and to Continue Legislative Business Thereafter

On June 19, 1948, the Senate informed the House that "the Senate had passed without amendment concurrent resolutions of the House," namely H. Con. Res. 218 and 219. 94 Cong. Rec. 9349 **(App. M).** H. Con. Res. 218 "provid[ed] adjournment of the two Houses of Congress until December 31, 1948" and H. Con. Res. 219 "authorize[ed] the signing of enrolled bills following adjournment." (Id.).

6. The Second Session of the 80th Congress Adjourned *Sine Die*

Congress adjourned on June 20, 1948, pursuant to H. Con. Res. 218, which required re-assembly on "Friday, December 31, 1948, at 12 o'clock meridian." 94 Cong. Rec. 9349, 9169 **(App. N).** The adjournment was "in effect…a ***sine die*** adjournment, not an

inter-session adjournment." Kennedy, 511 F.2d 444, Appendix, n.5.[21] Neither House of Congress was in session thereafter until July 26, 1948, when both Houses reconvened "pursuant to a proclamation of President Truman." Kennedy, 511 F.2d at 444, Appendix, n. 5.

7. The Improper Signing of H.R. 3190 By the Speaker of the House and President Pro Tempore of the Senate, and the Illegal Presentment to and Approval Thereof by the President Pursuant to H. Con. Res. 219

With both Houses adjourned ***sine die***, with no quorum, with Congress disassembled and dispersed, the Speaker of the House and President pro tempore signed H.R. 3190[22] on June 23, 1948. 94 Cong. Rec. 9354. **(App. O);** National Archives Adm. Cert., H.R. 3190 signed by the Speaker, President Pro Tempore and President Truman. **(App. P).** Again the Congress adjourned ***sine die***, disassembled, dispersed, with no quorum to do business, the bill was purportedly presented by the Committee on House Administration to President Truman, on June 23, 1948, who then signed H.R. 3190 on June 25, 1948 at 12:23 P.M. E.D.T., 94 Cong. Rec. 9364-9367 **(App. Q);** National Archives & Records Adm. Cert., H.R. 3190, supra **(App. P);** 94 Cong. Rec. D557 (Daily Digest), supra **(App. B).**

8. The Signatories of H.R. 3190 Knew the Enacting Clause Was False When Signed

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[21] Kennedy v. Sampson, 511 F.2d 430, 444, Appendix, N. 5 (D.C.Cir. 1974) ("The Senate and House of Representatives [of the 80th Congress] adjourned on June 20, 1948, under a "conditional final adjournment" resolution, H. Con. Res. 218; 94 Cong. Rec. 9158. Pursuant to the resolution, the two Houses were to stand in adjournment until December 31, 1948, unless recalled into session earlier by specified Senate and House leaders. In effect, the adjournment was a ***sine die*** adjournment, not an intra session adjournment. On July 26, 1948, Congress convened pursuant to a proclamation of President Truman. The President ***pocket vetoed*** **14 bills** presented to him after the adjournment of June 20, 1948").

[22] As previously noted, the Senate voted on the amendments proposed under S. Rep. No. 1620 separately from H.R. 3190 itself. Moreover, the Senate ordered the amendments in question to be "engrossed" before and separately from the "read[ing]" and "pass[age]" of H.R. 3190. See 94 Cong. Rec. 8722, supra **(App. J).** The House voted on the amendments in question, but never voted on H.R. 3190 at any time during the Second Session of the 80th Congress. 94 Cong. Rec. 8864-8865, supra **(App. K).**

The enacting clause of Public Law 80-772 (H.R. 3190), **as signed** by the Speaker of the House, the President pro tempore of the Senate and President Truman, stated that the enactment proceeded "by the Senate and House of Representatives of the United States of America **in Congress assembled.**" See National Archives & Records Adm. Cert., H.R. 3190 as signed into P.L. 80-772, supra **(App. P).** Each signatory knew when they signed the Bill that Congress was adjourned and disassembled, that neither "House" was legislatively in existence at that time, and that the legislative process had **ceased** within the terms of Article I, Section 5 and Article I, Section 7 on June 20, 1948.

9. Petitioner is Currently in Executive Custody Under Judgment and Commitment Order Issued Pursuant to Public Law 80-772, 18 U.S.C. § 3231

Petitioner has been tried, convicted, sentenced, and committed into Executive Custody by order of United States District Court[23] acting pursuant to grant of original jurisdiction purportedly enacted by Public Law 80-772, Title 18, United States Code, Section 3231. The convicting District Court ordered Petitioner into the custody of the Bureau of Prisons. See 18 U.S.C. § 3621(a) (enacted Pub. L. 98-473), Title II, Ch. II, § 212(a), Oct. 12, 1984, 98 Stat. 2007) (effective November 1, 1987, Pub. L. 98-473, Title II, Ch. II, § 235(a)(1), as amended, set out as an Effective Date note under Section 3551 of Title 18, Crimes and Criminal Procedure).

ARGUMENT

1. Public Law 80-772 Is Unconstitutional Because H.R. 3190 Never Passed Both Houses As Required By Article I, Section 7, Clause 2, Of The United States Constitution, And Is, Therefore, Void *Ab Initio*

1. The Legal Principle

[23] United States v. Janice Sue Taylor Case 2:1 0-cr-00400-DGC(2010)

This case presents the "profoundly important issue"[24] of the constitutionality of an act of Congress.[25] Indeed, it presents a matter "'of such public importance as to justify deviation from normal appellate practice and to require immediate determination by this Court.'" Clinton, 524 U.S. at 455 (Scalia, J., and O'Connor, J., joining in part and dissenting in part) (adopting language directly from Sup.Ct.R. 11).[26]

Although "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives," (Art. I, § 1, U.S. Constitution) "when [Congress] exercised its legislative power, it must follow the 'single, finely wrought and exhaustively considered procedures' specified in Article I." In the nature ofMetropolitan Washington Airport Authority v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252, 274 (1991) (quoting In the nature ofINS v. Chadha, 462 U.S. 919, 951 (1983). Article 1 establishes "just how those powers are to be exercised." In the nature ofINS v. Chadha, 462 U.S. at 945.

An act of Congress "does not become a law unless it follows each and every procedural step chartered in Article I, §7, cl. 2, of the Constitution." In the nature ofLandgraf v. USI Film Products, 511 U.S. 244, 263 (1994) (citing In the nature ofINS v. Chadha, 462 U.S. at 946-51 (emphasis added)); Clinton, 524 U.S. 417, 448 (1998) (noting requisite "steps" taken before bill in question may "'become a law'" and establishing that a procedurally defective enactment cannot "'become a law'" pursuant to the procedures designed by the Framers of Article I, §7, of the Constitution).

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[24] Clinton v. New York, 524 U.S. 417, 439 (1998).
[25] INS v. Chadha, 462 U.S. 919, 929 (1983).
[26] Clinton, 524 U.S. at 447, "twice had full argument and briefing," as did INS v. Chadha, 462 U.S. at 943-44 ("The important issues have been fully briefed and twice argued."); "[T]he importance of the question," Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252, 263 (1991), has always been noted; Wright v. United States, 302 U.S. 583, 586 (1983). ("the importance of the question"); The Pocket Veto Case, 279 U.S. 655, 673 (1929) ("the public importance of the question presented"); Missouri Pacific Railway Co. v. Kansas, 248 U.S. 276, 279 (1919) ("the importance of the subject").

The United States Constitution requires "three procedural steps": (1) a bill containing its exact text was approved by a majority of the Members of the House of Representatives; (2) the Senate approved **precisely the same text**; and (3) **that text** was signed into law by the President. The United States Supreme Court has stated: "If one paragraph of **that text** had been omitted **at any one of those three stages**, [the] law [in question] would not have been validly enacted."[27] Clinton, 524 U.S. at 448 (emphasis added).

The "draftsmen" of the Constitution "took special pains to assure these [legislative] requirements could not be circumvented. During the final debates on Art. I,§ 7, Cl. 2, James Madison expressed concern that it might easily be evaded by the simple expedient of calling a proposal a 'resolution' or 'vote' rather than a 'bill.' As a consequence, Art. I, § 7, Cl. 3…was added." In the nature ofINS v. Chadha, 462 U.S. at 947 (citing 2 Farrand, 301-302, 304-305).

Whether actions authorized under a resolution are "an exercise of legislative powers depends not on their form but upon 'whether they contain matter which is properly to be regarded as legislative in its character and effect," In the nature ofINS v. Chadha, 462 U.S. at 952 (quoting S. Rep. No. 1335, 54th Cong. 2d Sess., 8 (1897). "If the power is legislative, Congress must exercise it in conformity with the bicameralism

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Art. I, § 1, of the Constitution.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Art. I, § 5, C. 1.

[A] Majority of each [House] shall constitute a Quorum to do Business…

Art. I, § 7, Cl. 2.

Every Bill which shall have passed [both Houses], shall before it becomes a Law be presented to the President of the United States; If he approve he shall sign it…

Art. I, § 7, Cl. 3.

Every … Resolution…to which the Concurrence of [both Houses] may be necessary (except on a question of Adjournment) shall be presented to the President of the United States and before the Same shall take effect, shall be approved by him…

and presentment requirements of Art. I, § 7." Metropolitan, 501 U.S. at 276. See also In the nature ofBowsher v. Synar, 478 U.S. 714, 756 (1986) (Stevens, J., concurring) ("It is settled, however, that if a resolution is intended to make policy that will bind the Nation, and thus is 'legislative in its character and effect,' S. Rep. No. 1335, 54th Cong., 2d Sess., 8 (1897) – then the full Article I requirements must be observed. For 'the nature or substance of the resolution, and not its form, controls the question of its disposition.' Ibid.").

Title 1, U.S.C. § 106 (enacted July 30, 1947), ch. 388, § 1, 61 Stat. 634, requires: "When [a] bill or joint resolution shall have passed both Houses, it shall be printed and shall then be called the enrolled bill, or joint resolution as the case may be, and shall be signed by the presiding officers of both Houses and sent to the President of the United States." The statute provides: "During the last six days of a session such engrossing and enrolling of bills and joint resolutions may be done otherwise than as above prescribed, upon the order of Congress by concurrent resolution." (Emphasis added). Thus, although engrossment and enrollment of bills and resolutions may be completed in exceptional manner "[d]uring the last six days of a session," the text and context clearly reveal the procedures involved are required to be performed while Congress is **in session**.

2. The First Death of H.R. 3190

Congress indisputably adjourned ***sine die*** on July 27, 1947, thereby breaking the continuity of that legislative session. Constitution, Jefferson's Manual & Rules of the House of Representatives, House Doc. No. 769, 79th Cong. 2d Session, (H.Doc. No. 769); Rules of the House of Representatives, § 941, Sec. 132, pg. 459 (Leg. Reorganization Act of 1946 mandating that both "Houses shall adjourn ***sine die*** no later than the last day of...July of each year"). See also, In the nature ofKennedy v. Sampson, 511 F.2d 430, 444 Appendix n. 4 (D.C. Cir. 1974); In the nature ofAnderson v. Dunn, 19 U.S. (6 Wheat) 204, 231 (1821) ("[T]he legislative body ceases to exist on the moment of its adjournment or periodic dissolution... Continuity of a session of Congress is broken...by an adjournment ***sine die***"), limited and partially overruled on other grounds, In the nature

ofKilbourne v. Thompson, 103 U.S.168, 196-99 (1881); The Pocket Veto Case, 279 U.S. 655, 681 (1929) (final adjournment "terminates the legislative existence of the Congress"); House Doc. No. 769, supra, Jefferson's Manual, pg. 265 (emphasis added) (applying Art. I, § 3, U.S. Const. **(App.S).** See Also 106th Congress House Rules Manual, House Doc. No. 106-320, pg. 301 **(App. T)** (same).

The July 27, 1947, adjournment ***sine die*** caused the death of H.R. 3190, because all pending legislation dies upon such adjournment. See F. Riddick, the United States Congress: Organization and Procedure 56 (1949). See also Memorandum for Janet Reno, Attorney General from Acting Asst. AG Chris Schroeder, Office of Legal Counsel, U.S. Dept. of Justice (Nov. 19, 1996) (Adjournment ***sine die*** "'produce[s]…the death of all pending legislation'") (quoting Continuing Effect of a Congressional Subpoena Following the Adjournment of Congress, 6 Op. O.L.C. 744 (1982) and citing F. Riddick, The United States Congress: Organization and Procedure, supra at 56).

3. H.R. 3190 Dies a Second Time

Congress re-convened on November 17, 1947, by Presidential proclamation. Even assuming the adjournment on July 27, 1947, did not close the former session, the reconvention undoubtedly did because it began a new session as a matter of law. As established by a Congressional Manual, "If convened by the President's proclamation, [Congress] **must** begin a new session, and **of course** determine the preceding one to have been a session… [Such] act of adjournment is merged in the higher authority of the Constitution." House Doc. No. 769, supra, Jefferson's Manual, pg. 265 (emphasis added) (applying Art. I, § 3, U.S. Const, supra. **(App. S);** 106th Congress House Manual, pg. 301-302, supra **(App. T)** (same).

The Presidential proclamation "beg[a]in a new session and of course determine[d] the preceding [session] to have been a [concluded] session," effectively rendering it adjourned ***sine die*** and thereby "terminat[ing] the legislative existence of Congress." The Pocket Veto Case, 279 U.S. at 681.

"Congress [can] separate in two ways only, to wit, by adjournment or dissolution by the efflux of their time." 106th Cong. H. Rules Manual, House Doc. No. 106-320, supra at 301 **(App. T)** (emphasis added). The convention of a session by Presidential proclamation has no relation to "dissolution by the efflux of" a congressman's "time". Such a Presidential convention can ***only*** effectuate an adjournment ***sine die*** because it acts to cut off or close the prior session. Id., pg. 301-302.

Thus, the "new session," exclusively "terminate[d]" the prior session and its "legislative existence." The Pocket Veto Case, 279 U.S. at 681. At that time, "all pending matters…discontinued and all parliamentary functions cease[d]." Memo for AG, supra (citing In the nature ofMcGrain v. Daugherty, 273 U.S. 135, 181 (1927) (relying on Senate Rules and Manual, 1925, pg. 303)). Therefore, even if the adjournment ***sine die*** on July 27, 1947, did not "produce " or "result in" "the death of [H.R. 3910, which had] not [yet been] enacted," the reconvening of Congress by Presidential proclamation certainly and unavoidably did.

4. The Third and Penultimate Death of H.R. 3190

The Congressional session convened by Presidential proclamation on November 17, 1947, "adjourned ***sine die*** on December 19, 1947." In the nature ofKennedy v. Sampson, 511 F.2d at 444, Appendix n. 4. The adjournment caused "'the death of all pending legislation not enacted,'" which included H.R. 3910. Memo for AG, supra (citation omitted). H.R. 3190 certainly died with the adjournment ***sine die*** on July 27, 1947. But, even if it did not, it certainly did when Congress met in "a new session"

pursuant to Presidential proclamation and under "the higher authority of the Constitution [Art. I, § 3]." 106th Cong. H. Rules Manual at 301-302, supra **(App. T)**. But then again, the "adjourn [ment] ***sine die*** on December 19, 1947," undoubtedly "'produce[d]...the death'" of H.R. 3190, if it had somehow survived the earlier effectual adjournment ***sine die***.

Congress in any case expressly declared the December 19, 1947, adjournment to be an adjournment ***sine die***. House Concurrent Resolution No. 127, 80th Congress, 1st Session, Dec. 19, 1947, 61 Stat 1029, supra **(App. F);** United States Code Service, Laws of the 80th Congress, First Session, H. Con.Res. 127, supra, pg. LXXXIX **(App. G).**

H.R. 3190 was not re-introduced in the "new session" of Congress, which began under Presidential proclamation on November 17, 1947, or at any time by the House of Representatives during the Second regular Session of the 80th Congress. H.R. 3190 reappeared, albeit by number only, and without text, under S. Rep. 1620 on June 14, 1948, as if it had never died during the previous adjournments ***sine die*** or as if it had been re-introduced under the same House of Representatives' number with which it had originally entered the House, on May 12, 1947. 94 Cong. Rec. 8075, supra **(App. H);** S. Rep. 1620), supra **(App. I);** 93 Cong. Rec. 5048-5049 (original introduction of H.R. 3190), supra **(App. C).**

S. Rep. 1620 "contain[ed] a large volume of amendments" purportedly intended for H.R. 3190, which had never been previously presented to the House of Representatives, and which were hastily "agreed to en bloc," "read", and "ordered to be engrossed." Then, and quite separate from the action upon the amendments, the Bill (H.R. 3190) was "ordered...to be read a third time," and it "passed" the Senate.[28] The amendments and H.R. 3190 were then received by the House of Representatives, where the Clerk read only the amendments contained in Sen. Rep. No. 1620. The House of Representatives did not address in any way the text of H.R. 3190, but merely concurred in "[t]he Senate amendments." 94 Cong. Rec. 8864-8865, supra **(App. K).**

The House of Representatives never considered or voted on the text of H.R. 3190 – the bill itself – during this session of Congress, and on June 20, 1948, entered an

[28] Apparently, the first and second readings of H.R. 3190 were the readings in the session of Congress which ended by adjournment ***sine die*** on July 27, 1947, because it had not been subject to discussion, debate, or consideration since that session ended.

adjournment that was "in effect…a ***sine die*** adjournment," In the nature ofKennedy v. Sampson, 511 F.2d at 444, Appendix n. 5. That part of H.R. 3190 that "passed" the Senate on June 18, 1948, 94 Cong. Rec. 8721-8722, supra **(App. J)**, was that text which was read for the "third time." The **amendments** under Sen. Rep. No. 1620 were **read a single time** in the House, but H.R. 3190 **as purportedly amended** was never read in either House **at any_time**, was not voted upon **at any time**, and never passed **at any time**. The Senate's order to "engross" the "amendments" –clearly not engrossed on June 18, 1948, when H.R. 3190 was read for the third time - establishes that the bill read for the "third time" by the Senate (and never voted on by the House in that session) was **an entirely different bill *textually*** than the one signed by the Speaker of the House, the President pro tempore of the Senate, and President Truman.

5. Congress' Attempt to Resurrect H.R. 3190 By Means Of Post-Adjournment Legislation Pursuant To H.Con. Res. 219 Violated the Quorum, Bicameral, And Presentment Requirements of Article I of the Constitution.

After Congress adjourned ***sine die*** on June 20, 1948, pursuant to H.Con.Res. 219, A single officer of each House of Congress signed a bill purporting to be H.R. 3190 on June 23, 1948, 94 Cong. Rec. 9354, supra **(App. O)**, and presented **that bill** to the President, who signed it on June 25, 1948. 94 Cong. Rec. 9365-9367 **(App. Q)**. Thus, the post-adjournment signature "provision [of H. Con. Res. 219] was an important part of the legislative scheme," leading to the enactment of Public Law 80-772, without which it would never have "become a Law." In the nature ofBowsher v. Synar, 478 U.S. at 728. Public Law 80-772 expressly **and falsely** stated that it was "enacted" while both Houses were "in Congress assembled," when in fact, **Congress was not in session**. See National Archives & Records Adm. Cert. H.R. 3190 as signed into P.L. 80-7772, supra **(App. P).**

1 U.S.C. § 101 requires every "enacting clause of all Acts of Congress" to state: "'Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled.'" The Supreme Court In the nature ofMarshall Field & Co. v. Clark, 143 U.S. 649 (1892) defined the essence of this procedure:

> **The signing** by the Speaker of the House of Representatives, and, by the President of the Senate, **in open session, of an enrolled bill is an official attestation by the two houses** of such bill as one that has passed Congress. It is a **declaration by the two houses**, through their presiding officers, **to the President**, that a bill, thus attested, has received in due form, **the sanction of the Legislative branch** of the government, and that it is delivered to him in obedience to the constitutional requirement that all bills which pass Congress shall be presented to him.

143 U.S. at 672 (emphasis added). 1 U.S.C. § 106 codified this well-recognized substantive and implicit constitutional requirement. Reading 1 U.S.C. §§ 101 and 106 together compels the conclusion that all acts respecting a bill toward enactment must occur at least through presentment to the President while Congress is in session.

It is well established that a ***sine die*** "adjournment terminates the legislative existence of Congress." The Pocket Veto Case, 279 U.S. at 681. "'Th[e] expression, a 'house,' or 'each house,' [when] employed... with reference to the faculties and powers of the two chambers ... always means ... the constitutional quorum, assembled for the transaction of business, and capable of transacting business.'" 279 U.S. at 683 (quoting I Curtis' Constitutional Hertory of the United States 486, n. 1). Moreover, the term "'House'" means "the House in session," 279 U.S. at 682, and "'as organized and entitled to exert legislative power,' that is, the legislative bodies 'organized conformably to law for the purpose of enacting legislation.'" Id., (quoting Missouri Pacific Railway Co. v. Kansas, 248 U.S. 276, 281 (1919)). [T]hus, the "attestation" by the presiding officers and the "**declaration by the two houses!** ... to the President," Field & Co., 143 U.S. at 672, could not have been an "attestation" or "declaration" by any such "house" or "houses" during adjournment ***sine die*** because no such "houses" exist constitutionally at such time.

See also, In the nature ofUnited States National Bank of Oregon v. Independent Insurance Agents of America, 508 U.S. 439, 455, n.7 (1993) (noting that the rule established In the nature ofMarshall Field & Co., 143 U.S. at 672, made statutory by 1 U.S.C. § 106, turned upon "the enrolled bill signed in **open session** by the Speaker of the House of Representatives and the President of the Senate" (Emphasis added).

When a bill has passed the House of Representatives, it must be printed as an "engrossed bill", which "shall be signed by the Clerk of the House ... sent to the other House, and in that form shall be dealt with by that House and its officers, and, if passed, returned signed by said Clerk." 1 U.S.C. § 106 (Emphasis added).

In the immediate case, H.R. 3190 was passed by the House of Representatives on May 12, 1947, engrossed, and sent to the Senate, and there referred to the Senate Committee on the Judiciary. See 93 Cong. Rec. 5048-49, 5121, supra **(App. C).** However, it was not dealt with "in that form" and did not pass "in that form."

Instead, amendments were proposed under cover of Sen. Rep. No. 1620, were "agreed to en block," **read** into the record a single time, and "ordered to be engrossed," 94 Cong. Rec. 8721-22, supra **(App. J)**. Then, "the bill [H.R. 3190] was **read** the third time and passed." 94 Cong. Rec. 8722, supra **(App. J).**

This contravenes the procedures of the House of Representatives for the 80th Congress. "When a bill with Senate amendments comes before the House, the House takes up each amendment by itself ..." H.Doc. No. 769, Stages of a Bill in the House, § 983, No. 13, pg. 483.

Moreover, to be expected, "[t]he House in which a bill originates enrolls it." Id. No. 15. However, in the case of House bills such as H.R. 3190, the "chairman of the

Committee on House Administration … affixes to the bills examined a certificate that the bill has been found truly enrolled." Id. No. 16. **No such certificate is "affixe[d]" to H.R. 3190 as certified by the officials of the National Archives.** National Archives & Records Adm. Cert. H.R. 3190, supra **(App. P)**.

Thus, it appears on the face of the purportedly amended H.R. 3190, that it was not "enrolled," there is no record in the House of Representatives prior to June 20, 1948 - the day Congress adjourned ***sine die*** – that it had been or was to be "enrolled" and, therefore, in addition to the fact that the bill did not follow the course of law as prescribed, it lacks both of the elements underlying the Field & Co. evidentiary rule – i.e., the "signing" must be "in open session" and must be upon "an enrolled bill." Field & Co., 143 U.S. at 672.[29]

The reference to the H.R. 3190 purportedly "found truly enrolled" is identified thus: "H.R. 3190. An act to revise, codify, and enact into positive law title 18 of the United States Code, entitled 'Crimes and Criminal Procedure.'" 94 Cong. Rec. 9363 **(App. U). It does not indicate whether it is referring to H.R. 3190 as passed by the House on May 12, 1947 – the only time the House ever voted on it,** 93 Cong. Rec. 5048-49, supra **(App. C);** See also 94 Cong. Rec. D 556-557 (Daily Digest) (showing passage in the House of H.R. 3190 the only time on May 12, 1947), supra, **(App. B), or**

[29] On July 26, 1948, "Mr. LaComte, from the Committee on House Administration, reported that that committee had examined and found" that 3190 had been "truly enrolled." 94 Cong. Rec. 9363,supra, **(App. U). This alleged finding appears over a month after the June 20, 1948 adjournment and over a month since the Speaker of the House, President pro tempore of the Senate, and President Truman allegedly signed H.R. 3190 and it was deposited in the State Department as an enactment.** The statutory mandate after final passage and printing to "call[]" the bill in such final form "the enrolled bill," 1 U.S.C. § 106, July 30, 1947, ch. 388, § 1, 61 Stat. 634, is determined by the certificate "affixe[d] to the bill," H.Doc. No. 769, Stages of a Bill, supra, No. 16, all of which is required before the "sign[ing] by the presiding officers of both Houses and sent to the President of the United States." 1 U.S.C. § 106.

the dubiously amended H.R. 3190 passed by the Senate on Jun 18, 1948. 94 Cong. Rec. 8721-22, supra, **(App. J).**[30]

Art. I, § 7, mandates that a bill that has passed both Houses "shall before it becomes a Law, be presented to the President of the United States..."Art. I, § 7, Cl 2; In the nature ofINS v. Chadha, 462 U.S. at 945. However, the constitutional requirement to "present" such a bill to the President "can only contemplate a presentment by the Congress in some manner, [because] ... [a]t that point the bill is necessarily in the hands of the Congress." In the nature ofUnited States v. Kapsalis, 214 F.2d 677, 680 (7th Cir. 1954), cert. denied, 349 U.S. 906 (1955) (emphasis added). Thus, presentment is clearly part of the legislative procedure required as essential to enactment of a bill as law. In the nature ofINS v. Chadha, 462 U.S. at 945, 947, 951. **"After a bill has been presented to the President, no further action is required by Congress in respect of that bill, unless it be disapproved by him ..."** In the nature ofLa Abra Silver Mining Co. v. United States, 175 U.S. 423, 454 (1899). Clearly, presentment is part of the constitutionally mandated "Business," Art. I, § 5, Cl. 1, to be "exercised in accord with [the] single, finely wrought and exhaustively considered procedures" "prescri [bed] ... in Art. I, §§ 1, 7." In the nature ofINS v. Chadha, 462 U.S. at 951.

"Congress," of course, "cannot grant to an officer under its control what it does not possess,'' Metropolitan Wash. Airport Auth., 501 U.S. at 275 (quoting In the nature ofBowsher v. Synar, 478 U.S. 714, 726 (1986). Congress does not possess the "capab

[30] As noted previously, the June 18, 1948 passage by the Senate of H.R. 3190 appears to have been the same H.R. 3190 passed by the House on May 12, 1947. However, even if the Senate's passage involved an amended version (which the record does not show) of H.R. 3190, the absence of the required certificate of enrollment affixed to the bill and the purported finding of enrollment long after the bill had been purportedly signed and sent to the Department of State as an enactment into positive law smacks of **post-factum cover-up of a mistake of constitutional proportion, if not evidence of a conspiracy.**

[ility] of transacting business" and is not "entitled to exert legislative power," when its "legislative existence" has been "terminate[d]" by an "adjournment" ***sine die***. The Pocket Veto Case, 279 U.S. at 681-83 (citations omitted).

Congress, therefore, could not "present" to the President a Bill signed after an adjournment *sine die* which terminated the existence of the legislative session. "The signing by [the presiding officers of the two houses], in open session, of an enrolled bill is **an attestation by the two houses**." Field & Co., 143 U.S. at 672. Such a signing while Congress is under legislative termination by adjournment **cannot** constitute "an attestation by the two houses." The Pocket Veto Case, 279 U.S. at 683 ("[H]ouse ... with reference to the faculties and powers of the two chambers ... always means ... the constitutional quorum, assembled for the transaction of business, and capable of transacting business.") (citation omitted); In the nature ofWright v. United States, 302 U.S. 583, 600 (1938) (Stone, J., concurring) ("The houses of Congress, being collective bodies, transacting their routine business by majority action are capable of acting **only** when in session and by formal action recorded in their respective journals, or by recognition, through such action, of an established practice.").

Whether the action taken under H. Con. Res. 219 was an "exercise of legislative power" depends upon whether it was essentially "legislative in purpose and effect." INS v. Chadha, 462 U.S. at 952. "In short, when Congress '[takes] action that ha[s] the purpose and effect of altering the legal rights, duties, and relations of persons ... outside the Legislative Branch,' it must take that action by the procedures authorized in the Constitution." Metropolitan Wash. Airports Auth., 501 U.S. at 276 (quoting INS v. Chadha, 462 U.S. at 952-55). "If Congress chooses to use a [] resolution ... as a means

of expediting action, it may do so, if it acts by both houses and presents the resolution to the President," Consumer Energy Council of America v. F.E.R.C., 673 F.2d 425, 445 (D.C. Cir. 1982), aff'd, Process Gas Consumers Group v. Consumer Energy Council of America, 463 U.S. 1216 (1983).

The inescapable conclusion as to the "purpose and effect" of H. Con. Res. 219 was to enact a bill that at the time of adjournment on June 20, 1948, had not been enrolled and did not textually exist. The Senate brought the long-dead H.R. 3190 into consideration for the first time in the Second Session of the 80th Congress with "a large volume of amendments" under S. Rep. 1620, at which time the "amendments were considered and agreed to en bloc" and "ordered to be engrossed." 94 Con. Rec. 8721-22, supra **(App. J).** H.R. 3190 was thereupon read for the "third time" and "passed" by the Senate. (Id.) The House immediately thereafter "concurred in" the amendments, but never voted on the text of H.R. 3190 then or at any time during that session. 94 Con. Rec. 8864-65. See also 94 Cong. Rec. D556-557 (Daily Digest) (showing passage in the House of H.R. 3190 the only time on May 12, 1947), supra **(App. B).**

The bill, purportedly H.R. 3190, signed by the legislative officers on June 23, 1948, presented thereafter to the President and signed by him on June 25, 1948, **is a text that did not exist prior to the adjournment**. Instead, this version of H.R. 3190 – never considered or voted on by the House and doubtfully by the Senate – **contains the texts of the amendments for the first and only time**. Here, the 80th Congress, denounced by President Truman, as a "body dominated by men with a dangerous lust for power and privilege," Encyclopedia Americana, Vol. 27, 175 (2005), surreptitiously provided a bill the text of which had never passed either House "mask[ed] under … [the] indirect

measure," Metropolitan Wash. Airports Auth., supra, 501 U.S. at 277 (quoting Madison, The Federalist, No. 48, pg. 334 (J. Cooke 1961 ed.)) of a resolution purporting to authorize continuing legislative action during adjournment, with no quorum and no Congress, of an extra-congressional bill. Public Law 80-772 did not "become a Law" as required by the constitutional procedures mandated under Article I, § 5, Cl. 1 and Article I, § 7, Cl. 2 and is unconstitutional and ***void ab initio***.

THE DISTRICT COURT ORDER UNDER WHICH PETITIONER WAS COMMITTED TO EXECUTIVE CUSTODY PURSUANT TO THE JURISDICTIONAL GRANT OF 18 U.S.C. § 3231 OF THE UNCONSTITUTIONAL PUBLIC LAW 80-772 WAS ISSUED *ULTRA VIRES*, UNCONSTITUTIONAL, AND, THEREFORE, THE DISTRICT COURT LACKS JURISDICTION.

"The challenge in the case goes to the subject-matter jurisdiction of the [district] court and hence its power to issue the order." In the nature ofUnited States Catholic Conference v. Abortion Mobilization, Inc., 487 U.S. 72, 77 (1988), committing Petitioner to imprisonment in Executive custody. Thus, the "question is, whether ... [the district court's] action is judicial or extra-judicial, with or without the authority of law to render [the] judgment," In the nature ofRhode Island v. Massachusetts, 37 U.S. (12 Pet.) 657, 718 (1838), and to issue the commitment order.

"Federal courts are courts of limited jurisdiction ... Jurisdiction of the lower federal courts is further limited to those subjects encompassed within a statutory grant of jurisdiction." Insurance Co. of Ireland, Ltd. v. Compagnie des Bauxite de Guinea, 456 U.S. 694, 701 (1982); In the nature ofKline v. Burke Const. Co., 260 U.S. 226, 234 (1922) (all lower federal courts "derive[] [their] jurisdiction wholly from the authority of Congress"); In the nature ofUnited States v. Hudson & Goodwin,11 U.S. (7 Cranch) 32, 33 (1812) (federal courts "possess no jurisdiction but what is given to them by the power

that creates them."). If anything, this is even more true in criminal cases. In the nature ofUnited States v. Hall, 98 U.S. 343, 345 (1879) (federal "courts possess no jurisdiction over crimes and offenses ... except what is given to them by the power that created them"); Hudson & Goodwin, 11 U.S. (7 Cranch) at 33-34. See also, e.g., In the nature ofUnited States v. Wiliberger, 18 U.S. (5 Wheat) 76, 95-105 (1820) ("the power of punishment is vested in the legislative, not the judicial department," criminal statutes are to be construed strictly, "probability" cannot serve to "enlarge a statute" and an offense not clearly within the terms of a statute precludes federal court jurisdiction).

Subject-matter jurisdiction means "the courts' statutory or constitutional power to adjudicate the case," In the nature ofUnited States v. Cotton, 535 U.S. 625, 630 (2002) (quoting Steel Co. v. Citizens For a Better Environment, 523 U.S. 83, 89 (1998)); In the nature ofRhode Island v. Massachusetts, 37 U.S. (12 Pet.) at 718 ("Jurisdiction is the power to hear and determine the subject-matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them"); In the nature ofReynolds v. Stockton, 140 U.S. 254, 268 (1891) ("Jurisdiction may be defined to be the right to adjudicate concerning the subject matter in a given case"). "Subject matter limitations on federal jurisdiction serve institutional interests by keeping the federal courts within the bounds the Constitution and Congress have prescribed," In the nature ofRuhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999).

"Without jurisdiction the court cannot proceed at all in any cause ... and when it ceases to exist, the only function of the court is that of announcing the fact and dismissing the cause." In the nature ofSteel Co. v. Citizens, 523 U.S. at 94 (quoting Ex parte McCardle, 74 U.S. (7 Wall) 506, 514 (1868)); In the nature ofWilly v. Coastal

Corp., 503 U.S. 131, 137 (1992) ("lack of subject-matter jurisdiction ... precludes further adjudication"). The Supreme Court has asserted over and over that "[t]he requirement that jurisdiction be established as a threshold matter spring[s] from the nature and limits of the judicial power of the United States and is inflexible and without exception." Steel Co, 523 U.S. at 94-95 (quoting In the nature ofMansfield C., & L.M.R. Co. v. Swan, 111 U.S. 379, 382 (1884)); See also, Insurance Co. of Ireland, Ltd., 456 U.S. at 702.

Because subject matter jurisdiction "involves a court's power to hear a case, [and thus] can never be forfeited or waived ... correction [is mandatory] whether the error was raised in district court" or not. In the nature ofUnited States v. Cotton, 535 U.S. at 630 (citation omitted); Steel Co., 523 U.S. at 94-95 (citing cases). "When a district court did not have subject-matter jurisdiction over the underlying action ... [its] process [es] [are] ***void*** and an order of [punishment] based [thereupon] ... must be reversed." United States Catholic Conf., 487 U.S. at 77; In the nature ofWilly v. Coastal Corp., 503 U.S. at 139 ("[T]he [punishment] order itself should fall with a showing that the court was without authority to enter the decree."); Ex parte Fisk, 113 U.S. 713, 718 (1885) ("When ... a court of the United States undertakes, by its process ... to punish a man ... [respecting] an order which that court had no authority to make, the order itself, being without jurisdiction, is ***void*** and the order punishing .. is equally ***void***").

Habeas corpus review, "is limited to the examination of the jurisdiction of the court whose judgment of conviction is challenged." In the nature ofBowen v. Johnson, 306 U.S. 19, 23 (1939); See also INS v. St. Cyr, 533 U.S. 289, 311-314 (2001). A court "has jurisdiction to render a particular judgment only when the offense charged is within the class of offenses placed by the law under its jurisdiction," Bowen, 306 U.S. at 24. If

it is found that the court lacked jurisdiction to try petitioner, the judgment is ***void*** because the court lacked jurisdiction, the prisoner must be discharged. Ex parte Yarbrough, 110 U.S. 651, 654 (1884).

Petitioner has established that H.R. 3190[31]: (1) failed to pass one or both Houses of Congress and/or (2) that the legislative process continued after Congress adjourned ***sine die*** by legislative officers acting pursuant to H.Res. 219, all of which violated Article I, Section 5, Clause 1, Article I, Section 7, Clause 2, and/or Article I, Section 7, Clause 3 of the Constitution– and any of which rendered Public Law 80-772 unconstitutional and ***void ab initio***. Therefore, because" the offense[s] charged ... [were] placed by the law under [the] jurisdiction," of the district court pursuant to 18 U.S.C. § 3231 of Public Law-772, which is unconstitutional, and "***void***, the court was without jurisdiction and the prisoner must be discharged." Yarbrough, 110 U.S. at 654. Since Public Law 80-772 has never been enacted as required by Article I, Section 5, Clause 1, Article I, Section 7, Clause 2, and Article I, Section 7, Clause 3 of the Constitution, thereof, rendering ***void ab initio*** the jurisdiction by which the district court acted to convict, enter judgment, and order Petitioner imprisoned in Executive custody, the district court's actions were "***ultra vires***," Ruhrgas AG, 526 U.S. at 583 (quoting Steel Co., 523 U.S. at 101-102), and "***coram non judice***." In the nature ofRhode Island v. Massachusetts, 37 U.S. (12 Pet.) at 720.

The proceedings including the conviction and judgment thereupon "being without jurisdiction, is ***void***, and the order punishing ... [is] equally ***void***." Ex parte Fisk, 113 U.S. at 718; United States Cath. Conf., 487 U.S. at 77; In the nature ofWilly v. Coastal Corp., 503 U.S. at 139. This is precisely the office and function of habeas corpus – i.e.,

[31] Which became Public Law 80-772.

to "examin[e] .. The jurisdiction of the court whose judgment of conviction is challenged," In the nature ofBowen v. Johnson, 306 U.S. at 23, and where, as here, the court was clearly "without jurisdiction ... the prisoner ... must be discharged." Ex parte Yarbrough, 1110 U.S. at 654. See also Ex parte Lange, 85 U.S. (18 Wall) 163, 166 (1874).

In short, no quorum was in place on May 12, 1947 when the House of Representatives voted 38 to 6 on Public Law 80-772 (which included 18 USC section 3231 and no quorum was in place on June 22 and June 23, 1948 when the Speaker of the House and President pro tempore of the Senate signed Public Law 80-772 as Congress had fully and completely adjourned sine die on June 20, 1948 at 7 AM.

P. Issue Two: Title 26 Was Never Passed Into Law as No Implementing Regulations Existed

32. There also does not exist the underlying Code **of Federal Regulations** to support the statutes in Title 26 which therefore vitiates such law. In the nature of**California Banker's Assoc. v. Schultz**, 416 US 21; 38, In the nature of**United States v. Mersky**, 361 US 431, and In the nature of**Hotch v. United States**, 212 F.2d 280, 283 all in violation of **The Federal Registry Act** and **The Administrative Procedures Act** and **Fair Warning Doctrine** and **Due Process Clause**.

"Once promulgated, these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language."

"The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other." [Emp. added] 361 US 431 In the nature of**United States v. Mersky**, 80 S.Ct. 459, 4 L.Ed.2d 423. The court In the nature of**Hotch v. United States**, 212 F.2d 280, 283 declares that, ..."if the rule itself is not published, it follows that it has not been issued; and if a rule has not been issued, it has no force as law." "If certain acts have been made crimes by duly enacted law, the knowledge of their contemplated administrative proscription cannot subject the informed person to criminal prosecution. While ignorance of the law is no defense, it is conversely true that a law which has not been duly enacted is not a law, and therefore a person who does not comply with its provisions cannot be guilty of any crime. Id. at 284".

The reason that there are no **CFR's** to accompany Title 26 et al is because said **ACT** was never constitutionally passed and therefore the act is invalid as a matter of law.

Any regulations, if they exist, refer to Title 27, Alcohol Tobacco & Firearms, but not to Title 26, rendering the implementing regulations invalid

as a matter of law and any acts by the government under Title 26 invalid as a matter of law.

Q. Issue Three: The Government's Fraud, Conspiracy, Bad Faith, and Violations of the Principles of Fair Dealing Render the Indictment and Conviction Void

Throughout the period when the Department of Justice was indicting, jailing, and convicting Petitioner, they wore two faces. The first face, the one presented to the Congress of the United States and, therefore, the American people, said that when Congress adjourned for more than three days, the adjournment was a **sine die** adjournment, thereby killing all pending legislation.[32] In other words, the Department of Justice, the "experts in the law", **knew** that Public Laws 80-772 and Title 26 were never enacted into positive law, were unconstitutional on their face, and were void ab initio. They, therefore, **knew** that 18 USC § 3231 was never enacted into positive law, was unconstitutional on their face, and was void ab initio. They therefore **knew** that Petitioner was not indicted pursuant to the prior criminal code, 18 USC § 546 (1940) and that she was not given fair warning related to that statute. They, therefore, **knew** that without the district court having jurisdiction pursuant to 18 USC § 546 (1940), they were indicting a person who was legally innocent as a matter of law. They, therefore, also

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[32] "'We think that where one House seeks the consent of another House and goes out on a recess for more than 3 days, you have bicameral action, which constitutes an adjournment of Congress' … 'the Constitution implies that any adjournment by the Congress – that is, any adjournment of either house for longer than three days – gives occasion for a pocket veto.' … So we think that part of the rationale for the pocket veto clause was the ducking Congress problem, but there was another reason, which was to eliminate or to minimize periods of uncertainty, to focus the debate… to permit the legislative process to rapidly resolve and immediately address differences that arose between the Executive and Congress.'" : "Thus, we believe that the Constitution implicitly defines an adjournment of Congress, which takes place whenever either House goes out for more than 3 days." (John McGinnis of the Office of Legal Counsel, pocket veto hearing in 1990 before the House Judiciary Committee). C-Span Congressional Directory: Pocket Veto: "is when the President fails to sign a bill within the 10 days allowed by the Constitution. Congress **must be in adjournment** in order for a pocket veto to take effect." U.S. Senate, Definition of Sine Die Adjournment.

knew that Title 26 was never enacted into positive law because no proper implementing regulations existed, was unconstitutional on its face, and all acts pursuant to Title 26 were void ab initio.

With respect to the accused's right to information, the prosecutor should be vigilant to see that full disclosure is made at trial of whatever may be in her or her possession which bears in any material degree on the charge for which the defendant is tried; it is more important in the long run that the government disclose the truth so that justice may be done than that some advantage might accrue to the prosecution insuring a conviction. In the nature of*U.S. v. Consolidated Laundries Corp.*, 291 F. 2d 563 (2d Cir. 1961); In the nature of*United States v. Zborowski*, 271 F.2d 661 (2d Cir. 1959). The American Bar Association for the Administration of Criminal Justice provides that, "except as otherwise specified as to protective orders, the prosecuting attorney **must disclose** to defense counsel any material or information within the prosecutor's possession or control which tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment imposed." ABA Standards for Criminal Justice, Discovery and Procedure Before Trial § 11-2.1(c). A plea agreement includes an **implied obligation of good faith and fair dealing**. In the nature of*United States v. Jones*, 58 F.3d 688 (D.C. Cir. 1995). The government's obligation to disclose material evidence to the accused is pertinent not only to the accussed's preparation for trial, but also to her or her determination of whether or not to plead guilty. In the nature of*United States v. Avellino*, 136 F.3d 249 (2d Cir. 1998).

An order or judgment obtained in violation of Due Process, without jurisdiction, or by fraud is void. In the nature of*Government Financial Services v.*

Peyton Place, 63 F.3d 767, 772-773 (5th Cir. 1995); In the nature of*New York Life Insurance Co. v. Brown*, 84 F.3d 137, 143 (5th Cir. 1996). The undisputed fact exists that a fraud, plainly designed to corrupt the legitimacy of the truth-seeking process, was perpetrated on the court by the prosecution team in this case. *See, e.g.,* In the nature of*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 247 (1944). Overruled on other grounds by Standard Oil v. United States, 429 U.S. 17, 18 (1976); In the nature of*Dixon v. Commissioner of Internal Revenue*, No. 00-70858 (9th Cir. 1/17/04). See also In the nature of*Chambers v. Nasco, Inc.*, 501 U.S. 37, 44 (1991); In the nature of*Fierro v. Johnson*, 197 F.3d 147, 12 (5th Cir. 1999); *In re Murcheron*, 349 U.S. 133, 136 (1955). "Whenever an allegation is made that an attorney has violated her moral and ethical responsibility, an important question of professional ethics is raised. It is the duty of the district court to examine the charge, since it is that court which is authorized to supervise the conduct of the members of its bar." In the nature of*Gas-A-Tron v. Union*, 34 F.2d 1322 (9th Cir. 1976).

Any doubt as to the government's official position and the fraud is further confirmed in **the words of the former Attorney General**: Memorandum for Janet Reno, Attorney General, November 12, 1996, pg. 1: "You have asked this office to analyze the legal effectiveness of a congressional subpoena issued **after a sine die adjournment of Congress**. In a **1982 opinion**, this Office concluded that a congressional subpoena issued during a session of Congress lacks present force and effect after the adjournment sine die of Congress. Continuing Effect of a Congressional Subpoena Following the Adjournment of Congress, 6 Op. O.L.C. 744 (1982). ***According***

to that opinion, the lapse in legal effectiveness 'results from the same factors that produce, at the same time, the death of all pending legislation not enacted..."

Any question as to the government's and Court's knowledge of the fact that the 80th Congress adjourned sine die, thereby killing all legislation, can also be found in the 107th Congress House Rules Manual, which traces its roots back to *Blackstone's Commentaries*. See page 1, Modes of Separation: "Prorogation or dissolution, constitutes there what is called a session; provided some act is passed. In this case, all matters depending before them are discontinued, and at their next meeting are to be taken up de novo, if taken up at all. 1 Blackst., 186.... If convened by the President's proclamation, this must begin a new session, and of course, determine the preceding one to have been a session."

The government knew at the time it was prosecuting Petitioner and afterwards that it was defrauding the court, acting in bad faith, engaging in unfair dealing, and conspiring with other districts in furtherance of its criminal actions. The Petitioner's indictment and conviction should be dismissed because of the fraud perpetrated by the government. [33]

R. Issue Four: The Court Failed to Find the Essential Element of Locus Delecti

Petitioner moves the court to issue a writ mandating the immediate discharge of petitioner to her unfettered liberty, or in the alternative, granting her a full evidentiary hearing within ten (10) days of the filing of this petition, with the petitioner present, on the facts set forth in this habeas corpus petition. As this issue concerns this court's Article III jurisdiction, it can be raised at any time.

[33] See CRS Report to Congress, March 30, 2001; The Pocket Veto, Its Current Status; C-Span Congressional Glossary, Definition of Pocket Veto; U.S. Senate, Definition of Adjournment Sine Die.

The Constitutional error removed the Court's Article III subject matter jurisdiction, and requires the court to order the petitioner discharged to her unfettered liberty, forthwith. Jurisdiction is ongoing throughout these proceedings and must be proven for a federal district court to retain the authority over a defendant to find her guilty and to sentence her.

The court lost Article III subject matter jurisdiction over petitioner's cause by not finding the essential element of locus delecti in the "District of Arizona" as charged.

The error acted as a "not guilty" verdict, vitiating the court's sentence. The result is petitioner is presently imprisoned/constrained in violation of the Fifth and Sixth Amendments to the Constitution and laws of the United States of America.

Failure by the court to convene an immediate full evidentiary hearing, with petitioner present, will result in the continuing fundamental injustice upon petitioner.

As support for the petition, petitioner will present the following facts and authorities.

At this point, "it is appropriate to restate certain basic principles that limit the power of every federal court. Federal courts are **not** courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto". See In the nature of*Marbury v. Madison*, 1 Cranch 137 at 173-180; 2 L.Ed. 60 (1803); In the nature of*Bender v. Williamsport Area School District*, 475 U.S. 534 at 541; 106 S. Ct. 1326; 89 L. Ed. 2d 501 at 511 (1996).

For that reason, every federal court has a **special obligation** to "satisfy itself of its own jurisdiction in a cause under review" even though the parties are prepared to concede

it. In the nature of*Mitchell v. Maurer*, 293 U.S. 237 at 244, 79 L. Ed. 338, 55 S.Ct. 612, at 165 (1934); Id.

The UNITED STATES Supreme Court[, hereafter "Supreme Court", has ruled if the record discloses that the lower court was without jurisdiction, the court will notice the defect although the parties make no contention concerning it. When the lower federal court lacks jurisdiction, we have jurisdiction on appeal, **not** of the **merits**, but merely for correcting the error of the lower court for entertaining the suit. In the nature of*U.S. v. Carrick*, 289 U.S. 435, 40, 56 S.Ct. 829, 80 L.Ed. 1263 (1936); Id.; See also; In the nature of*Summers v. Mata*, 449 U.S. 539, 547-548 n.2, 101 S.Ct. 764, 66 L.Ed. 2d 722 (1981); In the nature of*Louisville Nashville Rail Co. v. Mottley*, 211 U.S. 149, 152; 29 S.Ct. 42, 53 L.Ed. 126 (1908) (citing cases); In the nature of*Capron v. Van Noorden*, 6 U.S. 126, 127, 2 L.Ed. 229 (1804).

The obligation to notice defects in a court's subject matter jurisdiction assumes a special importance when a constitutional issue is presented.

In a long and venerable line of cases, the Supreme Court has held that without proper jurisdiction, a federal court cannot proceed at all, but can only note the jurisdictional defect and **dismiss** the cause for lack of jurisdiction. See In the nature of*Capron v. Van Noorden*, 6 U.S. at 127 Ibid.

Background Facts

Petitioner pled not guilty to the charges brought against her. All counts charged the **locus delecti** as being "in the District of Arizona, and elsewhere."

This court un-constitutionally broadened petitioner's indictment, by not specifically finding the charged acts "occurred" in the "District of Arizona" at the

specific locations, in the specified towns charged. This allowed petitioner to be convicted on an **assumption**. The failure of the Court to find these essential elements removed the court's Article III subject matter jurisdiction from that point forward.

Standard of Review

It is well-settled that for jurisdiction to be established is a threshold matter which springs from the nature and limits of the juridical power of the United States and is inflexible and without exception. In the nature of*Mansfield C & L.M.R. Co. v. Swan*, 111 U.S. 379, 382, S.Ct. 510, 28 L.Ed. 462 (1884); In the nature of*Steel Company v. Citizens For a Better Environment*, 523 U.S. 83, 93-102, 118 S.Ct. 1003, 140 L. Ed. 2d 210 (1998).

This is grounded in "two centuries of jurisprudence affirming the necessity of determining jurisdiction before proceeding to the facts." *Steel Co.*, 523 U.S. at 98-102. This reiterates the absolute purity of the Rule that Article III jurisdiction is **always** an **antecedent** question. Id.

Article III subject matter jurisdiction questions can be raised at any time and addressed by federal courts at any time on their own motion. In the nature of*McGrath v. Kristensen*, 340 U.S. 162 (1950). Lack of Article III jurisdiction cannot be waived and cannot be conferred upon a federal district court by consent, in action, or by stipulation. In the nature ofCalifornia *v. La Rue*, 409 U.S. 109, 112 (1972).

Federal law provides, "Where a crime consists of distinct parts which have different localities, e.g." and, the whole may be tried where any part **can** be **proved** to have been done. In the nature of*U.S. v. Lombards*, 241 U.S. 347, 356-367, 32 S.Ct. 493, 56 L.Ed. 1114 (1912).

The validity of an Order on sentencing of a federal district court depends upon that court having jurisdiction over both the subject matter, and the defendant. In the nature of*Stoll v. Gottlieb*, 305 U.S. 165, 171-172 (1938).

The presumption is, causes are not within the jurisdiction of federal courts unless the contrary affirmatively appears. It is to be presumed a cause lies outside the limited jurisdiction and the burden of establishing the contrary rests upon the government. In the nature of*Bess v. Preston*, 111 U.S. 252, 258-262, 4 S.Ct. 407 (1884); In the nature of*Hanford v. Davis*, 163 U.S. 273, 278-280, 16 S.Ct. 1051, 1052-1054, 41 L.Ed. 157 (1896)("It is well settled that... jurisdiction of a circuit court of the U.S. is limited in the sense that it has no other jurisdiction than that conferred by the Constitution and laws of the U.S.").

There is no presumption in favor of the jurisdiction of the courts of the UNITED STATES Ex *parte Smith*, 94 U.S. 455, 24 L.Ed. 165 (1877).

Article III of the Constitution requires the trial of all crimes shall be had in the "State" where the said crimes shall have been committed. Article III, Section 2, Clause 3.

Its command is reinforced by the Sixth Amendment's requirement that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and District wherein the crime shall have been committed." Amend VI, U.S. Constitution.

Rule 18 of the Federal Rules of Criminal Procedure, hereinafter "F.R.Cr.P." echoes this command where it mandates "prosecution shall be had in a district in which

the offense was committed." See In the nature of*U.S. v. Rodriguez-Moreno*, 526 U.S. 275, 282, 119 S.Ct. 1239, 1242, 143 L.Ed.2d 393 (1999).

Simply stated, without Article III subject matter jurisdiction a Court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing that fact, and dismissing the cause. *Ex Parte McCardle*, 7 U.S. 506, 514, 19 L.Ed. 264 (1869); *Steel Co.*, supra, 523 U.S. at 94.

A person when first charged with a crime is entitled to a presumption of innocence, and may insist that her guilt be established beyond a reasonable doubt. In re *Winship*, 397 U.S. at 364. As a result, the government bears the burden of proving **all** elements of the offense charged, and must persuade the fact-finder beyond a "reasonable doubt" of all the facts necessary to establish each of the charged elements. In the nature of*Sullivan v. Louisiana*, 508 U.S. 275, 277-78, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993).

When the crime charged is a felony, the Fifth Amendment requires that prosecution be begun by indictment. Amendment V, United States Constitution.

Charges in an indictment may not be broadened through amendment except by the Grand Jury itself. *Ex Parte Bain*, 127 U.S. 1, 10, 7 S.Ct. 781, 30 L.Ed. 849 (1887); In the nature of*Stirone v. U.S.* 361 U.S. 212, 216, 80 S.Ct. 270, 4 L.Ed.2d 252 (1960).

Explicitly the Due Process clause protects the accused against conviction except upon proof beyond a reasonable doubt of **every fact** necessary to constitute the crime with which he is charged. *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); In the nature of*Duncan v. Louisiana*, 391 U.S. 145, 151-154 (1968); In the nature of*Patterson v. New York*, 932 U.S. 197, 210 (1977); *Sullivan*, supra, 508 U.S. at

277-278; In the nature of*U.S. v. Gaudin*, 515 U.S. 506, 510, 115 S.Ct. 2310, 132 L.Ed.2d 494 (1995); In the nature of*Jones v. U.S.*, 526 U.S. 227, 243 (1999); In the nature of*Apprendi v. New Jersey*, 530 U.S. 466 (2000).

Federal Criminal defendants have a Fifth Amendment Right to be tried only on charges included in the Grand Jury's indictment, and may only be tried on the charges specifically set forth in that indictment. *Stirone*, 361 U.S. at 215-216.

A district court that constructively amends or broadens an indictment by its instructions to the jury, which allows for conviction on a lesser standard of proof, commits plain error. Id.

A constructive amendment of an indictment occurs when the charging terms of the indictment are altered, either literally, or in effect, by the court after the Grand Jury has last passed upon them. In the nature of*Russell v. U.S.* 369 U.S. 749, 770-771, 82 S.Ct. 1038, 8 L.Ed. 2d 240 (1962).

A constructive amendment always requires reversal because it deprives a defendant of her "right" to be tried only on the Grand Jury's charges, and the error seriously affects the fairness, integrity, and public reputation of the juridical proceedings.

Discussion

This court was required to find the essential elements of the charges against Petitioner in order to convict petitioner of the charged crimes. This court failed to find the charged essential jurisdictional elements of charges against Petitioner.

Reason for Granting the Petition and Discharging Petitioner

The court's review will conclusively demonstrate it failed to find each of the above charged acts occurred as stated, and that each act occurred "in the District of Arizona."

Petitioner's indictment specifically charged various crimes "in the District of Arizona, and elsewhere." The charged locus delecti then became an "essential element" of these crimes that mandated the Court to find, 'beyond a reasonable doubt,' in order to give "the District of Arizona" federal court Article III jurisdiction over petitioner. See Article III, Sec. 2, Cl. 3, U.S. Constitution; *Bass*, supra, 111 U.S. at 258-262; *In re Bonner*, 151 U.S. 242, 243 (1894).

By not finding that the charged crimes occurred "in the District of Arizona," this removed the Court's Article III jurisdiction over petitioner. *Ex Parte McCardle*, 7 U.S. at 514. This acts the same as a "not guilty" verdict and frees the petitioner from further jeopardy on the charges.

The fact that the court failed to find these specifically charged essential elements removed this court's Article III subject matter jurisdiction. *No crime was found to have occurred "in the District of Arizona," to give this court jurisdiction. Lambardo*, 241 U.S. at 77.

This court lacked the jurisdiction to find petitioner guilty, or to sentence her. *Without this court finding the criminal acts occurred "in the District of Arizona," this court could not proceed. Article III, Section 2, Clause 3, United States Constitution. In the nature ofMcClaughry v. Deming*, 186 U.S. 49 (1921).

Without Article III jurisdiction, this court was precluded from proceeding further in petitioner's cause. The only function remaining to this court now is that of announcing

this fact and dismissing petitioner's case. *McCardle,* supra, 7 U.S. at 514,; *Steel Co.*, supra, 523 U.S. at 101 (Article III jurisdiction "is **always** an antecedent question").

This court is a court of limited jurisdiction. Article III, section 2, clause 3, and that power authorized by the court on statute "is not to be expanded by juridical decree." In the nature of*Kokonen v. Guardian Life*, 511 U.S. 375, 377, 114 S.Ct. 1673, 128 L.Ed.2d 391, 395 (1994). A cause is presumed to lie outside this limited jurisdiction. Establishing the contrary rests upon the government. Id.

Without this court specifically finding the essential jurisdictional elements of the charges against Petitioner, it convicted Petitioner on the assumption that the government had proved the charged locus delecti. This was a structural error.

Wherefore, Petitioner moves this Court to issue its Writ granting the instant petitioner relief, mandating the trial court to vacate her un-constitutional conviction and sentence, and discharging her to her un-fettered liberty forthwith.

Or in the alternative, Petitioner moves this court to hold a full evidentiary hearing within ten (10) days of the filing of this motion, with petitioner present, on the facts presented in this petition.

S. Issue Five: The Court Has No Territorial Authority, No Article III Authority, And Violates the Separation of Powers Doctrine Due to the States of Emergency

The Separation of Powers doctrine provided for three separate and distinct branches of government. Petitioner's pleadings are verified and ***must be taken as true*** pending a hearing or proof otherwise.

The history of the reasons for the court's actions to support the DOJ go back a

long way. WE THE PEOPLE[34] of the United States[35] .... Do ordain and establish this Constitution[36]for the United States of America.[37] WE gave the government limited powers,[38] mostly administrative[39] and a Place from which to exercise those powers – a box ten miles square – and Places over which to exercise them[40] and authority to make laws for governing those Places.[41] WE gave the government power to establish administrative courts[42] to administer and interpret the laws in the Places and territories.[43] WE established the judicial branch and authorized the Supreme Court and the inferior courts.[44] Congress authorized the Supreme Court to make rules[45] for the inferior courts to follow in the conduct of civil[46] and criminal proceedings.[47]

United States District Courts in the Continental United States may be authorized to use the Federal Rules of Civil Procedure, hereafter "F.R.Civ.P."[48] in the adjudication of civil matters.[49] The United States District Courts in the Continental United States were never authorized by Congress or the Supreme Court to use the Federal Rules of Criminal Procedure (F.R.Cr.P.)[50] to conduct "criminal proceedings" for violations of the federal penal code when the alleged offense was committed within the exterior

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[34] Master- American citizens of the original 13 and 50 union states
[35] Fifty states united
[36] Trust indenture
[37] Servant-corporate name (U.S.A.) Of government of the United States
[38] Article I § 8
[39] Article I § 8,
[40] Article I § 8, Cl 17. The Federal Zone
[41] Article I § 8, Cl. 18.
[42] Article I § 8, Cl 9. Tribunals-United States Courts.
[43] Article IV § 3.
[44] Article III, Courts of appeal and district courts of the United States. See Rule 18.
[45] Act of June 29, 1940, c. 445.
[46] Federal Civil Code, 28 U.S.C. Rules of Civil Procedure.
[47] Federal Criminal Code, 18 U.S.C. Rules of Criminal Procedure.
[48] Act of June 19, 1934 (48 Stat. 1064; 28 U.S.C. § 2072).
[49] Criminal cases triable are petty offenses and misdemeanors under the civil code, 1972 Amendment to the Advisory Committee Notes, Rule 1, .F.R.Cr.P.
[50] Crimes and Criminal Procedures; Act of June 25, 1948, c.645 § 1, 62 Stat. 683.

boundaries of a union state.[51] "The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."[52] The phrase "district courts of the United States' was held not to include district courts in the territories and insular possessions.[53] "District court" includes all district courts named in subdivision (a) of this rule,[54] i.e., District Court of Guam, District Court of the Northern Mariana Islands and the District Court of the Virgin Islands.[55] Courts of the United States are defined in Title 18 § 23 and carry the same definition as "district court' in the Rules.

The United States District Courts are Article I administrative courts designed by Congress to function on behalf of the Executive branch of the government in those places subject to the jurisdiction of the United States.[56] The Article I courts were originally designated in the territories and were transferred from the Department of War to the Department of Interior and the same day into the Department of Justice by Executive Order # 6066 in the early 1930's. The Department of Justice brings all civil and criminal complaints in the name of the United States of America. Congress has limited the application of its' acts, i.e. Acts of Congress, such as Title 18 and Title 21, the federal penal code and Controlled Substance Act, respectively, to the District of Columbia, Puerto Rico, territory and insular possessions.[57] These two Titles are only applicable and enforceable in those Places. In fact, Title 21 mandates notice and opportunity to be heard

[51] 18 U.S.C. § 3001 referring to Rule 54(a), F.R.Cr.P.
[52] 18 U.S.C. § 3231.
[53] Rule 54(c),F.R.Cr.P.
[54] Rule 54, Advisory Committee Notes 1944 adoption
[55] *Mookini v. United States*,303 U.S. 201, 58 S.Ct. 543.
[56] Article I § 8, Cl. 17; 18 U.S.C. §§ 5 and 7, defining jurisdiction of the United States.
[57] Rule 54(c), F.R.Cr.P.

before criminal proceedings may be initiated.[58]

The F.R.Cr.P. are not authorized by Congress or the Supreme Court for use by this United States District Court. It then follows that any Act of Congress which may be thought to be applicable in this district which would rely on the F.R.Cr.P. for procedure to enforce the laws may not be prosecuted as no competent court is available.

It appears the United States District Court, District of Arizona, Phoenix Division is using the F.R.Cr.P. without Congressional authority to conduct "criminal proceedings" in this state. Therefore, any attempt at the continued confinement of Petitioner would be a gross usurpation of power and in violation of the Separation of Powers Doctrine. ***When a judge does not fully comply with the Constitution, then her/his orders are void***, *In re Sawyer*, 124 U.S. 200 (1888), the judge is without jurisdiction, and she/he has engaged in an act or acts of treason. "No state legislator or executive or judicial officer can war against the Constitution without violating her undertaking to support it." In the nature of*Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958). Judges have no judicial immunity for criminal acts, for aiding, assisting, or conniving with others who perform a criminal act, or for their administrative/ministerial duties. When a judge has a duty to act, he does not have discretion – he is then not performing a judicial act, he is performing a ministerial act. Judicial immunity does not exist for judges who engage in criminal activity, for judges who connive with, aid and abet the criminal activity of another judge, or to a judge for damages sustained by a person who has been harmed by the judge's connivance with, aiding, and abetting another judge's criminal activity.

T. Issue Seven: Petitioner was denied Effective Assistance of Counsel

Claims of ineffective assistance of counsel raise a cognizable constitutional

[58] 21 U.S.C. § 883. Due Process requirement of all administrative agencies.

Issue that can serve as the basis of a motion under §2255. *See* U.S. v. Giardino, 797 F.2d 30, 31 (1st Cir. 1986). The Sixth Amendment to the United States Constitution provides that in criminal prosecutions the accused shall have the right to the assistance of counsel for her or his defense. The United States Supreme Court has held that this right includes the right to effective assistance of counsel. In the nature of*McMann v. Richardson*, 397 U.S. 759, 771 n.14, 90 S. Ct. 1441, 25 L. Ed. 2d 763 (1970). Pursuant to this constitutional mandate, a defendant is entitled to reasonably competent assistance of counsel from pre-plea investigation and preparation through advocacy at sentencing. In the nature of*U.S. v. Garcia*, 698 F.2d 31, 33-34 (1st Cir. 1983).

The United States Supreme Court has held that in order for a prisoner to show that counsel's assistance was so ineffective at the sentencing stage to warrant vacating or correcting a sentence under 28 UNITED STATES CODE ANNOTATE, hereinafter "U.S.C.A.", §2255, the prisoner must show: 1) that her counsel's acts or omissions made counsel's overall performance fall below an objective standard of reasonableness and 2) that there is a reasonable probability that, but for counsel's errors, the prisoner would received a different outcome. In the nature of*Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984); *see* In the nature of*Hill v. Lockhart*, 474 U.S. 52, 58 (1985). Under the first prong of the above test, the prisoner must show that in light of all the circumstances present at the time, counsel's acts or **omissions** "were outside the wide range of professionally competent assistance." In the nature of*Tejeda v. Dubois*, 142 F.3d 18, 22 (1st Cir. 1998). Under the second prong, the prisoner must show a reasonable probability that, **"armed with the correct information, the outcome would have been different."** In the nature of*U.S. v. Vancol*, 916 F. Supp. 372, 377 (D. Del. 1996). In the

present case, the Plaintiff's counsel rendered ineffective assistance during pre-trial, trial, and appeal because she failed to investigate the facts and law related to the district court's jurisdiction under Title 18 and 18 U.S.C. § 3231, Title 21, the drug statutes, the States of Emergency, the Separation of Powers Doctrine, and failed to investigate the validity of Petitioner's indictment or to pursue a request for an evidentiary hearing on the above matters or file a F.R.Crim.P 12(b)(3) motion for dismissal pre-trial or a motion for dismissal, motion for judgment of acquittal, or motion for new trial based on the above issues during or after trial. The verified evidence establishes that had counsel preserved Petitioner's rights, that Petitioner would not have been convicted of a crime for which she is not guilty and would not now be illegally imprisoned. Accordingly, the Plaintiff's indictment, judgment and conviction on all offenses must be vacated.

U. Conclusion

Petitioner brings this Petition for relief from unlawful confinement pursuant to 28 U.S.C. § 2255, a request for habeas corpus relief from an illegal indictment and conviction. Petitioner was indicted and convicted for crimes for which no valid statute exists. **Nullum Crimen, Sine Lege, Nulla Poena, Sine Lege.** As established by judicially noticed facts, herein, Public Law 80-772, and 18 USC § 3231 are nullities, were never enacted into positive law, are unconstitutional on their face, and are void ab initio. Notwithstanding the above, Title 26 has no valid implementing regulations, on charges brought against petitioner, rendering it void and no charge or prosecution possible.

Notwithstanding the above, the indictment and conviction must be stricken because the government comes in bad faith, with unclean hands, and with unfair

dealing. Their official position before Congress and the American People admits the invalidity of the statutes used to indict and convict Petitioner, and the government knew at the time of the prosecution they were dealing in bad faith and Petitioner has a right to arrest their fraud.

Notwithstanding the above, the court failed to prove the locus delecti of the crimes charged, resulting in a not-guilty verdict for the Petitioner. Notwithstanding the above, Petitioner's counsel was also ineffective as a matter of law for failing to investigate the court's jurisdiction over Petitioner. Finally, the court has no jurisdiction because it has no territorial jurisdiction over the alleged crimes, is not an Article III court, and acts as a subsidiary of the Department of Justice based on the States of Emergency. Since the court has no jurisdiction over Petitioner, any sentencing done by the court would be illegal.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully prays this Honorable Court to:

A. Declare Petitioner's indictment and conviction void as a matter of law;

B. Declare Petitioner's judgment and illegal restraints contrary to the law and a direct violation of Petitioner's Constitutional rights;

C. Declare Public Law 80-772 unconstitutional;

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D. Declare18 U.S.C. § 3231 unconstitutional;

E. Declare Title 26 unconstitutional;

F. Issue an order to UNITED STATES Department of Justice to vacate Petitioner's judgment and conviction against any legal sentence it is authorized to impose, ordering Petitioner actually innocent of the present judgment imposed as contrary to law and a violation of Petitioner's Constitutional rights and Mandate Petitioner's immediate discharge from her fettered restraints on her liberty; and

G. Grant such further relief as the Court deems just and proper.

JURAT

I, Janice Sue Taylor under the penalty of perjury pursuant to 28 USC § 1746 affirm that the facts stated herein are true and correct.

Janice Sue Taylor

Subscribed and sworn to (or affirmed) before me on this 31 day of July, 2012 by JANICE S. TAYLOR, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

(Seal)

Notary Public

ANITA WILLIAMS
Notary Public, State of Texas
My Commission Expires
October 06, 2016

CERTIFICATE OF SERVICE
PROOF OF FILING

This petition was filed on the 6th day of August, 2012, in the **UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA PHOENIX DIVISION**

By third party intervener Gale-Lawrence; Webb, sui juris on behalf of Janice Sue Taylor
Currently incarcerated at:

FPC Bryan, Federal Prison Camp
P.O. Box 2149 Bryan
TX.77805
Under BOP # 86355008

Gale-Lawrence; Webb, sui juris

Gale-Lawrence; Webb, sui juris

Richard H. Weare Court Clerk
United States District Court
District of Arizona - Phoenix Division
Sandra Day O'Connor U.S. Courthouse #130
401 West Washington Street, SPC-1
Phoenix, Arizona 85003-2118