UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF OREGON

1000 SW 3rd Avenue, Suite 740, Portland, OR 97204

Tribunal: **Unified United States Common Law Grand Jury**
P.O. Box 59; Valhalla, New York 10595; Fax: (888) 891-8977

TO: Judge Jim L. Fun, Washington County Deputy Sheriff McLaughlin, Washington County Sheriff Pat Garrett, District Attorney Bob Hermann and Oregon Attorney General Ellen F. Rosenblum

Court of Origin: **WASHINGTON COUNTY CIRCUIT COURT**, de facto

CASE NO. C152959CR.2, statutory

David Paul Lee,

Petitioner

Against

Judge Jim L. Fun, Washington County Deputy Sheriff McLaughlin, Washington County Sheriff Pat Garrett, District Attorney Bob Hermann and Oregon Attorney General Ellen F. Rosenblum,

Respondents

Assigned: Chief Judge Michael W. Mosman

FEDERAL CASE NO. 1776-1789-2015, de jure

Writ Mandamus Coram Ipso Rege[1]

CONTEMPT OF COURT

THE GREAT WRIT OF LIBERTY is *"the Writ of Habeas Corpus Ad Subjiciendum, issuing at common law out of courts of Chancery, King's Bench, Common Pleas, and Exchequer."* Ex parte Kelly, 123 N.J.Eq. 489, 198 A. 203, 207. *"In the United States, Habeas Corpus exists in two forms: common law and statutory. The Constitution for the United States of America acknowledges the*

[1] **KING'S BENCH:** The Supreme Court of Common Law in England; being so called because the King used formerly to sit there in person; the style of the Court being *"Coram Ipso Rege"*.

Peoples' right to the Common Law of England as it was in 1789. It does not consist of absolute, fixed and inflexible rules, but broad and comprehensive principles based on justice, reason and common sense." Miller v. Monsen, 37 N.W. 2d 543, 547, 228 Minn. 400. *"This is the well-known remedy for deliverance from illegal confinement, called by Sir William Blackstone the most celebrated Writ in the English law, and the great and efficacious Writ in all manner of illegal confinement."* 3 Bl. Comm. 129.

> **US CONSTITUTION ARTICLE I SECTION 9:** [common law] The privilege of the Writ of Habeas Corpus shall not be suspended.
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> **28 USC §2243:** [statutory] Issuance of Writ; Return; Hearing; Decision; A court, justice or judge entertaining an Application for a Writ of Habeas Corpus shall forthwith award the Writ or issue an Order directing the respondent to Show Cause why the Writ should not be granted, unless it appears from the Application that the applicant or person detained is not entitled thereto. The Writ or Order to Show Cause shall be directed to the person having custody of the person detained. It shall be returned within three (3) days unless for good cause additional time, not exceeding twenty (20) days.

COURT MUST AWARD AND RESPONDENTS MUST SHOW CAUSE

This court of justice has taken judicial notice of the Federal Rules of Civil Procedure, Title 28, United States Code, insofar as it is not repugnant to the common law. FRCP Rule 55 regarding Default[2] is applied here.[3] The record shows that on January 29, 2016 the *Petition* was filed; a *Writ of Habeas Corpus to Show Cause* issued; the *Petition* and *Writ* were duly served upon the respondents; no Return was filed; a *Notice of Default* was filed on May 6, 2016. So, no claim may be made that the statutory court(s) were unaware of this court's proceedings; nor, may the respondents claim they were unaware of the consequences for failure to make a Return on the *Writ of Habeas Corpus*. Simply stated; the

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[2] **FEDERAL RULES OF CIVIL PROCEDURE RULE 55: DEFAULT** (a) **ENTRY:** When a party against whom a Judgment for Affirmative Relief is sought, has failed to plead, or otherwise defend, as provided by these rules; and, that fact is made to appear [has been brought before the Court] by Affidavit or otherwise, the Clerk shall enter the party's Default. (b) **JUDGMENT:** Judgment by Default may be entered as follows: (1) **BY THE CLERK:** When the plaintiff's claim against a defendant is for a sum certain, or for a sum which can, by computation, be made certain, the clerk, upon request of the plaintiff, and upon Affidavit of the amount due, shall enter Judgment for that amount and costs, against the defendant, if the defendant has been defaulted for failure to appear, and is not an infant or incompetent person. (2) **BY THE COURT:** In all other cases, the party entitled to a Judgment by Default, shall apply to the court therefor; but, no Judgment by Default shall be entered against an infant, or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative, who has appeared therein. If the party against whom Judgment by Default is sought, has appeared in the action, the party, or, if appearing by representative, the party's representative, shall be served with written Notice of the Application for Judgment at least three (3) days prior to the Hearing on such Application. If, in order to enable the court to enter Judgment; or, to carry it into effect; it is necessary to take an account, or to determine the amount of damages, or to establish the truth of any averment by evidence, or to make an investigation of any other matter; the court may conduct such Hearings; or, Order such references, as it deems necessary and proper; and, shall accord a right of trial by jury to the parties, when, and as required, by any statute of the United States. (c**) SETTING ASIDE DEFAULT:** For good cause shown, the court may set aside an Entry of Default; and, if a Judgment by Default has been entered, may likewise set it aside, in accordance with Rule 60(b).

[3] **COURTS OF RECORD:** Have an inherent power, independently of statutes, to make rules for the transaction of business. 1 Pet. 604, 3 Serg. & R. Penn. 253; 8 id, 336, 2 Mo. 98

parties against whom a *Judgment for Affirmative Relief* is sought, have failed to plead or otherwise defend, as provided by these rules; and, that fact has been brought before the court by *Affidavit* in accordance with FRCP Rule 55(a). [**SEE:** attached]

TO INTERCEPT, CONCEAL or EXPUNGE HABEAS CORPUS IS TO DENY DUE PROCESS, THEREBY WARRING AGAINST THE CONSTITUTION

VIOLATING: 18 USC § 2071, 18 USC §1001, 18 USC §4, 18 USC §241, 18 USC §242, 18 USC §872, 18 USC §1512b, 18 USC §2382, 28 USC §2242, 28 USC §2243, 42 USC §1986, 42 USC §1985: *"Any judge who does not comply with his oath to the Constitution of* [for] *the United States wars against that Constitution and engages in acts in violation of the Supreme Law of the Land. The judge is engaged in acts of treason*." Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958).

A Writ of Habeas Corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody. A Petition for Habeas Corpus is a Petition filed with a court by a person who objects to his own or another's detention or imprisonment. The Petition must show that the court ordering the detention or imprisonment made a legal or factual error. Petition for Habeas Corpus is usually filed by a person serving a prison sentence. In family law, a parent who has been denied custody of his child by a trial court may file a Petition for Habeas Corpus. Also, a party may file a Petition for Habeas Corpus if a judge declares them in contempt of court and jails or threatens to jail them.

In Brown v. Vasquez, 952 F.2d 1164, 1166 (9th Cir. 1991), cert. denied, 112 S.Ct. 1778 (1992), the Court observed that "*the Supreme Court has recognized the fact that '*[t]*he Writ of Habeas Corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless State action*.'" Harris v. Nelson, 394 U.S. 286, 290-91 (1969) *"Therefore, the Writ must be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected."* Harris, 394 U.S. at 291. *"The Writ of Habeas Corpus serves as an important check on the manner in which State courts pay respect to federal constitutional rights. The Writ is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless State action."* Harris v. Nelson, 394 U.S. 286, 290-91 (1969).

28 USC §2242: *"Every person unlawfully committed, detained, confined or restrained of his Liberty or Property, under any pretense whatsoever, may prosecute a Writ of Habeas Corpus to inquire into the cause of such imprisonment or restraint."*

The petitioner showed in his Petition that the court ordering the detention or imprisonment made the following legal and factual errors; and, therefore, Writ Habeas Corpus *"must be prosecuted"*.

1) Respondents gathered a biased statutory grand/trial jury; a jury not under Common Law; a jury under a court not of record, i.e., not at law; a jury which has no power to fine or imprison thereby jurisdiction was fraudulently acquired.
2) There was no sworn documentary evidence from a competent fact witness.

3) Petitioner is being unconstitutionally held by a court *"not of record"* as required and defined under Article VI Clause 2.
4) Court is proceeding under statutes and jurisdictions unknown and *"not under the Law of the Land"* a/k/a Common Law.
5) Court's jurisdiction was not stated, as required by law.
6) Petitioner was denied due process; trial in a Court of [Common] Law is due process.
7) Petitioner(s) are victim(s) of barratry, maintenance and Champerty.
8) Custodians have engaged in prosecutorial vindictiveness therefore the burden is upon respondents to rebut presumption.

HABEAS CORPUS IS DUE PROCESS

TITLE 28 OF THE UNITED STATES CODE: acknowledges that it is not the responsibility of the petitioner to know by what claim or authority the State acts; but, that the petitioner may inquire as to the cause of the restraint. Petitioner has requested an inquiry into the cause of restraint; but, none of the respondents has returned any Statement of Cause of the Restraint. Therefore, this court may and has presumed that there is neither legal nor lawful cause of restraint.

On May 6, 2016, the Grand Jury filed a Default and Memorandum of Decision of the Default and thereby the statutory court was ordered to **ABATE AT LAW** all proceedings in and relating to WASHINGTON COUNTY CIRCUIT COURT, de facto, CASE NO. C152959CR.2, statutory against David Paul Lee.

The above-named statutory court ignored Habeas Corpus; and, has yet to release David Paul Lee from illegal custody. After reviewing this case, we have concluded the following:

(1) The court that prosecuted David Paul Lee was a statutory court; not a court of record;[4] and, therefore, had no Constitutional Authority to incarcerate.
(2) The grand/trial jury was tampered with to secure statutory indictments and statutory prosecutions[5] by said court not of record under color of law.
(3) There were no injured parties.[6]
(4) There were no sworn affidavits.[7]

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[4] **COURTS OF RECORD AND COURTS NOT OF RECORD:** the former being those whose acts and judicial proceedings are enrolled or recorded for a perpetual memory and testimony; and, which have power to fine or imprison for contempt. Error lies to their judgments and they generally possess a seal. Courts not of record are those of inferior dignity which have no power to fine or imprison; and, in which the proceedings are not enrolled or recorded. 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231

[5] **COMMON LAW:** *"The common law is the real law, the Supreme Law of the land; the code, rules, regulations, policy and statutes are not the law."* Self v. Rhay, 61 Wn (2d) 261; *"There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent."* Cruden v. Neale, 2 N.C. 338 (1796) 2 S.E.

[6] **"FOR A CRIME TO EXIST:** *there must be an injured party. There can be no sanction or penalty imposed upon one because of this exercise of Constitutional rights."* Sherar v. Cullen, 481 F. 945.

[7] **PRIME FACIE CASE:** *"Indeed, no more than an Affidavit is necessary to make the prima facie case."* United States v. Kis, 658 F.2d 526, 536 (7th Cir. 1981); Cert. Denied, 50 U.S. L. W. 2169; S. Ct. March 22, 1982.

(5) There was no due process.[8]
(6) This was a political case with vindictive prosecution.

Because of the aforesaid conclusions; and, from information received, in that pressure is being applied upon petitioner to somehow stop the probing and actions of the Grand Jury, let us be clear: Habeas Corpus has endured over four hundred (400) years unimpeded. Once the Petition for Habeas Corpus was received by the court's bench (grand jury) and acted upon, the petitioner, attorney(s) or statutory court(s) do not have power to stop the Writ Habeas Corpus. Furthermore, vindictiveness has already been established; and, we are therefore, warning all involved that we will be reviewing the actions of all involved.

In conclusion, Judge Jim L. Fun, Washington County Deputy Sheriff McLaughlin, Washington County Sheriff Pat Garrett, District Attorney Bob Hermann and Oregon Attorney General Ellen F. Rosenblum are in contempt of court; and, are herein ordered to release David Paul Lee immediately as previously ordered by this Tribunal; or, we will bring this action before the full Grand Jury for Judicial Remedy upon all conspirators including all court officers who are violating the aforesaid federal codes.

This Court is gracing Judge Jim L. Fun, Washington County Deputy Sheriff McLaughlin, Washington County Sheriff Pat Garrett, District Attorney Bob Hermann and Oregon Attorney General Ellen F. Rosenblum with the opportunity to amend their error and abate at law immediately all proceedings in and relating to WASHINGTON COUNTY CIRCUIT COURT, de facto, CASE NO. C152959CR.2, statutory against David Paul Lee.

THE COURT May 13, 2016.

(seal)

Grand Jury Foreman

[8] **DUE COURSE OF LAW:** *"this phrase is synonymous with 'due process of law' or 'law of the land' and means law in its regular course of administration through courts of justice* [court of record]*".* Kansas Pac. Ry. Co. v. Dunmeyer 19 Kan 542.