UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

WEST PALM DIVISION

UNITED STATES OF AMERICA,

VS

DONALD J. TRUMP

_____/

CASE NO: 23-80101-CR-CANNON

MOTION TO CHALLENGE GRAND JURY AND TO DISMISS INDICTMENT(S) PURSUANT TO F,R.CRIM.P. 6(b)(1) AND 6(b)(2)

LEAVE TO FILE AMICUS CURIEA BRIEFING OF A MOTION TO CHALLENGE GRAND JURY AND TO DISMISS INDICTMENT(S) PURSUANT TO F.R.CRIM.P. 6(b)(1) AND 6(b)(2)

INTRODUCTION:

COMES NOW, FRANK EDWIN PATE, **REQUESTING LEAVE** for the following motion to be GRANTED. The First Amendment and Supremacy Clause supports a citizens right **"...to petition the government for a redress of grievances"** [First Amendment ; Article VI cl. 3]. Therefore, PATE respectfully enters this motion requesting leave to file amicus briefing on the outlined motion to challenge the Grand Jury and Dismiss the Indictment(s) as provided by F. R. Crim. P. Rule 6(b)(1) and Rule 6(b)(2) based upon the following grounds:

As an initial matter, this Court is Constitutionally and statutorily established, pursuant to Artic. III sec. 2, cl. 1 and Acts of Congress. Any and all actions taken – by any federal court – are limited by Congressional Act's governing the functions of all criminal process. Further, Article III provides Judicial Power which – by way of statutory grants – which limits ***any*** Plaintiffs accessibility to judicial powers reliance's and relief. And so, judicial accessibility shall only be for the purposes of obtaining redress – a repair to some actual

Injury incurred by Plaintiff; this is the whole reason of any Article III court. Redress of legal Injury caused by a defendant. Injury caused – against – the United States Government.

Rule 18 of F. R. Crim. P. Rules, relies on Article III, sec. 2 cl. 3 by governing Constitutional adherence to venue protections. This is required for all Grand Jury (and Trial Jury) functions. 4Th, , 5th and 6th Amendment protections address the same concerns. Without rigid adherence to Article III, 18 USC 3041, and The Bill of Rights protections, then any Grand Jury is illegally drawn. To present criminally charged allegations to a Jury (Grand/Petit), the United States must present a Rule 3 Complaint, revealing an offense(s) against the Government – or specifically in this matter, one of it's governing agencies, with legislative authority – which was injured by the alleged criminal conducts. Lacking in such concrete claims, the Plaintiff lacks "standing", as required under the U.S. Constitution, and the "Case" or "Controversy" doctrine of Article III, sec. 2, cl. 1.

"Standing" - necessary to file an Article III authorized, criminal lawsuit - is only constitutionally permissible when the plaintiff has established justiciable harm, directly connected to criminally prohibited conducts. In other-words, a criminally prohibited "Offense", or – injury in fact -. When commencing federal Criminal suits, **18 U.S.C. 3041 is the "Gatekeeper".** Congressionally, this protects the uninformed from exposure to overreach, by federal government officials. Congress – under Article III limitations – was/is granted the authority to "ordain and establish" the "inferior courts" and require that legislative/Constitutional limitations in the exercise of Article III and Article I powers, be strictly adhered to. Such design by the founders prevents usurpation's of Judicial and Legislative authority, protecting against separation of powers violations. And therefor: *"Federal courts are courts of limited jurisdiction,"* (Kokkonen, v. Guardian Life Ins. Co. of America, 511 U.S. 375,377;114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994)).

Judicial power shall only be accessed upon a valid legal complaint claiming that ***"....any offense against the United States.."*** **(3041 opening line)**,was committed; and the defendant

committed it with criminal intent, (mens rea requirement See: 4th Amend. Guarantees). Lacking such claim(s), the A/USA – in violation of Article III and Article II limitations – "ran a red light", into this court forum, resulting in a Fatally Flawed Indictment(s) VOID of Article III authority. The United States – by record – lacks the "standing" necessary to bring suit against Donald J. Trump. It was completely unlawful for the A/USA to bring criminal accusations against TRUMP, for conduct which the D.O.J. lacked any regulation or Police powers over. Why? Any Presidents Duty/Right to ***"assure the laws of the United States are faithfully executed"*** (Art. II sec.), is Supreme Law under Article VI's Supremacy Clause. In no way, was any such right ever exceeded by TRUMP, thru his actions. In fact such Command from Article II is a lifetime obligation, for any President of the United States. National Security Intelligence, must always be kept in confidence by any President; incumbent or Ex. President.

And so, all process taken by Special prosecutor Jack Smith, - in avoidance of the threshold to court powers - (18 U.S.C. 3041), past the Point of the Indictment(s), caused Donald J. TRUMP to be illegally arrested/released pending trial (which 18 USC 3041 et. seq. Clearly Governs), in violation of the United States Constitution. In summary: **All process is therefor VOID. A Legal nullity from the inception.**

HISTORY TO THE CHALLENGE

While this court has likely reviewed many motions for the errency of the process, the 11th Circuit has yet to hold that the Indictment and charges are lawful, under 28 U.S.C. 1291 **"Final Decision"** standards. This court – nor the 11th – have yet meet this jurisdictional challenge, for it has never before been presented. Neither by prosecution, defendants counsel, nor the courts themselves.

Under the time tested "case" or "controversy" doctrine, (governing the testing of any matter of law in controversy). Federal courts are only authorized to resolve matters which affect legal rights, belonging to the Plaintiff standing before the court, Donald J. Trump, held documents which belonged

to Federal Government agencies, of who, **PRESENTED** them to President Donald J. Trump. Those Agency Heads, still Hold full authority and responsibility for those documents whereabouts.

The United States Government Executive's legal right to Police any President is not established within the Constitution, Yet history reveals that President Donald J. Trump, as 45th President of the United States, was unconstitutionally (and continuously) subjected to such Police actions during (and post) his Presidential Office. By fact, why is this prosecution most preferred now? Because Impeachment theatrics are not available to the Washington, D.C., "Deep State". History shows that past Presidents have subjected this country to war without the Attorney Generals Office ever intervening. For such authority is any Presidents right. Why? A President holds knowledge, of which DOJ officials will never have; truthfully this drives men/women – who seek power over others – crazy with envy. This fact is proven by history of civilizations past, not excluding the United States of America.

In order for the United States Government to present a concrete legally protected right – before the court, for adjudication purpose – would require actual, cognizable legal evidence of a "right to police", the matters of President Donald J. Trump. His responsibility towards the 45th Presidential term of office....(and beyond, for State secrets must be kept by him until his natural demise)is unimpeachable. None of Trumps Executive actions noted, are within the Police powers of the DOJ. And accordingly, protections afforded to him while in the office – over Article II duties - do not vanish when he leaves the office. He is by Constitutional Oath, bound to protect the United States security secrets (he knows) for his entire life. Donald J. Trump while in office, held the authority to decide what is a matter of national security and what is not. That decision capability cannot cease when he leaves office. And so there was never a "Case" to be made to this District Court.

DONALD J. TRUMP as President and Commander in Chief over the United States, exercised "to the best of his ability", his Executive judgment over day-to-day matters, which the DOJ

neither regulated, nor Constitutionally held legal police interest over(see 28 CFR 0.34). Remember, the D.O.J. works ***for*** the Presidential office, (or perhaps, for someone else?). In other words, the United States Government – nor the *'public national security interest'*- were ever negatively affected in the management, administrative, or national security precautions, taken by Donald J. Trump.

Jack Smith, by the Indictment concedes this fact. Accordingly, the United States Government lacked any legal basis to bring any suit for 'relief'. The DOJ in reality, sits below the office of President. The duty to the enforcing ***all Rule of Law***, is the Presidential offices duty. Any copies of materials held by Trump, are still in original form, within their respective Department Officials Offices. For such documents originated from the Executive Offices, below the Presidential Office, held by TRUMP.

In order to arrest TRUMP, the government must bring a legally sufficient complaint, pursuant to Federal Rules of Criminal Procedure Rule 3. A Magistrate Judge, then could have a lawful Grand Jury drawn against TRUMP (which is to occur only ***"when the public interest so requires"***, pursuant to Federal Rules of Criminal Procedure Rule (6)(a)(1)&(2)). The government was required to prove to this court that a *National Security violation actually occurred* as an ***"offense against the United States"***, this mandate is necessary pursuant to Article III's "Case" requirement. Hypothetical National Security Concerns, demonstrate a hypothetical "case". For the government to present – an active "Case" or "Controversy", the government must grip a lawful right to exercise police power over the President of the United States. Donald J. Trump, promised his protection of the United States people, in reliance on his Constitutional Oath of Office (Article VI cl. 3). Simply stated, any Executive Attorney lacked justiciable – constitutional – basis for probable cause ("standing"), to bring these matters before any Article III court. In fact, Jack Smith has jeopardized National Security Interests in the process. The Attorney General's Office, held neither Constitutional (nor Statutory) authority to police the administrative or national security actions of Donald J. Trump,... America's, 45th President. Even after his term of office. The President and Commander in Chief was legally exempt from the Attorney

General's intrusion into his National Security concerns, over the safety of America people and Americas assets.

So, in the famous words of Supreme Court Justice, Antonin Scalia, "*What's it to you*"? The government lacks justiciable basis, to bring the necessary judicial complaint (Rule 3) (much less an indictment), against Donald J. Trump. To the point, begs the question: "Why was the Attorney General – really – seeking a controversy in the Executive affairs of a past-President, (instead of the Current Joseph R. Biden) revealing clear efforts to criminalize TRUMP and his actions?

When TRUMP held onto the documents in question, he was authorized to do so. In fact, such documents were presented to President TRUMP, by his Agency Department heads. *Those very same department heads, failed to retrieve the documents which they dispensed to TRUMP, and were responsible for the documents safety, yet no other Executive officials are charged in these matters?* Those Department heads failed in their continued duty to secure these very documents of concern? This is very telling; very. To be noted: President Trump, also left the White House with many other documented facts, which "potentially" endanger the United States National Security.....***and those documents exist inside his mind, to this very day.*** (The same holds true for Obama and Bush and Carter). So the real important question is: "Do we actually trust any President after he leaves the Presidential Office?" Any President,...including Joseph R. Biden? (This prosecutorial ethos, borders on, nay.., reeks of paranoia. This is telling of a very troubled mind)

Jack Smith intends to criminalize Donald J. Trump, the 45th President, and Commander in Chief of the United States of America, for TRUMP protecting documents *which were never retrieved by the Department heads, who delivered those very documents to him*. DONALD J. TRUMPS duties to secure national security did not cease the moment he left office. He – as do all prior presidents – holds information inside his mind, which if exerted maliciously, could bring great harm to national security. [Look at current affairs under Joe Biden, with his son Hunter Biden's Chinese/Ukraine business

dealings? Documents in the Garage in Delaware, behind the Corvette; Documents at University of Pennsylvania; at his Attorneys office. Yet no formal charges are being made against BIDEN because his Mind is broken beyond repair?..so says the same D.O.J.]

The U.S. Attorney's office exceeded constitutional and statutory authority, and effectively weaponized the limited jurisdiction of an Article III court, in violation of Article II of the U.S. Constitution. The U.S. Attorney's claims in the Indictment tell all.

Allegedly, TRUMP, acting in his capacity as President and Ex-President, possibly(maybe) committed crime's against the United States ***while*** effectively accusing Donald J. Trump of a ***non-offense against the United States, but an alleged offense against the United States.*** This begs incredulity.

ISSUES OF LAW

Article III federal courts are only imbued with the limited authority vested to them by Congressional legislature, empowered by and under Article III, sec. 2, cl. 1 of the United States Constitution. The design to avoid Judicial transgressions inspired the Continental Congress to limit the Executive Branch's access to judicial authority. Since June 25, 1948, the Executive branch has been strictly limited in accessing such Judicial Power, by way of 18 U.S.C. 3041. This governs the beginning (arrest and detaining pending trial) of Criminal Due Process, possibly leading any Defendant into a Jury trial process. (see: Rules 2-5.1 of Fed. Cr. Rules)(**Supervisory and Preliminary Rules**)

Yet, this District court proceeded with Grand Jury investigations, in direct avoidance of these limited Judicial powers, governed by statutory limitations. Since 18 USC 3001 requires Rules that Govern the Criminal process; Since 18 U.S.C. 3041 (and Rule 3) restricts the court's ability to extend judicial powers only to a sworn complaint "**For any offense against the United States..**."(3041 in part, opening sentence), then magically, 'charges' were taken before a Grand Jury, in violation of

Article III's Constitutional "Case or Controversy" requirements. And thus, United States Attorney Jack Smith, somehow did obtain an indictment in direct non-compliance of Article III principles, as limited in the governance's by the Rules of Criminal Procedure – backed by Congressional legislatures - approved by the Supreme Court. Remarkable to say the least. Criminally Corrupt, to tell the truth. Since the United States was/is bound to invoke the courts authority lawfully, then the records reveal that this Grand Jury was illegally convened. Why? The United States, never alleged any injury to a U.S. legal right. Instead Jack Smith alleges '***potential future harms***' (hypothetical standing) if such documents were to fall into the wrong hands. (The same could be said about Donald J. Trump's mind and Joseph R. Bidens for sure) In summary, the United States – nor any of it's agencies – ever presented a legal claim, as required by the rigid rule of law. This reeks of activist judging.

The Grand Jury "drawn" against TRUMP, is lacking any justiciable basis to bring forward a federal suit by the United States. How and why Grand Jury's were drawn over multiple months without justiciability, points clearly to abuse of power. (1) Harm is the required basis, for which to seek redress/relief for. (2) Connection to criminally prohibited actions – causing the alleged, identified concrete harm – provides the next available element: (3), the redress. These (3) requirements make up the element test of "standing", as necessary in any federal court of law. ***Such principle is as old as the Bible itself.*** Rule 6(b)(1) and (2) allows for the challenge (by defendant) and disposal authority(by the Court). This has never been challenged before. Article III, sec., 2. cl, 1, is the source of Competency for any District Court. The Executive Branch of Government, under A/USA Jack Smith, clearly violated the law. And this court is ratifying such actions.

While Rule 6 is the Indictment rule, Rule's 1 – 5.1 govern the access to the Federal Court and its judicial power. Rule 3 requires that the Government agent seeking to arrest any individual, make complaint (legal claim) of "**Any offense [injury to legal right] against the United States...**"(3041's opening line[bracketed text added]). Rules of law are designed to protect a defendants Due Process

rights. (18 U.S.C. 3001 and Miranda confirm this, along with Rules 1-2 of the Federal Criminal Rules of Procedure). "Decency, Security and Liberty alike demand that Government officials shall be subjected to the same [384 US 480] rules of conduct that are commands to the citizen. In a Government of laws the existence of the Government will be imperiled if it fails to observe the Laws scrupulously" and "If the Government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy", (citing Justice Brandeis). A federal suit in law must start with an actual, concrete injury to a constitutionally, legally created and protected right (over the ***security*** of national documents). No such injury was ever claimed by the government. This Court lacks in Jurisdiction at the indictment stage – and all stages thereafter. Accordingly, the Indictment should be dismissed under the basis of jurisdictional absence. Any Indictment(s), orders, or judgments issued on such an Indictment are in fact, legally null. **VOID** from inception. The government also could/did not establish the elements of mens rea to bring a Rule 3 complaint (much less an indictment) against Donald J. Trump. The governments efforts to criminalize TRUMP, is "Plain Error" and Rule 52(b) applies(18 USC 3041 and 28 USC 2111 govern). Here the government exceeded its constitutional authority and bastardized the limited jurisdiction of the Federal Courts in violation of Article III and Article VI "Supremacy" and "Oath of Office" Protections".

Moreover, the government held no legal right to exercise general police power over the actions of Presidential Discretion afforded to TRUMP or any President. Even Joseph R. Biden. This fact completely negates any justiciable standing the government prosecution believes they might have.

RULE OF LAW

18 U.S.C. 3001 legislature (driven by Rules 1-2 of F. R.Crim. P.) requires that the Rules of Procedure shall govern the process. As noted above, Rule 3 is necessary to the correct and lawfully procured reliance on Federal Judicial power. 18 U.S.C. 3041 by way of invocation, allows for the arrest and detention, pending trial, "For any offense against the United States.."(3041). Yet in this suit,

there is no invocation of such authority. In factt, in the indictment and arrest stages, there is never mention of any claim - (injury) - by the U.S. Govt., to bring forward a lawsuit. There is not one legal basis noted which allows for government Redress to be awarded. Without harm(s), what damage is being remedied? Supremacy of law within Article VI, cl. 2, further assures that protected rights are to be supreme. This court failed to uphold clause 2, and its Oath of Office under clause 3. Your Honor, this court is Duty bound to **"...support this Constitution.."(Art. VI "Oath Clause")** Records reveal the court's failure to provide Donald J. Trump, such supreme assurances. These caused Donald J. Trump,, substantive rights violations, and illegal arresting.

As the Grand jury, (an Article III function) was never lawfully drawn, then the Indictment itself lacks the Constitutional authority necessary under due process protections. Moreover, pursuant to the 5th Amend, due process and 14th Amendment covenant of equal protection under the law, the Grand Jury, prosecution, and this court are subject to a challenge with respect to whether standing, factually has been determined. Given the civil ***public interest*** nature of the Grand Jury, Civil Laws and rules apply in as much as criminal laws and rules in regards to the establishment of standing. Therefore, the Supreme Courts precedential rulings on standing apply. Even in criminal process. (see: Frank Amodeo, v. United States, 11th Cir 2019)

As Federal District Courts are courts of limited jurisdiction, "defined (within constitutional bounds) by federal statute. See, e.g., Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375 377, 114 State Court 1673, 128 l.Ed. 2d 391 (1994) Badgerow v. Walters, 212 L. Ed. 2d 355, ___US___ than the constrictions of those boundaries shall remain concretely and constitutionally supreme in nature, for the Character of any suit at law involves the most basic premise of legal harm, "the character of the controversies over which federal judicial authority may extend". Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 701, 102 C.Ct. 2099, 72 L. Ed. 2d 492 (1982) (citing Home Depot of U.S.A. v. Jackson, 204 L. Ed. 2d 34 (2021) shall be limited by the

legislature itself. The purpose of such limitation, is to avoid National police powers. As Chief Justice Marshall explained, "the government may, legitimately, punish any violation of its laws" as a necessary and proper means for carrying into execution Congress' enumerated power. "McCullock v. Maryland, 4 Wheat, 316 416 4 L. Ed. 579(1819), yet it may only do so, when such police action is protecting another government right, which has been trampled upon. For if these "limitations are not respected, Congress will accumulate the general police power that the Constitution withholds". Taylor v. United States, 195 L. Ed. 2D 456. For "The Constitution", in short, "withholds from Congress a plenary police power". See Lopez, supra at 566, 115 S. Ct. 1624, 131 L. Ed. 2D 626; see Article I, section 8; Amdt. 10" Id..

The Constitution has long expressly delegated to Congress the authority over only "four specific crimes: counterfeiting securities and coin of the United States, Article I, section 8, cl. 6; piracies and felonies committed on the high seas, Article I, section 8 cl. 10; offenses against the law of nations, ibid; ***and treason, Article III, section 3, cl. 3***. Given these limited grants of federal power, it is clear that congress cannot punish felonies generally". Cohens v. Virginia, 6 Wheat 264, 428, 5 L. Ed. 257 (1821) (Marshall, C.J.) As clearly seen, **unless** the United States federal DOJ, has a legitimate, legally grounded right (to protect) in the Constitution, it holds no standing – or basis – on which to lay any claim of "injury in fact", warranting of a criminal remedy. "We have always rejected readings [529 US 619] of the [] and the scope of federal power that would permit Congress to exercise a police power". 596-597, and n 6, 131 L. Ed. 2D 626, 151 S. Ct. 1624 (noting that the first Congresses did not enact nationwide punishments for criminal conduct under the [])". (as relied on in United States v. Morrison, 529 US at 619)

In summary, national police powers are not the historical tradition of the United States of America. In fact, such concerns were the primary catalyst for the formation of the very Union itself. National tyrants, belong in other countries, not governed by "we the people".

Defendant TRUMP was targeted by Indictment, in what shows to be a scheme to defraud the courts, and "We the People of the United States"; this, perpetrated by Jack Smith of the AG's Offices. Not within one single document, does the United States allege that TRUMP was in fact, culpable for committing "...a crime[offense] against the United States of America..." as required to investigate under 28 U.S.C. 533(1) limiting legislatures. Smith does claim **"offenses against laws of the United States"**,(18 USC 3231) however. Further in the filing of indictment, A/USA Jack Smith clearly violated his limiting governance, which restrains his office to an Obligatory Duty to ONLY "...prosecute for all offenses against the United States..." (547(1) of same Title). Accordingly, the United States prosecution is evidenced to have engaged in unauthorized – and what shows to be malicious – prosecutorial misconducts and abuses of Executive and Judicial power.

Rule 6(e)(7) ironically provides for punishing any A/USA for **"contempt of court"** in the *"...knowing violation of Rule 6"*. Why is this relevant? According to Rule 6(a)(1) "When the public interest so requires, the court must order that one or more grand juries be summoned." Placing Donald J. Trump's actions, before a grand jury forum, is a knowing violation of this rule due to the above. This is punishable by "contempt of court", (Rule 6(e)(7). (Which happens to be "any offense against the United States.." as committed by Smith)

But for the avoidance's to Rule of Law, President Donald J. Trump, would not be defending his innocence against charges of "crimes" , when the United States has never revealed the Executive held any cognizable legal right(s) to bring suit – on behalf of We the People – in the first instance. In other words, had A/USA Jack Smith, simply followed Rule's 2-5.1 (Preliminary Procedure) than the United States would be held to provide proof of arresting authority: "For any offense against the United States, the offender may,...be arrested and imprisoned, or released, as the case may be for trial before such court of the United States has cognizance of the offense." Prosecution of a "crime"(causing of injury) , against the United States, is condition precedential to filing of facts alleging culpability "For any

offense against the United States…" (3041 in part). The fatal flaw to the foundational charges are that the United States stood upon the very fragile basis of "potential national security harms". However, this does not provide any legally cognizable right to bring suit. Instead, the Attorney for the United States, Jack smith took upon himself what amounted to a plenary police right, which is Federal National overreach. Unconstitutional, and criminally illegal itself.

Therefor, since no such constitutional Plenary Police Power exists within the United States Constitution, this suit should be DISMISSED for lack of jurisdiction. 18 USC 3231 does not bootstrap the DOJ into ANY court.

Rules of procedure are meant to be followed. Why else would Congress and the Supreme Court write them? "The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates [magistrate judges] thereof) and courts of appeals." (28 U.S.C. 2072(a)).

In accordance with Congress' legislature, Federal Rules of Criminal procedure are active and govern ALL rule of law. When the Special Prosecutors offices avoid Rules which afforded Donald J. Trump, historical, Constitutionally based protections – Due Process identifying "(Rule 3) actual harm to the United States governments "right(s)" protected under law – an egregious event occurred: TRUMPS rights were abridged/modified illegally--"(b) Such rules shall not abridge, enlarge or modify any substantive right." (Rule 2 in part). TRUMP, holds Constitutionally protected rights, under Rule 3. And since 18 USC 3044 drives Federal Rule 3 of Criminal Procedure, (as approved and prescribe by the Supreme Court of the United States) under Congressional authority, with 18 U.S.C 3001 directing its adherence; the Prosecutors offices ignored such rule of law, avoiding this duty to present – by the record – any justifiable and constitutionally protected right actually harmed by TRUMP, and his actions. Instead, the conviction machinery was started against Donald J. Trump, lacking: "For any

offense [crime] against the United States…" (18 USC 3041) , with Congressional law limiting prosecution of.(see attached 2019 White Paper outlining this exact point of law; Exhibit A).

As Federal District Courts are "courts of limited jurisdiction "defined" (within limited Constitutional boundaries) by the Congress' legislature powers; (See e.g., Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375-377, 114 S.Ct 1673, 128 L.Ed. 2D 391 (1994), establishment of an Article III Constitutionally authorized court – for criminal process – begins with invocations of 18 U.S.C. 3041. Why? For if the Government ignores Constitutional limitations, than it approached – and has sadly achieved – plenary Police powers. To be clear, "the government may, legitimately, punish any violation of its laws" as a necessary and proper means for carrying into execution Congress' enumerated power". However, no enumerated Federal Police power exists with direct Constitutional grant:

For "The Constitution," in short, "withholds from Congress a plenary police power." See Lopez, at 566, 115 S.Cg. 1624, 131 L.Ed. 2D 62 6; see also Art II, Art. VI cl 2 and 3 "Th[e] [federal] government is acknowledged by all to be one of enumerated powers. **The principle, that it can exercise only the powers granted to it...is now universally admitted."** As Chief Justice Marshall stated in McCullock v. Maryland, 4 Wheat 316, 4 L. Ed 579 (1819) ***"To uphold the Government's contentions here, we would have to pile inference upon inference in a manner that would bid fair to convert congressional authority under the General Welfare Clause to a general police power of the sort retained by the States".***

Police power is necessary federally, only when a federally upheld "right" has been impeded; ignored; bypassed; subverted; evaded; or manipulated. Then (and only then) the United States government, holds a legally protected might, which is the key to the court house doors: "For any offense against the United States" (3041), if such an offense actually even occurred. Then – and only

then – the USA is proper to redress it. No such right was either infringed, nor alleged to have been infringed, by DONALD J. TRUMP. Again, this begs incredulity.

ARGUMENT

Rule 3 (Criminal Rules), mandates compliance with 18 U.S.C. 3041. [Instructed in Advisory committee commentary.] Under Rule 18, criminal venue is mandated to assure compliance with Article III. This proves conclusively that Article III judicial power, is to drive a Criminal Process. Accordingly, a "Case" in the constitutional sense, requires (3) elements to support "standing". The "*irreducible constitutional minimum" of standing requires that a "plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.*" Spokeo, Inc v. Robbins, 578 U.S. 330, 136 S.Ct. 1540, 1547, 194 L.Ed. 2d 635 (2016). As the record reveals, this court never exerted power legally. To the contrary, it was illegally ceded. Accordingly, the indictment never lawfully entered before this court. "The plaintiff, as the party invoking federal jurisdiction, bears the burden of establishing these elements." Spokeo, 136 S.Ct. At 1547. A/USA Jack Smith abused and disregarded compliance by his failure to obey the rule of law, designed to protect against just such usurpation. To abuse and manipulate a federal Grand jury and federal magistrate process, to bring about an unlawful Indictment, targeting for the criminal charging, an otherwise law abiding President/citizen upholding his Oath of Office [which Holds for a lifetime] defies not only law, but reason itself.

Concreteness of injury has long been held the bulwark which must be met. In order to go past such threshold, a plaintiff must have suffered an injury in fact, and it must be particularized and concrete. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed. 2d 351 (1992). An injury in fact, is an "invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." id.

"The federal courts are under independent obligation to examine their own jurisdiction, and standing is perhaps the most important of doctrines.'" FW/PBS, Inc. v. City of Dallas, 493 U.S. 215, 231, 110 S.Ct. 596, 107 L.Ed. 2d 603 (1990) (citation deleted).

And so, the United States prosecution clearly trespassed upon this courts forum, for the United States lacked any identified injury. The United States Attorney General is fully culpable for this egregious miscarriage of justice (28 USC 519). The total abandonment of fundamental principles occurred: justiciability was trespassed; no legal harm occurred; no remedy was due. Mootness doctrine applies. Dismissal of Indictment is proper, under Rule 6(b)(1) and 6(b)(2).

"*The plaintiff as party invoking federal jurisdiction, bears the burden of establishing these elements.*" Warth v. Seldin, 422 U.S. 490, 518, 95 S.Ct. 2197, 45 L.Ed. 2d 343 (1975) (Cited in Spokeo, 136 S.Ct. At 1547) In this matter, the United States never once, established any basis for it's standing, allowing the unlawful access to a United States Grand Jury. As such, the Grand Jury was illegally drawn against DONALD J. TRUMP.

Now how did such action occur? The United States -willingly and knowingly – simply laid allegations of 'crime' by DONALD J. TRUMP. The necessary foundation of the courts judicial power, is not evident: "[o]nly those plaintiffs who have been **concretely** harmed by the defendants statutory violation" and only then may the government "sue that private defendant over that violation in federal court." Spokeo, at 1548.

Furthermore, the United States prosecution [as evidenced] violated separation of powers principles. The court is forwarding this by providing a trial testing of merits, without assuring the Plaintiff was in fact, an injured party. Thus, committing plain error.(see Rule 52(b)) When this erroneously occurs it "would allow a federal court to issue what is an advisory opinion without the ability of any judicial relief." California v. Texas, 141 S.Ct. 2104, 2116, 210 L.Ed. 2d 230, (2021) (quoting Los Angeles v. Lyons, 461 U.S. 95 (1983)(Marshall, J. dissenting).

ALL Federal courts have unflagging obligations to "*confirm that the jurisdictional requirements of Article III standing are met before proceeding to the merits of the case.*" Steel Co. v. Citizens for a Better Env., 523 U.S. 83, 94-95, 118 S.Ct. 1003, 140 L.Ed. 2d, (1998). In failing to take such reserve, a fundamental miscarriage of justice is occurring. This court has allowed for the Executive Branch to use it as a "super-legislature". Adjudicating political controversy is not the domain of the judicial branch, yet instead lies with the legislature by historical design. "*We have always taken this to mean cases and controversies of the sort traditionally amenable to, and resolved by, the judicial process.*" Muskrat v. United States, supra, 356-57, 55 Led 46, 31 S.Ct. 250. (1911). By the plain meaning, the prosecution failed to even make an Executive 'case'. Why?

Congress provides legislature, which if followed, strictly limits Executive action. 28 U.S.C. 519 assures this 'case' was to be supervised by the Attorney General's office: "*...the Attorney General shall supervise all litigation to which the United States is a party,.....and shall direct all United States Attorney's...in the discharge of their respective duties."* Was it though?

28 U.S.C. 530(C)(b)(4) only authorizes investigation funding, (to the FBI) *"...for the detection, investigation, and prosecution of crimes against the United States.."*(in part). No such crime was ever alleged in TRUMP'S Indictments. This means, U.S. Treasury funds were spent without the authority.

Furthermore, 28 U.S.C. 533(1) limits the Attorney General's right to investigation and prosecution of crimes only when against the United States. *"The Attorney General may appoint officials –(1) to detect and prosecute crimes against the United States."*

And lastly, 28 U.S.C. 547(1) further drives home the point "*Except as otherwise provided by law, each United States Attorney, within his district, shall ---(1) prosecute for all offenses against the United States;*" Offenses and Crimes are not synonymous. No such offense against the United States was ever claimed to have occurred. Therefore, redress was given to a party lacking in the right to

receive any redress for non-existent legal harm. No "exception as provided by law" was ever introduced, overriding these clearly defined detection, investigation and prosecution limitations.

CONCLUSION

When the Constitution is avoided, Rules of procedure are ignored, and a Grand Jury is illegally accessed without Magistrate screenings (as Congress rules shall have occurred), the Grand jury is weaponized (and criminally) to manipulate the rule of law as a tool to take down any political or economic opponent resulting in a miscarriage of justice, bringing about the very despotism our Founding Fathers feared.

As the records in this matter reveal, the Defendant was never accused of harming the United States in any manner of right protected under the law. Instead, the Government (as Plaintiff) failed to adhere to their Constitutional and Statutory mandates (and comply with Federal Rules of Criminal Procedure), and did abuse and manipulate a Federal Grand Jury and Federal Court to introduce an unlawful and ill-gotten indictment into an Article III docket. All in the effort to weaponize the court to criminalize an otherwise law abiding citizen and imperil his lawful business. The Executive Branch broke the law and the Judicial Branch has enabled it.

RELIEF REQUESTED

12) AMICUS FRANK EDWIN PATE requests this court GRANT him leave, for a full briefing to be submitted which will recommend this court DISMISS the Indictment against DONALD J. TRUMP for the purposes of rectifying this ongoing miscarriage of justice. While AMICUS is not a party to this suit, he is equally interested in these issues of law, due to his own miscarriage of justice, in his unresolved and **unaffirmed**, evidence lacking, trial convictions. (Exhibit B) . "A party may move to dismiss the

Indictment based on the ground that it was not lawfully drawn, summoned, or selected." (Rule 6(b)(1)) Further, "*A party may move to dismiss the indictment based on an objection to the grand jury...,unless the court has previously ruled on the same objection under Rule 6(b)(1).*"

All facts are true and submitted under penalty of perjury this 28th day of February 2024 under the laws of the United States of America. (28 U.S.C. 1764)

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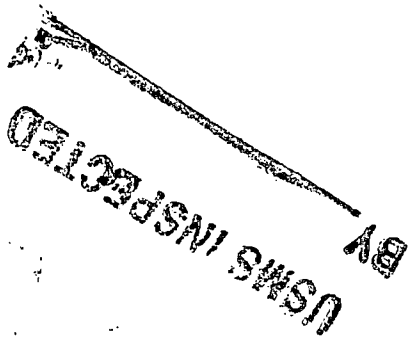

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