
**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

• 445 Broadway; Albany, NY. 12207-2936 •

United States Grand Jury¹ (*Status sovereign*²)
We the People

- against -

Federal Judiciary⁴ (*Status: clipped sovereignty*)
Respondents

JURISDICTION: Court of Record³
Federal Case No. _____

**MEMORANDUM OF LAW
HABEAS CORPUS**

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The purpose of this memorandum is for the court to take Judicial Notice of their duty concerning the ‘Unalienable Right of Habeas Corpus.’ Whereas 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. And 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. And if none of the respondents return a statement of cause for the restraint, the petitioner must be released.

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¹ **The UUSCLGJ** is comprised of fifty Grand Jurys each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverts both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

² **“Sovereignty”** means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." *Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co.*, 294 N.Y.S. 648, 662, 161 Misc. 903.; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. *Lansing v. Smith*, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

³ **“A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial.” *Jones v. Jones*, 188 Mo.App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See, also, *Ledwith v. Rosalsky*, 244 N.Y. 406, 155 N.E. 688, 689.

⁴ **Federal Judiciary** of the United States is one of the three branches of the federal government of the United States organized under the United States Constitution and laws of the federal government. Article III of the Constitution requires the establishment of a Supreme Court and permits the Congress to create other federal courts, and place limitations on their jurisdiction. Article III federal judges are appointed by the President with the consent of the Senate to serve until they resign, are impeached and convicted, retire, or die.

Article I Section 9 Clause 2: The privilege of the writ of habeas corpus shall not be suspended....

N.Y.S. Constitution §4: The privilege of a writ or order of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

20 **FEDERALIST NO. 84 HAMILTON**: “The establishments of the (1) Writ of Habeas Corpus,
the (2) Prohibition of Ex-Post-Facto Laws, and of (3) Titles of Nobility, to which we
have no corresponding provision in our constitution, are perhaps greater securities to
liberty and republicanism than any it contains. The creation of crimes after the
commission of the fact, or, in other words, the subjecting of men to punishment for
25 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.”

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
30 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.⁵

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
35 efficacious writ in all manner of illegal confinement.⁶ The "great writ of liberty,"
issuing at common law out of courts of Chancery, King's Bench, Common Pleas, and
Exchequer.⁷

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
40 order that he may be sued and answer the action in the latter.⁸

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

⁵ Miller v. Monsen, 37 N.W.2d 543, 547, 228 Minn. 400.

⁶ 3 Bl. Comm. 129.

⁷ Ex parte Kelly, 123 N.J.Eq. 489.

⁸ 2 Sell. Pr. 259; 2 Mod. 198; 3 Bl. Comm. 129; 1 Tidd, Pr. 300.

45 recipiendum, to do, submit to, and receive whatsoever the judge or court awarding the writ shall consider in that behalf.⁹

HABEAS CORPUS AD TESTIFICANDUM: At common law, the writ, meaning “you have the body to testify”, used to bring up a prisoner detained in a jail or prison to give evidence before the court.¹⁰

50 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, in a 5-4 decision, declared Section 7 of the Military Commissions Act of 2006 unconstitutional because it purported to abolish the writ of habeas corpus.

55 28U.S.C. §2242 demands that 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. In *Brown v. Vasquez*,¹¹ 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.” “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.”¹²

60 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.”¹²

65 A Writ Habeas Corpus must be prosecuted if the petitioner shows in his petition that the court ordering the detention or imprisonment made one or more of the following legal and factual errors.

- 70 1) Respondents gathered a biased statutory 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.

⁹ 3 Bl. Comm. 131; 3 Steph. Comm. 695.

¹⁰ *Hottle v. District Court in and for Clinton County*, 233 Iowa 904, 11 N.W.2d 30, 34; 3 Bl. Comm. 130; 2 Tidd, Pr. 809. *Ex parte Marmaduke*, 91 Mo. 250, 4 S.W. 91, 60 Am.Rep. 250.

¹¹ 952 F.2d 1164, 1166 (9th Cir. 1991), cert. denied, 112 S.Ct. 1778 (1992)

¹² *Harris v. Nelson*, 394 U.S. 286, 290-91 (1969).

3) Petitioner is being unconstitutionally held by a court “not of record” as required and defined under Article VI clause 2.

75 4) Court is proceeding under statutes and jurisdictions unknown and “not under the law of the land” a/k/a common law.

5) Courts Jurisdiction was not stated.

6) Petitioner was denied due process.

7) Petitioner is a victim of barratry, maintenance and champerty.¹³

80 8) Custodians have engaged in prosecutorial vindictiveness therefore, the burden is upon respondents to rebut presumption

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. If a petitioner requests an inquiry into the cause of restraint, but, none of the respondents return a statement of
85 cause of the restraint, the court must presume that there is no lawful cause of restraint.

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.”¹⁴ “The relevant question is whether the prosecutor's comments ‘so infected the trial with
90 unfairness as to make the resulting conviction a denial of due process.’”¹⁵

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
95 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 days unless for good cause additional time, not exceeding twenty days, is allowed.

¹³ A court system such as Family Court that has become a deceitful web of psychological destructive forces, motivated by money (RICO), taking advantage of family’s vulnerability that are going through traumatic events or unexpected circumstances; as the court proceeds without due process, usurping the will of its victims under the color of law, extorting money directly from its victims and through the fraudulent unconstitutional cestui que accounts.

¹⁴ Darden v. Wainwright, 477 U.S. 168, 181 (1986) (quoting Donnelly v. DeChristoforo, 416 U.S. 637, 642 (1974)).

¹⁵ Id. (quoting Donnelly, 416 U.S. at 643).

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- The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.
 - When the writ or order is returned, a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.
 - Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.
 - The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.
 - The return and all suggestions made against it may be amended, by leave of court, before or after being filed.
 - The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.
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115 **CONCLUSION:** The Writ Habeas Corpus is an unalienable right that ‘NO’ judge may deny. The petition need only allege a violation of due process. And, if none of the respondents return a statement of cause for the restraint, the petitioner must be released.

The right of Habeas Corpus is defended in Federalist No. 84 Hamilton, secured by the United States Constitution Article I Section 9 Clause 2, the N.Y.S. Constitution §4 and its prosecution is demanded by 28U.S.C.§2242.

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SEAL

Dated [*not filed yet*]



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Grand Jury Foreman