UNITED STATES DISTRICT COURT
FOR THE DISTRICT FOR DISTRICT OF UTAH

350 S. Main Street; Salt Lake City, Utah 84101

We the People, UUSCLGJ,[1] Sureties of the Peace[2]
De Jure Court, of Record

-Against-

In the case USA[3] v Stephen Lawrence Dean
De Facto Court, Not of Record

David Nuffer, Dee Benson, Dustine B. Pead, Daniel R Strong and Benjamin A Hamilton
Respondents

Case no. 2:15-cr-00166-DB-1
statutory

CORAM NOBIS[4]

WRIT OF ERROR AND ORDER

THE COURT OF RECORD COMES NOW to review the facts, record, and process resulting in the rulings by the above de facto court, not of record, dated May 20, 2015; whereas Judge Dee Benson, an unauthorized participant in this matter, acting under color of law exceeded the court's jurisdiction and authority.

The record shows (*see docket, numbers 30, 29, 28 and 27*) that the magistrate, on his own authority, conducted a hearing in accordance with the rules of chancery and not law thereby trespassing on the case.[5] The magistrate conducted his own court, without notice or concurrence of the parties, and without due process; the magistrate presuming to be the owner of the courtroom not satisfied with the lawful rules of court, became a loose cannon and imposed rules of another jurisdiction foreign to this court.

[1] Unified United States Common Law Grand Jury:
[2] Grand Jury The sureties of the peace of faithful service; - Magna Carter, paragraph 49
[3] A fictitious foreign corporate created entity an ens legis being used to conceal fraud, represented by prosecutor.
[4] CORAM NOBIS. Before us ourselves, (the king, i. e., in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, e. g., from the full bench to the court at nisi prius. 1 Archb. Pr. K. B. 234.
[5] **Trespass on the case.** "*The form of action, at common law, adapted to the recovery of damages for some injury resulting to a party from the wrongful act of another, unaccompanied by direct or immediate force, or which is the indirect or secondary consequence of defendant's act. Commonly called, by abbreviation, "Case."*" Munal v. Brown, C.C.Colo., 70 F. 968; Nolan v. Railroad Co., 70 Conn. 159, 39 A. 115, 43 L.R.A. 305; New York Life Ins. Co. v. Clay County, 221 Iowa 966, 267 N.W. 79, 80.

In the Judiciary Act of 1789, Congress explicitly authorized the federal courts to grant habeas relief to federal prisoners. 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. "*The great writ of liberty, issuing at common law out of courts of Chancery, King's Bench, Common Pleas, and Exchequer*." Ex parte Kelly, 123 N.J.Eq. 489. On a petition for a writ of habeas corpus, the standard of review for a claim of prosecutorial misconduct, like the standard of review for a claim of judicial misconduct, is "*the narrow one of due process, and not the broad exercise of supervisory power"*. Darden v. Wainwright, 477 U.S. 168, 181 (1986) (quoting Donnelly v. DeChristoforo, 416 U.S. 637, 642 (1974)).

In the United States habeas corpus exists in two forms: common law and statutory. "*The Constitution for the United States of America acknowledges the 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.

Under common law the United States Constitution Article I Section 9 clearly states: *The privilege of the writ of habeas corpus shall not be suspended*. And on June 12, 2008 in the case BOUMEDIENE ET AL. v. BUSH, PRESIDENT OF THE UNITED STATES, ET AL. No. 06–1195 the United States Supreme Court declared Section 7 of the Military Commissions Act of 2006 unconstitutional because it purported to abolish the writ of habeas corpus; whereas it was held:

> "*Petitioners have the constitutional privilege of habeas corpus. They are not barred from seeking the writ… A brief account of the writ's history and origins shows that protection for the habeas privilege was one of the few safeguards of liberty specified in a Constitution that, at the outset, had no Bill of Rights; in the system the Framers conceived, the writ has a centrality that must inform proper interpretation of the Suspension Clause. That the Framers considered the writ a vital instrument for the protection of individual liberty is evident from the care taken in the Suspension Clause to specify the limited grounds for its suspension: The writ may be suspended only when public safety requires it in times of rebellion or invasion. The Clause is designed to protect against cyclical abuses of the writ by the Executive and*

Legislative Branches. It protects detainee rights by a means consistent with the Constitution's essential design, ensuring that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ, to maintain the "delicate balance of governance." Hamdi, supra, at 536. Separation-of-powers principles, and the history that influenced their design, inform the Clause's reach and purpose. Pp. 8–15."

The writ habeas corpus is a judicial proceeding which by the process of law must run its course unimpeded. 18 USC § 2071[6] states *(a) Whoever willfully and unlawfully carries away any proceeding filed or deposited with any clerk or officer of any court of the United States shall be fined under this title or imprisoned not more than three years, or both. (b) Whoever, having the custody of any such proceeding willfully and unlawfully removes or falsifies the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States*.

When the persons holding the prisoner neglected to answer said habeas corpus then the Federal Rules of Civil Procedure, Rule 55 activated and the prisoner was required to be released under the entry of default. Whereas we read: *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 by affidavit or otherwise* [under seal]*, the clerk shall enter the party's default*. Habeas corpus is a judicial process, not open for debate. If the prisoner is not released, the party that continues to restrain the prisoner is guilty of false imprisonment and kidnaping. The arrest of said perpetrators is the appropriate action by the US Marshal or Sheriff and said perpetrators are to be brought before the Grand Jury for consideration of indictment.

Article IV Section 4 guarantees a republican form of government[7] against domestic violence, when a judge enforces acts beyond his authority under color of law,[8]

[6] **18 USC §2071** - Concealment, removal, or mutilation generally (a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both. (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

[7] **U.S. CONSTITUTION ARTICLE IV. SECTION 4.** The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

judicial immunity is lost,[9] it is nothing less than lawless violence.[10] Likewise legislative jurisdiction that is not authorized by the United States Constitution is as inoperative as though it had never been passed[11] and judges proceeding without jurisdiction are indictable for treason,[12] judges are expected to know the law.

No State can deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Any court that ignores due process is not a common law court; such an action proves a court unlawful and consequently has no legal authority over the petitioner without his consent.

Confirmatio Cartarum[13] – "*sovereign People shall not be taken, or imprisoned, or disseised, or outlawed, or exiled, or anywise destroyed...but by lawful judgment of his peers or by the law of the land*." Magna Charta, Chapter 39. [Sometimes referred to as Chapter 29]

"*No person shall be ... deprived of life, liberty, or property, without due process of law*; *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. "*Law in its regular course of administration through courts of justice* [court of record] *is due process*." Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225.

Some have argued that the People have relinquished sovereignty through various contractual devices in which rights were not expressly reserved. However, that cannot hold because rights are inalienable.[14] The People retain all rights of sovereignty at all times.[15] The exercise of sovereignty

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[8] **COLOR OF LAW.** [Black's Law 4th] -- The appearance or semblance, without the substance, of legal right. [State v. Brechler, 185 Wis. 599, 202 N.W. 144, 148] Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state, is action taken under "color of state law." (Atkins v. Lanning, 415 F. Supp. 186, 188)

[9] "When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost." -- Rankin v. Howard, (1980) 633 F.2d 844, cert. den. Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326

[10] "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." - Ableman v. Booth, 21 Howard 506 (1859)

[11] "An unconstitutional act is not law; it confers no right; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." Norton vs Shelby County 118 US 425 p. 442

[12] "We (judges) have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." -- Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v. Will, 449 U.S. 200

[13] **CONFIRMATIO CARTARUM** 1297 The Magna Carta must be accepted as the common law by government. The Magna Carta is the supreme law. All other contrary law and judgments are void.

[14] INALIENABLE. Not subject to alienation; the characteristic of those things which cannot be bought or sold or transferred from one person to another, such as rivers and public highways, and certain personal rights; e. g., liberty. Inalienable; incapable of being aliened, that is, sold and transferred.[Black's Law 4th edition, 1891]

by the People is further clarified when one considers that the Constitutional government agencies have no genuine sovereign power of their own, but must rely upon such authority as is granted by the People.[16]

When our founders debated the Constitution they included habeas corpus as a remedy against evil as we read in the Federalist papers No. 83 and 84, Hamilton to the People of the State of New York: "*The trial by jury in criminal cases, aided by the habeas-corpus act, seems therefore to be alone concerned in the question. And both of these are provided for, in the most ample manner, in the plan of the convention."... The creation of crimes after the commission of the fact, or, in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone,[17] in reference to the latter, are well worthy of recital: "To bereave a man of life, Usays he,e or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.'' And as a remedy for this fatal evil he is everywhere peculiarly emphatically in his encomiums on the habeas-corpus act, which in one place he calls "the bulwark of the British Constitution*.''[18]

Title 28 of the United States Code[19] 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 by habeas corpus, 28 USC §2243. A court, justice or judge [tribunal] entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondents to show cause why the writ should not be granted.

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[15] RESERVATION OF SOVEREIGNTY: "[15] (b) ...The Tribe's role as commercial partner with petitioners should not be confused with its role as sovereign. It is one thing to find that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head. MERRION ET AL., DBA MERRION & BAYLESS, ET AL. v. JICARILLA APACHE TRIBE ET AL. 1982.SCT.394 http://www.versuslaw.com, 455 U.S. 130, 102 S. Ct. 894, 71 L. Ed. 2d 21, 50 U.S.L.W. 4169 pp. 144-148

[16] The words "sovereign state" are cabalistic words, not understood by the disciple of liberty, who has been instructed in our constitutional schools. It is our appropriate phrase when applied to an absolute despotism. The idea of sovereign power in the government of a republic is incompatible with the existence and foundation of civil liberty and the rights of property. Gaines v. Buford, 31 Ky. (1 Dana) 481, 501.

[17] Vide Blackstone's "Commentaries," vol. 1., p. 136.

[18] Vide Blackstone's "Commentaries," vol. iv., p. 438.

[19] 28 USC 2242 states in part: Application for a writ of habeas corpus....shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

On May 5th 2015 it was determined that the petitioner Stephen Lawrence Dean was entitled to writ habeas corpus and therefore an order[20] was issued directing the respondents Special Assistant United States Attorney Daniel R Strong, Magistrate Judge Dustine B. Pead, United States Marshal James A Thompson and FBI Agent SA Jule Alloretsen to show cause of petitioners caption and detention, ad faciendum, sub jiciendum[21] et recipiendum.[22]

On May 5th 2015 the Grand Jury appointed Chief Judge David Nuffer, not Judge Dee Benson, with the responsibility of overseeing and disposing of the matter as law and justice require under the rules of common law, not chancery, and fax and mail a certified copy of decision immediately to the Unified United States Common Law Grand Jury for judicial review[23].

On May 8, 2015 Respondents to Writ Habeas Corpus failed to respond. On May 9th 2015 a Default Judgment and Memorandum of decision was filed by the Unified Common Law Grand Jury.

Judge Dee Benson, Chief Judge David Nuffer, Judge Dustine B. Pead, Attorney Daniel R Strong and victim's supposed attorney Benjamin A Hamilton, all officers of the court, conspired and thereby orchestrated a scheme attempting to strike[24] writ habeas corpus contrary to the rules of common law the de facto court proceeded according to the principles, method and procedure of a court of chancery, not part of the American justice system, for the purpose of changing jurisdictions[25] from [common] law[26] to equity which proceeds under the rules of chancery as an

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[20] **28 USC §2243** - 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.

[21] **HABEAS CORPUS AD SUBJICIENDUM.** A writ directed to the person detaining another, and commanding him to produce the body of the prisoner, (or person detained,) with the day and cause of his caption and detention, ad faciendum, sub jiciendum et recipiendum, to do, submit to, and receive whatsoever the judge or court awarding the writ shall consider in that behalf. 3 Bl. Comm. 131; 3 Steph. Comm. 695.

[22] **HABEAS CORPUS AD RESPONDENDUM.** A writ which is usually employed in civil cases to remove a person out of the custody of one court into that of another, in order that he may be sued and answer the action in the latter. 2 Sell. Pr. 259; 2 Mod. 198; 3 Bl. Comm. 129; 1 Tidd, Pr. 300.

[23] Originally, and in English practice, an original writ commanding judges or officers of inferior courts to certify or to return records or proceedings in a cause for judicial review of their action. Jacob; Ashworth v. Hatcher, 98 W.Va. 323, 128 S.E. 93. For other common-law definitions, see F. N. B. 554 A; Bac.Abr. 162, 168, citing 4 Burr. 2244; In re Dance, 2 N. D. 184, 49 N.W. 733, 33 Am.St.Rep. 768. **CERTIORARI.** Lat. (To be informed of, to be. made certain in regard to.) The name of a writ of review or inquiry. Leonard v. Willcox, 101 Vt. 195, 142 A. 762, 766; Nissen v. International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, 229 Iowa 1028, 295 N.W. 858.

[24] **Magna Carta, Article 34** "*Henceforth the writ which is called Praecipe shall not be served on any one for any holding so as to cause a free man to lose his court*."

[25] **EQUITY JURISDICTION** "*In a general sense, the jurisdiction belonging to a court of equity, but more particularly the aggregate of those cases, controversies, and occasions which form proper subjects for the exercise of the powers of a chancery court*." See Wadham Oil Co. v. Tracy, 141 Wis. 150, 123 N.W. 785, 787, 18 Ann.Cas. 779; Venner v. Great Northern R. Co., C.C.N.Y., 153 F. 408, 413, 414. "*Equity jurisdiction, in its ordinary acceptation, as distinguished on the one side from the general power to decide matters at all, and on the other from the jurisdiction "at law" or "common-law jurisdiction," is the power to hear certain kinds and classes of civil causes according to the principles of the method and procedure adopted by the court of chancery, and to decide them in accordance with the doctrines and rules of equity jurisprudence*," Norback v. Board of Directors of Church Extension Soc., 84 Utah 506, 37 P.2d 339.

authority, extorting filthy-lucre, perverting judgment[27] and unlawfully dismissing plaintiffs right of Habeas Corpus.

Whereas on May 5th 2015 the de facto court received Writ Habeas Corpus and willfully and unlawfully concealed the proceeding, in violation of 18 USC §2071, from the docket until after orchestrating their scheme when on May 20, 2015 inserted into the docket whereas the following felony conspiracy scheme executed by Judge Dee Benson acting under color of law in an unprecedented orchestrated act, between Judge Dee Benson, Chief Judge David Nuffer, Judge Dustine B. Pead, Attorney Daniel R Strong and Attorney Benjamin A Hamilton; struck the proceeding, in violation of 18 USC §2071, which included the petition, habeas corpus, default and decision from the record after having lost jurisdiction and thereby having no authority violated petitioners unalienable right of due process,[28] false imprisonment, kidnaping, conspiracy and unlawfully carrying away a proceeding filed with the clerk of the United States Court.

Proof of conspiracy is found in the act or lack of act; when the writ of habeas corpus was filed with the court only the presiding judge had the power to unlawfully keep it from the record and when a third Judge Dee Benson was brought in to perform the felony in collusion with Attorney Benjamin A Hamilton, Chief Judge David Nuffer, Judge Dustine B. Pead and Attorney Daniel R Strong remained silent when they had a duty to speak they became complicit. "*Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading*." U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932

Habeas corpus is an unalienable right of due process, it claims illegal confinement, prosecutorial misconduct and judicial misconduct of which law and decency requires an answer. There is no such process that allows for a de facto court to motion or grant a denial of due process. For if the officers of a court thinks they can change laws, self-anoint it-self to come above those laws and move forward in its vindictive prosecution; such actions prove the same, are repugnant and void and the documented orchestrated act in the docket is the proof of conspiracy.

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[26] **COMMON-LAW JURISDICTION.** "*Jurisdiction of a court to try and decide such cases as were cognizable by the courts of law under the English common law; the jurisdiction of those courts which exercise their judicial powers according to the course of the common law*." U. S. v. Power, 27 Fed.Cas. 607.

[27] **1 Sam 8:3**

[28] "*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*." - Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

THE COURT, having reviewed the facts, the record, and the process by which the ruling was issued, and finding that the magistrate rendered a ruling by applying rules from jurisdictions foreign to this court without leave of court; and finding that the orderly decorum of the court was replaced by defective impromptu process and usurpation of legislative and court powers without leave of court; and finds Judge Dee Benson, Chief Judge David Nuffer, Judge Dustine B. Pead Attorney Benjamin A Hamilton and Attorney Daniel R Strong in contempt of this de jure court, penalty under consideration.

Judge Dee Benson, Chief Judge David Nuffer, Judge Dustine B. Pead Attorney Benjamin A Hamilton and Attorney Daniel R Strong willfully and knowingly conspired to unlawfully conceal and carry away writ habeas corpus proceeding filed with the clerk of the United States Court in violation of 18 USC §2071 (Willfully and unlawfully carried away habeas corpus proceeding), violated Stephen L. Dean's unalienable right of due process, falsely imprisonment Stephen L. Dean and kidnaped Stephen L. Dean under color of law.

NOW THEREFORE, THE COURT issues this **WRIT OF ERROR QUAE CORAM NOBIS RESIDENT**, to wit: The court rescinds all rulings entered May 20, 2015 and

ORDERS the immediate release of Stephen L. Dean (under penalty of law) and defers this case to the Grand Jury for presentment against Dee Benson, David Nuffer, Dustine B. Pead and Benjamin A Hamilton, Daniel R Strong and any complicit clerk.

THE COURT, June 4, 2015

Grand Jury Administrator,