CLERK - File Upon Demand, File for Record.

TO-UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

UNITED STATES OF AMERICA	)	
---	)	Case No. 3:06-CR-00083/MCR
Kent E Hovind, a man.	)	

1. Notice - This document can not be used to create any form of jurisdiction over the man.
2. Notice - Court administrator, the judge, is to take judicial notice of all evidence of the law, and court rules, herein incorporated.
3. Notice - No oral arguments, see original Challenge/with Motion.
4. Notice - 'Findings of Facts and Conclusions of Law' are requested on any ruling of this challenge/motion, as a matter of law, and/or as a matter of right. (Maxim of Law - A man has a right to know what a court relies upon for authority to act against that man.)
5. Notice – Defendant received the 'REPORT AND RECOMMENDATION' court filing dated 11-6-2019 by USPS mailing on the date of 11-15-2019.
6. Notice – This Challenge, with Motion, cannot be limited to only eighteen (18) days response by court rule, or by court order – is that the court lacks subject matter jurisdiction for the 'due process violation described herein.

Regarding: 2nd Brief, and Memorandum of Law, to/for - Objections to the proposed findings of the courts, 'REPORT AND RECOMMENDATION' dated November 6, 2019.

1. Citing specific authority and the jurisdictional basis for the instant filing.

2. At the base of page one and top of page two the court, on Nov 6, 2019, Administrator stated; "In the motion, he challenges his original conviction, making arguments about an alleged lack of jurisdiction and constitutional violations that allegedly occurred. Such arguments are properly made in a motion pursuant to 28 U.S.C. § 2255."

3. The Defendant does not consent to the Defendant's 'Challenge-Motion' to Vacate to be converted to any other form of Challenge or Motion by any man, or administrator, that causes the Challenge/with Motion to be of no effect.

4. "Where rights as secured by the Constitution are involved, there can be no rule making or legislation which will abrogate them." Miranda v. Ariz., 384 U.S. 436 at 491 (1966).

5. One must note that Defendant's challenge/motion is not reaching to anything other than [i]f the pleadings before the court, in the first instance, constitutes the required 'sworn complaint' for any court, or prosecutor, to create an information, or seek an indictment, with written authority, in a criminal proceeding. The issue at hand is simply – 'Is there a sufficiency of pleadings' to meet the 'due process' requirements of the 4th Amendment, and the 5th Amendment. [I]s there an affidavit of 'probable cause' in the record as required by the 'supreme law of the land' as referenced below?

6. *Chambers v. Baltimore R.R.*, 207 U.S. 142, 28 S.Ct 34, 52 L.Ed. 143 (1907), at 28 S.Ct. page 40 ruling: "The Constitution is the supreme law of the land"

7. *Brinegar v. United States*, 338 U.S. 160, S.Ct. 1302, 93 L.Ed.2d 1879 (1949): "These [Fourth Amendment rights] ... are not mere second-class rights but belong in the catalog of indispensable freedoms. Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government."

8. The court relies on *United States v. Mosavi* *incorrectly because 'subject matter jurisdiction' is challenge by Hovind, which unlike the relied upon* *United States v. Mosavi* case cannot be denied, or converted, into a time bared 2255. As to the *Smith v. United States*, the case relied upon by the court - the Defendant could

find any correlating points, and not one reference to Rule 60(b) in any of that case findings.

9. ***Title 1 >>Subject matter jurisdiction cannot be time-bared, or latched.<<***

I. "...void judgment is a nullity and may be vacated at any time..." *Matter of Marriage of Welliver*, 869 P.2d 653 (Kan. 1994).

II. "...a void judgment within rule that laches does not run against a void judgment..." *Com. V. Miller*, 150 A.2d 585 (Pa. Super. 1959).

III. "Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed," *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. – Beaumont 1973).

IV. "Void order may be attacked, either directly or collaterally, at any time," *In re Estate of Steinfield*, 630 N.E.2d 801.

V. "Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court," *People ex rel. Brzica v. Village of Lake Barrington*, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).

10. **Title 2 >>Dismissal, Vacate, set aside, is mandatory, if a void judgment is evident.<<**

I. "When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory," *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994).

II. *"...void judgment, one which there is no evidence to sustain."* *Lake Shore & Michigan Southern Railway Co. v. Hunt*, 39 Mich 469.

III. Any administrator, any man, on American land, claiming the authority to seek a criminal prosecution without a verified complaint in the first instance is acting without authority, is subject to damages, in his own personal commercial liability, and is subject to the American Common Law, 7th Amendment court, 'the People'.

IV. This means that any judge who issues a warrant to seize innocent property wars against the constitution and needs to be held accountable. *Miranda v. Arizona*, 384 US 436 p. 491

V. Kent E. Hovind is protected from state prosecution constitutionally apart from an initial 'verified complaint'.

11. **Title 3 >>Absence of Jurisdiction Judicial Proceedings Are A Nullity<<**

I. If a federal court takes action in a dispute over which it lacks subject matter jurisdiction, that action is a nullity. See Am. Fire & Cas. Co. v. Finn, 341 U.S. 6, 17-18 (1951); Hart v. Terminex Int'l, 336 F.3d 541, 541-42 (7th Cir. 2003) (stating that it was "regrettable" that the case had to be dismissed for lack of subject matter jurisdiction "rendering everything that has occurred in [the] eight years [of litigation] a nullity").

II. Kent E Hovind's case record lacks evidence of any initiating verified complaint, thus the court lacked subject matter jurisdiction, thus all acts thereafter are nullities.

12. **Title 4 >> Where there is Absence of Jurisdiction A Judicial Action Must Cease, May Not Proceed and Must be Vacated, or Set Aside<<**

I. "Without jurisdiction the 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 the fact and dismissing the cause." Ex parte McCardle, 7 Wall. 506, 514 (1869).

II. The law requires a 'verified complaint', none is evidenced, there are no charges, therefore there is, was, no operation of law in this case, except to vacate.

III. In Steel Co. v. Citizens for Better Environment, 523 U. S. 83 (1998) "a long and venerable line of our cases," id., at 94, Steel Co. reiterated: "The requirement that jurisdiction be established as a threshold matter ... is `inflexible and without exception,' " id., at 94-95 (quoting Mansfield, C. & L. M. R. Co. v. Swan, 111 U. S. 379, 382 (1884)); for "[j]urisdiction is power to declare the law," and " `[w]ithout jurisdiction the court cannot proceed at all in any cause,' " 523 U. S., at 94 (quoting Ex parte McCardle, 7 Wall. 506, 514 (1869).

IV. **Title 5 >> Motion to Vacate, or Set Aside, For Lack of Subject Matter Jurisdiction Involving - A Factual* Attack Requires Plaintiff Must Prove the**

Existence of Subject-Matter Jurisdiction By A Preponderance of The Evidence<<

* factual attack, the party asserting federal court jurisdiction "bears the burden of proving by a preponderance of the evidence that the court has subject matter jurisdiction."

I. "When a defendant makes a factual attack, the plaintiff must prove the existence of subject-matter jurisdiction by a preponderance of the evidence." See Irwin v. Veterans Admin., 874 F.2d 1092, 1096 (5th Cir.1989). Irwin v. Department of Veterans Affairs, 498 U.S. 89, 111 S.Ct. 453 (1991); see also Kopp v. Kopp, 280 E3d 883, 884 (8th Cir. 2002)

II. Kent E Hovind notices, this court administrator, that the charging affidavit, of the first instance, must be evidenced in the record, for the court to possess the authority to proceed. No affidavit is synonymous with no charge made by a man.

13. **Title 6 >>Void Judgment<<**

I. Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, *Hays v. Louisiana Dock Co., 452 n.e.2D* 1383 (Ill. App. 5 Dist. 1983). A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 *Matter of Marriage of Hampshire*, 869 P.2d 58 (Kan. 1997). A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process *In re Estate of Wells*, 983 P.2d 279, (Kan. App. 1999). judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise *entered in violation of the due*

process of law, must be set aside, *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.

II. Kent E Hovind asserts - "Gentleman we have here a void judgment".

14. **Title 7 >> Federal Rules of Civil Procedure, Rule 60. Relief from Judgment or Order<<**

I. (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
(1) mistake, inadvertence, surprise, or excusable neglect;
(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
(4) the judgment is void;

II. "...court may relieve party from final judgment if it is void, if it is no longer equitable that judgment should have prospective application or for any other reason justifying relief from operation of judgment, is to be liberally construed to carry out purpose of avoiding enforcement of 'erroneous judgment'. Blanchard v. St. Paul Fire & Marine Ins. Co., C.A.5 (Fla.) 1965, 341 F.2d 351, certiorari denied 86 S.Ct. 66, 382 U.S. 829, 15 L.Ed.2d 73. This rule should be liberally construed for the purpose of doing 'substantial justice'.
Hovind's judgment is clearly void, is an 'erroneous judgment', is lacking 'substantial justice', therefore Rule 60 can be 'liberally construed' for use to vacate, or set aside.

III. In re Hankins, N.D.Miss.1973, 367 F.Supp. 1370. See, also, Fackelman v. Bell, C.A.Ga.1977, 564 F.2d 734; Radack v. Norwegian America Line Agency, Inc., C.A.N.Y.1963, 318 F.2d 538; Triplett v. Azordegan, D.C.Iowa 1977, 478 F.Supp. 872; Tann v. Service Distributors, Inc., D.C.Pa.1972, 56 F.R.D. 593, affirmed 481 F.2d 1399. This rule establishing requirement for granting relief from a final judgment or order is to be given a liberal construction. U. S. v. One 1966 Chevrolet Pickup Truck, E.D.Tex.1972, 56 F.R.D. 459.

15. **Title 8 >>Fraud on the Court<<**

I. Void judgment that is subject to collateral attack, is a simulated judgment devoid of any potency because of the jurisdictional defects, *Ward v. Terriere*, 386 P.2d 352 (Colo. 1963).

II. A state prosecutor is barred from prosecuting without 'verified complaint', (a claim of man) to do such is void of constitutional notice, law, and due process, and is fraud on the court.

III. A state prosecutor is barred from seeking an arrest without 'verified complaint', (claim of man) (probable cause) to do such is void of constitutional law, and is fraud on the court.

IV. Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in manner inconsistent with due process of law *Eckel v. MacNeal*, 628 N.E. 2d 741 (Ill. App. Dist. 1993).

V. **The Required Steps:**

1.First a crime is alleged as to have occurred.

2. Second affidavits are assembled of the alleged crime.

3. Third a state officer, prosecutor, assembles information off the 'evidenced' affidavits and creates an 'information' for presentment to a grand jury, which must include the said affidavits in the record.

4. Fourth the grand jury, then, upon the affidavits and information may 'then' and only 'then' investigates, and ultimately may issue a 'Bill of Indictment'.

5. Fifth the prosecutor takes the 'Bill of Indictment' (formal charge based on sworn evidence) with the required affidavit(s) to the court administrator to seek a warrant based on the 4th and 5th Amendment, as are the rights afforded to the man called Kent E Hovind.

6. Skipping any of the above is not 'due process', as a matter of constitutional law, and court rule.

7. Kent E Hovind, as a man, has a right to the said 'due process', and meaning full time and meaningful access to the proceeding US court.

8. Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, *Hays v. Louisiana Dock Co.*, *452 n.e.2D* 1383 (Ill. App. 5 Dist. 1983).

9. Kent E Hovind's case orders are presently unconstitutionally evidenced, procured.

I. A void judgment has no effect whatsoever and is incapable of confirmation or ratification, *Lucas v. Estate of Stavos*, 609 N. E. 2d 1114.

II. "Void judgment is one that from its inception is a complete nullity and without legal effect…" *Stidham V. Whelchel*, 698 N.E.2d 1152 (Ind. 1998).

III. US v Kent E Hovind administrators have no authority to apply any bar, limitation, conversion, or any enforcement, or subsequent orders, or recommendations, or any written authority except to vacate the judgements associated with this case, or set the judgment aside, as a matter of law without discretion, mandatorily, NOW.

IV. A void judgment is one which has merely semblance, without some essential element, as when court purporting to render has no jurisdiction, *Mills v. Richardson*, 81 S.E. 2d 409, (N.C. 1954). A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, *Henderson v. Henderson*, 59 S.E. 2d 227, (N.C. 1950).

V. There is no evidence of a sworn complaint, or a verified complaint, that was presented to the prosecutor to initiate the assembling of an 'information' for presentment to the grand jury of this case. Such said 'complaint(s)' are of the mandatory 'essential elements'.

VI. The court lacked authority to proceed against Kent E Hovind as a man, as to arrest, as to any call for a plea at bar, as to presenting the case before a jury, in a US court. Which, I trust, that all 7th Amendment common law judges (courts) would agree with, as well as a jury in 'The **United States Court** of Federal **Claims'.**

VII. Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. – Beaumont 1973).

VIII. Kent E Hovind had/has the right , as a man, having standing higher than a statutory 'person', to full 'due process', adding if such were provided, he would have prevailed effortlessly.

IX. A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over the subject matter or the parties, *Rook v. Rook*, 353 S.E. 2d 756, (Va. 1987).

X. This does not dispose of the appellant's contention that the order was not "void on its face." While the phrase "void on its face" is somewhat imprecise, it is clear that the invalidity need not appear on the face of the judgment alone; a judgment or order may be said to be intrinsically void, or "void on its face," if lack of jurisdiction appears from the record. State of Missouri ex rel. and to Use of Stormfeltz v. Title Guaranty & Surety Co., 8 Cir., 72 F.2d 595, 598 [8, 9], cert. den. 294 U.S. 708, 55 S. Ct. 404, 79 L. Ed. 1242; Caruthersville School Dist. No. 18 v. Latshaw, 360 Mo. 1211, 1219, 233 S.W.2d 6, 9 [4-7];

XI. Extrinsically, or intrinsically, both must prove the 'Bill of Rights' was fully met, as of record.

XII. Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of the due process of law, must be set aside, *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.

16. **Title 9 >>More on the required 'verified complaint.<<**

I. As a man, Defendant has a right to challenge jurisdiction at any time, and such evidence must be found to be existing in the record. The Plaintiff must evidence that a 'verified complaint' was used to initiate this prosecution before the Grand Jury.

II. See the attached 17 - page brief that was filed with this original Challenge-Motion, as referenced at the base notes of the bottom of page one of Plaintiff's 11/06/19 Filing.

III. Defendant NOW challenges Plaintiff to present the 'required sworn/verified complaint' that is required by written law of the 4th Amendment and the following US court case finding - "...once State and Federal Jurisdiction has been challenged, it must be proven." Main v. Thiboutot, 100 S. Ct. 2502 (1980)

17. The 4th Amendment is settled, constituted, law, no man need support such by any court opinion of any reference to existing law. The 'Bill of Rights" assures such.

18. "The United States is entirely a creature of the Federal Constitution, its power and authority has no other source and it can only act in accordance with all the limitations imposed by the Constitution." Reid v. Covert, 354 U.S. 1, 1 L. Ed. 2nd. 1148 (1957).

19. Note - the court has not stated that the Defendant is not afforded the full 'Bill of Rights'.

20. It is rightly plausible that what is before the court is more accurately called a 'challenge' that must be met by the Plaintiff, and not a 'motion' that can be summarily dismissed or converted into a 2255 motion because the court lacked jurisdiction to even begin the case. As stated, the Defendant is not skilled in the distinctions of a Common Law 'challenge' versus a 'statutory' motion. The document is clear that a call is upon the Plaintiff to evidence that the required 'verified complaint', Rule 9 'affidavit', is in the record that was relied upon for the presentment of the case for indictment consideration before a grand jury, and also the 'oath or affirmation' (affidavit) that the 4th Amendment requires for the arrest, and subsequent prosecution, of the Defendant. See the submitted 17 - page affidavit as to the requirement of a 'verified complaint', I ask the court administrator to take judicial notice of all applicable evidence of law found in that brief.

21. The issue is not if the "moving party is, or is not, entitled to relief", the challenge is [i]f there is evidence in the official record that jurisdiction was invoked, by sufficient pleadings, in affidavit form, or by sworn evidence, that is evidenced in the said record, upon/for the acting [c]ourt (administrator), without even considering any other part of the case, as the 4th Amendment required, and as Federal Court Rule 9 requires.

22. If the record is in-sufficient as stated above this document may possibly act as a 'set aside' the judgment as described in Federal Criminal Procedure §156. The

Defendant is not trained as to what to call the challenge, the motion, and asks the court to make it workable without interfering with the intent, or right, of the Defendant.

23. More specifically this is not an 'argument', as the court put it, it is a 'challenge' as to evidence if the court providing the required full 'due process' that is not waivable, or time bared, for a man of right who is afforded all the rights enumerated in the 'Bill of Rights', specifically the 4th and the 5th Amendment.

24. "An indictment, fair upon its face, and returned by a properly constituted grand jury, conclusively determines the existence of probable cause to believe the defendant perpetrated the offences alleged therein." U.S.C.A. Const. Amend. 4. State v Hill, 2015-Ohio-2389, 37 N.E. 3d 822 (Ohio St. App. 8th Dist. Cuyahoga County 2015) Foremost, no determination can be initiated (proceed) without 'verified complaint' (4th Amendment oath or affirmation [affidavit]). With no 'verified complaint' (affidavit) there can be no evidence (existence) of probable cause. Therefore, no evidence to indict exists without the required form of evidence to exist is evidencable by the Plaintiff of Kent E Hovind's case.

25. "Without jurisdiction the 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 the fact and dismissing the cause." Ex parte McCardle, 7 Wall. 506, 514 (1869). In Steel Co. v. Citizens for Better Environment, 523 U. S. 83 (1998) "a long and venerable line of our cases," id., at 94, Steel Co. reiterated: "The requirement that jurisdiction be established as a threshold matter ... is `inflexible and without exception,' " id., at 94-95 (quoting Mansfield, C. & L. M. R. Co. v. Swan, 111 U. S. 379, 382 (1884)); for "[j]urisdiction is power to declare the law," and " `[w]ithout jurisdiction the court cannot proceed at all in any cause,' " 523 U. S., at 94 (quoting Ex parte McCardle, 7 Wall. 506, 514 (1869)).

26. The court rule also requires the same (4th Amendment) [a]ffidavit (oath or affirmation) to be evidenced in the official-record to be present so that the court would then, and only then, have authority to issue a warrant upon the Defendant.

27. Essentially Defendant was arrested, seized, held to make a plea at bar, barred from international travel, forced to defend, ordered to appear for trial, sentenced ten (10) years in jail, all without evidence of 'due process' as to a 4th Amendment 'sworn statement', or like evidence in the official record.

28. The court stated, on page three, line four; "On appeal, the Eleventh Circuit rejected Hovind's challenges to the sufficiency of the indictment and the sufficiency of the evidence,..." We hereby challenge the court to look to the

record and provide fact reference that the following was before the Grand Jury of this case, pursuant to State v Hill, 2015-Ohio-2389, 37 N.E. 3d 822, as disclosed above in paragraph 12:

i. The initial statement of alleged facts.

ii. A signature of the one making the sworn attesting to the initial written statement.

iii. Authorized person to verify by jurat signature of the individual who swore to the truth of the Statement.

iv. Or the same as orally sworn and the court of record of all essential statements for jurisdiction in the official record.

29. Fifth Amendment (indictment) - 201. INDICTMENT AND INFORMATIONS

An indictment, as defined in Black's Law Dictionary, is: "An accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which by law is a public offense, punishable on indictment. A formal written accusation originating with a prosecutor and issued by a grand jury against a party charged with a crime. An indictment is referred to as a "true bill," whereas failure to indict is called a "no bill."

Black's Law Dictionary 772 (6th ed. 1990). < https://www.justice.gov/jm/criminal-resource-manual-201-indictment-and-informations

Kent E Hovind asks, where is the 'verified complaint' and 'information' that caused the grand jury to convene and to consider an indictment?

Id. at 779. Together with the pleas of guilty, not guilty, or *nolo contendere*, the indictment and information constitute the pleadings in Federal criminal proceedings. *See* Fed. R. Crim. P. 12(a).

Defendant's comment: It is all based on who, or if any man, informed by 'verified complaint', as before the state prosecutor the sufficient sworn info to create the required prosecutor's formal 'information', or any evidence before the grand jury, relied upon by the prosecutor, to persuade the Grand Jury for a 'Bill of Indictment'.

If no 'verified complaint' is synonymous with no Rule 9 'affidavit, is synonymous with no 'information', is synonymous with no sufficient 'pleadings' as noted in the above *Id.* at 779, no sufficient pleadings is synonymous with the court is in want of 'subject matter jurisdiction'.

30. And it will tend to preserve the criminal trial, as distinct from the prosecutor's private deliberations, as the chosen forum for ascertaining the truth about criminal accusations. See Rose v. Clark, 478 U.S. 570, 577-78 (1986); Estes v. Texas, 381 U.S. 532, 540 (1965); United States v. Leon, 468 U.S. 897, 900-901 (1984) My comment to the above – proof that 'due process' was afforded is absolutely paramount to keep prosecutors from acting without authority, essentially the initial 'verified complaint' (a charge). As an example, a man is arrested and threatened with five years and is offered one year with a plea deal, which he accepts even though he is factually innocent but fears the inevitable since some courts have a 98% conviction rate. Such a man was just denied 'due process' if there is no 'verified complaint' against him. Hovind's challenge is an attempt to halt such violations if there is no evidence of 'probable cause', 'sworn testimony', or a 'verified complaint' before the Grand Jury, or in the official court record as required by the said court rule, and 4th Amendment. Wise men have placed such rules in place for good reasons.

31. "The United States is entirely a creature of the Federal Constitution, its power and authority has no other source and it can only act in accordance with all the limitations imposed by the Constitution." Reid v. Covert, 354 U.S. 1, 1 L. Ed. 2nd. 1148 (1957).

32. A state prosecutor under the limitations of the Constitution for the United States is therefore required to first obtain the 'verified complaint' initially, as a matter of law.

33. There is a plethora of reasons why such written law, enumerated-rights, and court rules are required to be in place. Like mischief can be done by those that have any part in a Grand Jury proceeding, or the required record preservation thereafter of the same sort. Such as court reporters, judges, clerks, custodian of court records, and even attorneys that have access to the same. The fact that many a defendant's case prevails because the testimony in a Grand Jury proceeding conflicts with trial testimony. The adage – "liars are needful of good memories". None the less, the record must be there as evidence of the very Grand Jury proceeding, no record is equivalent to no 'Bill of Indictment' as a matter of law.

34. SEE > "Moreover, the Court's analysis reduces the significance of deliberate prosecutorial suppression of potentially exculpatory evidence to that merely of one of numerous factors that "may" be considered by a reviewing court. Ante at 683 (opinion of BLACKMUN, J.)

35. The fact that many a defendant's cases prevail because the testimony in a Grand Jury proceeding conflicts with trial testimony. The adage – "liars are needful of good memories". None the less, the record must be there as evidence of the very

Grand Jury proceeding, no record is equivalent to no 'Bill of Indictment' as a matter of law.

36. Defendant challenges the Plaintiff, and the court administrators, to evidence the required 'sworn statement' that was presented to the Grand Jury, as a right. The [P]laintiff has failed to produce! The [r]ecord has failed to reveal! "No interest of the State is served, and no duty of the prosecutor advanced, by the suppression of evidence favorable to the defendant. On the contrary, the prosecutor fulfills his most basic responsibility when he fully airs all the relevant evidence at his command." See US v. Agurs, 427 US 97, 116 (1976) < OR THE LACK THEREOF. Will a jury not consider this as an intentional, outrageous, common law damage?

37. **Title 10 >>More evidence for the required 'verified complaint', and what constitutes a Grand Jury lawful assembly.**

38. The following is a rule/law due before a court can issue a warrant (an act that may destroy a man's life without remedy). See AGAIN - Federal Rule of Criminal Procedure 3 states the following: "The complaint is a written statement of the essential facts constituting the offense charged. It must be made under oath before a magistrate judge". F.R.Crim.P. rule 4 provides how probable cause is established. "…If the complaint or one or more affidavits filed with the complaint established probable cause to believe that an offense has been committed and the defendant committed it,…

39. As evidenced above a/the 'oath' is required, it is the law, it is due process, it is the right of a man of birthright on American soil, as Kent E Hovind is.

40. Does not this man have right to meaningful time and meaningful access to this court by way of this challenge? Mr. Prosecutor bring the 'verified complaint' forward or forever hold your peace. SEE – "If the Prosecution had the initial affidavit, proof of probable cause, of a violation, sufficient to justify the bringing of charges, surely it would have produced it upon accused challenge. In order to be charged and convicted of a crime, the prosecution must prove every element of the crime as charged." See People v. Lobato, 109 Cal.App.4th 762 (2003); People v. Sengpadychith, 26 Cal.4th 316 (2001); People v. Flood, 18 Cal.4th 470, 76 Cal.Rptr.2d 180, 957 P.2d 869 (1998); People v. Magee, 107 Cal.App.4th 188, 131 Cal.Rptr.2d 834 (2003); People v. Marshall, 83 Cal.App.4th 186, No. B137038 (2003); People v. Kobrin, 11 Cal.4th 416, 45 Cal.Rptr.2d 895, 903 P.2d 102 (1995); People v. Avila, 35 Cal.App.4th 642, 43 Cal.Rptr.2d 853 (1995); In Re Winship, 397 U.S. 358 (1970); Sullivan v. Louisiana, 508 U.S. 275 (1993).

41. Without sworn evidence evidenced before the Grand Jury, the court lacks subject matter jurisdiction to proceed. NOTE > Courts of limited jurisdiction are empowered by one source: sufficiency of pleadings – meaning one of the parties appearing before the inferior court must literally give the court its judicial power by completing jurisdiction. Federal courts are courts of limited jurisdiction, and such officers of the court can only exercise jurisdiction when specifically authorized to do so. A party seeking to invoke a federal court's jurisdiction bears the burden of establishing that such jurisdiction exists. See Scott v. Sandford, 60 U.S. 393 (U.S. 01/02/1856), Security Trust Company v. Black River National Bank (12/01/02) 187 U.S. 211, 47 L. Ed. 147, 23 S. Ct. 52, McNutt v. General Motors Acceptance Corp., 298 U.S. 178, 189 (1936), Hague v. Committee for Industrial Organization et al. (06/05/39) 307 U.S. 496, 59 S. Ct. 954, 83 L. Ed. 1423, United States v. New York Telephone co. (12/07/77) 434 U.S. 159, 98 S. Ct. 364, 54 L. Ed. 2d 376, Chapman v. Houston Welfare Rights Organization et al. (05/14/79) 441 U.S. 600, 99 S. Ct. 1905, 60 L. Ed. 2d 508, Cannon v. University of Chicago et al. (05/14/79) 441 U.S. 677, 99 S. Ct. 1946, 60 L. Ed. 2d 560, Patsy v. Board of Regents State of Florida (06/21/82) 457 U.S. 496, 102 S. Ct. 2557, 73 L. Ed. 2d 172, Merrill Lynch v. Curran et al.. (05/03/82) 456 U.S. 353, 102 S. Ct. 1825, 72 L. Ed. 2d 182, 50 U.S.L.W. 4457, Insurance Corporation of Ireland v. Compagnie Des Bauxites de Guinee(06/01/82) 456 U.S. 694, 102 S. Ct. 2099, 72 L. Ed. 2d 492, 50 U.S.L.W. 4553, Matt T. Kokkonen v. Guardian Life Insurance Company of America (05/16/94) 128 L. Ed. 2d 391, 62 U.S.L.W. 4313, United States ex rel. Holmes v. Consumer Ins. Group, 279 F.3d 1245, 1249 (10th Cir. 2002) citing United States ex rel. Precision Co. v. Koch Industries, 971 F.2d 548, 551 (10th Cir. 1992).

42. Additional evidence of law. This Defendant has a right to rely on a court determinations and sound principals of law. If it is required in a US court. Therefore, the filing, presenting, of an 'information', must be primarily [f]rom information evidenced in the record by [s]worn statements of a man under penalties of perjury, as under his personal liability. Without such the prosecutors presented 'information' is without foundation, and in law is not enough to invoke the courts subject matter jurisdiction pursuant to the 4th Amendment.

43. NOTE - The requirement for a verified information to confer subject matter jurisdiction on the court and empower the court to act has been applied to both courts of record, and courts not of record. We determine that the mandatory language of 22 O.S. 1981 § 303 [22-303], requiring endorsement by the district attorney or assistant district attorney and **verification** of the information is more than merely a "guaranty of good faith" of the prosecution. It, in fact, is required to vest the district court with subject matter jurisdiction, which in turn empowers the court to act. Only by the filing of an information which complies with this mandatory statutory requirement can the district court obtain subject matter

jurisdiction in the **first instance** which then empowers the court to adjudicate the matters presented to it. We, therefore, hold that the judgments and sentences in the District Court of Tulsa County must be REVERSED AND REMANDED without a bar to further action in the district court in that the unverified information failed to confer subject matter jurisdiction on the district court in the first instance, Chandler v. State, 96 Okl.Cr. 344, 255 P.2d 299, 301-2 (1953), Smith v. State, 152 P.2d 279, 281 (Okl.Cr. 1944); City of Tulsa, 554 P.2d at 103; Nickell v. State, 562 P.2d 151 (Okl.Cr. 1977); Short v. State, 634 P.2d 755, 757 (Okl.Cr. 1981); Byrne v. State, 620 P.2d 1328 (Okl.Cr. 1980); Laughton v. State, 558 P.2d 1171 (Okl.Cr. 1977)., and Buis v. State, 792 P.2d 427, 1990 OK CR 28 (Okla.Crim.App. 05/14/1990).

44. What we have in Kent E Hovind's case is a prosecutor trying to slip in an **un-verified information** before the grand jury, which is fraud on the court.

45. Grand Jury indictments start with a 'sworn complaint', a man's claim. With no proper criminal accusation in the court record, there is no accused and the court is without jurisdiction over Applicant. In William t. Gholson the court held: "Therefore, it is the complaint alone, and not any other affidavits given in support of arrest or search warrants, which determines the validity of the information." Holland v. State, 623 S.W.2d 651 (Tex. Crim. App. 1981). William t. Gholson v. STATE TEXAS (06/23/83) 1983.TX.41167; 667 S.W.2 16.

46. No complaint is synonymous with no 'Evidence of Law'. Graves, Judge - "The offense charged is for violating the local option liquor laws. The punishment assessed being a fine of $ 300.00. The record is before us without a complaint being incorporated therein. We have heretofore held that a complaint is necessary in order to confer jurisdiction upon the county court. See Article 415, C. C. P.; McQueen v. State, No. 19521, opinion this day handed down [page 74 of this volume], and Olivares v. State, 76 S.W.2d 140.

47. No complaint is synonymous with no jurisdiction Evidence of law > Olivares v. The State: HAWKINS, Judge.--Conviction is for operating a commercial motor vehicle which was over the gross weight permitted by law. Punishment was assessed at a fine of twenty-five dollars. The information found in the record recites that it is based upon the affidavit of a named party, which affidavit is "hereto attached and made a part hereof." There is no complaint attached to the information, or if so, it is not shown from the record, and no complaint appears anywhere in the record before this court. In such condition no jurisdiction is shown in the county court. See article 415 C. C. P. (1925); Wadgymar v. State, 21 Tex. Ct. App. [***2] 459, 2 S.W. 768; Diltz v. State, 56 Tex. Crim. 127, 119 S.W. 92; Day v. State, 105 Tex. Crim. 117, 286 S.W. 1107. Other authorities are annotated in note 5 under said article 415, vol. 1, Vernon's Ann. Tex. C. C. P. No

complaint appearing as a predicate for the information, it will be necessary for this court to reverse and direct the dismissal of the prosecution. Olivares v. The State. 127 Tex. Crim. 316; 76 S.W.2d 140; 1934 Tex. Crim. App. LEXIS 42 In J. M. Thornberry v. The State the court held: "Winkler, J. From all we can gather from the transcript of the record, the information upon which the appellant was tried and convicted was filed without any written affidavit that any offense against the law had been committed by the defendant; without this the information was worthless and totally insufficient to support a conviction."

48. In a nutshell Texas-style – Boys you need a 'sworn complaint' before you can get out of the gate. Texas Code of Criminal Procedure by Article 1, sec. 9. "This declaration, being among high powers excepted out of the general powers of government, is placed beyond the control of courts and legislatures." J. M. Thornberry v. The State. 3 Tex. Ct. App. 36; 1877 Tex. Crim. App. 202.

49. If the court is bound to protect a citizen how much more a man of right who is found not evidenced other than being independent of the United States who is afforded all the 'Bill of Rights'. Legislature precluded a prosecutor from presenting an information "until affidavit has been made by some credible person charging the defendant with an offense," and also mandated, "The affidavit shall be filed with the information." Article 21.22, supra. Such an affidavit is, of course, a complaint within the meaning of Article 15.04, V.A.C.C.P. "In other words, a prosecuting attorney is not authorized to institute prosecutions in the county court upon his independent acts or of his own volition." Kennedy v. State, supra, at 294. One may not be "both the accuser and the prosecutor in misdemeanor cases." Wells v. State, 516 S.W.2d 663, at 664 (Tex.Cr.App. 1974). Compare Glass v. State, 162 Tex. Crim. 598, 288 S.W.2d 522 (1956); Catchings v. State, 162 Tex. Crim. 342, 285 S.W.2d 233, at 234 (1955).

50. No 'valid-complaint' before the Grand Jury in law leads to an 'in-valid information', thus being no sworn information to act on. No man in the United States court system, as with Hovind's case, can be prosecuted apart from a supported 'information/indictment', upon which he then must defend himself against. In the State of Texas v. Carroll Pierce the court held: "A valid complaint is a prerequisite to a valid information. Holland v. State, 623 S.W.2d 651, 652 (Tex. Cr. App. 1981). Without a valid complaint, the information is worthless. Williams v. State, 133 Tex. Crim. 39, 107 S.W.2d 996, 977 (Tex. Cr. App. 1937). A jurat is the certificate of the officer before whom the complaint is made stating that it was sworn to and subscribed by the Applicant before the officer. Carpenter v. State, 153 Tex. Crim. 99, 218 S.W.2d 207, 208 (Tex. Cr. App. 1949). A jurat is essential, for without it, the complaint is fatally defective **and will not support an information**. Shackelford v. State, 516 S.W.2d 180 (Tex. Cr. App. 1970). The jurat must be dated and signed by the official character. See 22 Tex. Jur. 3d,

Criminal Law, Section 2266 at 490. Thus, a complaint not sworn to before any official or person in authority **is insufficient to constitute a basis for a valid conviction**. Nichols v. State, 171 Tex. Crim. 42, 344 S.W.2d 694 (Tex. Cr. App. 1961) (citing Purcell v. State; 317 S.W.2d 208 (Tex. Cr. App. 1958)); see also Eldridge v. State, 572 S.W.2d 716, 717, n.1 (Tex. Cr. App. 1978); Wheeler v. State, 172 Tex. Crim. 21, 353 S.W.2d 463 (Tex. Cr. App. 1961); Morey v. State, 744 S.W.2d 668 (Tex. App. 1988, no pet.). Even where the jurat on the complaint reflects that it was sworn to before a named person but does not show the authority of such person to act, the complaint is void. Johnson v. State, 154 Tex. Crim. 257, 226 S.W.2d 644 (Tex. Cr. App. 1950); Smola v. State, 736 S.W.2d 265, 266 (Tex. App. 1987, no pet.). The complaint is also void when the jurat contains no signature but only shows the office such as "County Attorney of Jones County, Texas." Carter v. State, 398 S.W.2d 290 (Tex. Cr. App. 1966). When a jurat showed that the complaint had been sworn to before "Lavern I. McCann, Hockley County, Texas," the **complaint was insufficient to support the information**. Carpenter, 218 S.W.2d at 208-09. In the early case of Neiman v. State, 29 Tex. Civ. App. 360, 16 S.W. 253 (Tex. Ct. App. 1891), the complaint was sworn to before "Wm. Greer J.P." It was held that the letters "J.P." could not be inferred to mean Justice of the Peace and an official who had the authority to administer the oath." (((Information and indictment, charging instrument, Bill of Indictment, all must come forth from the **minimum of one affidavit**.

51. The Grand Jury complaint is challengeable. SEE - "When a jurat on a complaint shows that the oath was administered to the Applicant by a party designated as county attorney but who in reality is an assistant county attorney, the complaint is void. Thomas v. State, 169 Tex. Crim. 369, 334 S.W.2d 291, 292 (Tex. Cr. App. 1960); see also Aleman v. State, 162 Tex. Crim. 265, 284 S.W.2d 719 (Tex. Cr. App. 1956); Stalculp v. State, 99 Tex. Crim. 279, 269 S.W. 1044, 1045 (Tex. Cr. App. 1925).

52. The Jurisdictional Question Can Be Raised at Any time and Can Never Be Time Barred. See DeClaire v. Yohanan, 453 So. 2d 375 (Fla. 1984). Absence of subject matter jurisdiction may be raised at any time by any party or by the court sua sponte. State ex rel. Grape v. Zach, (supra) (citing Plock v. Crossroads Joint Venture, 239 Neb. 211, 475 N.W.2d 105 (1991)).

53. Only a court that has evidence of subject matter jurisdiction can bar a motion or challenge by court rule.

54. "Without jurisdiction the 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 the fact and dismissing the cause." Ex parte McCardle, 7 Wall. 506, 514 (1869). In Steel Co. v. Citizens for Better

Environment, 523 U. S. 83 (1998) "a long and venerable line of our cases," id., at 94, Steel Co. reiterated: "The requirement that jurisdiction be established as a threshold matter ... is `inflexible and without exception,' " id., at 94-95 (quoting Mansfield, C. & L. M. R. Co. v. Swan, 111 U. S. 379, 382 (1884)); for "[j]urisdiction is power to declare the law," and " `[w]ithout jurisdiction the court cannot proceed at all in any cause,' " 523 U. S., at 94 (quoting Ex parte McCardle, 7 Wall. 506, 514 (1869)).

55. When the Plaintiff fails to prove that the court has subject matter jurisdiction the court lacks subject matter jurisdiction. Any judgment in a court that lacks subject matter jurisdiction is a void judgment. **Where the party is deprived of due process, the court is deprived of subject matter jurisdiction**. A Void Judgment Is a Void Judgment-Bill of Review and Procedural Due Process in Texas, 40 Baylor L. Rev. 367, 378-79 (1988). See Thomas, 906 S.W.2d at 262 (holding that trial court has not only power but duty to vacate a void judgment). Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process, U.S.C.A. Const. Amend. 5 – Triad Energy Corp. v. McNell 110 F.R.D. 382 (S.D.N.Y. 1986). Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const. Amend. 5 – Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985). Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in a manner inconsistent with due process of law Eckel v. MacNeal, 628 N.E. 2d 741 (Ill. App. Dist. 1993). A void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in a manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, Hays v. Louisiana Dock Co., 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983). A void judgment is one rendered by court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 Matter of Marriage of Hampshire, 869 P.2d 58 (Kan.1997). A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process In re Estate of Wells, 983 P.2d 279, (Kan. App. 1999). judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, **must be set aside**, Jaffe and Asher v. Van Brunt, S.D.N.Y.1994. 158 F.R.D. 278. When rule providing for relief from void judgments is applicable, relief is not discretionary matter, **but is mandatory**, Orner v. Shalala, 30 F.3d 1307, (Colo. 1994).

56. No charges have ever been brought against Kent E Hovind by verified sworn complaint therefore Kent E Hovind has never been charged, therefore the court never acquired the evidence in the official record to show subject matter jurisdiction, therefore the due process violation has occurred causing the court to lose subject matter jurisdiction prior to any call for arraignment, arrest, or call for any plea at bar. The only jurisdiction that the court has is to dismiss, vacate, or set aside, for lack of subject matter jurisdiction as a matter of law.

57. No charges have ever been brought against Kent E Hovind by 'verified sworn complaint' therefore Kent E Hovind has never been charged, therefore the court never acquired the evidence in the official record to possess subject matter jurisdiction, therefore a due process violation has occurred causing the court to lose subject matter jurisdiction prior to any call for arraignment, arrest, or call for any plea at bar. The only jurisdiction that the court has now to dismiss for lack of subject matter jurisdiction as a matter of law, or to NOW vacate or set aside the judgment.

58. **Title 11 >>Am Jur Arguments Located- Annotated Supporting law for court rule 9(a)<<**

59. Federal Rules of Criminal Procedure - "Rule 9 (a) Issuance. The court must issue a warrant—or at the government's request, a summons—for each defendant named in an indictment or named in an information if one or more affidavits accompanying the information establish probable cause to believe that an offense has been committed and that the defendant committed it... A summons may issue if there is an information supported by oath.

60. The indictment* itself is sufficient to establish the existence of probable cause. See C. Wright, Federal Practice and Procedure: Criminal §151 (1969); 8 J. Moore, Federal Practice 9.02[2] at p. 9–4 (2d ed.) Cipes (1969); Giordenello v. United States, 357 U.S. 480, 78 S.Ct. 1245, 2 L.Ed. 2d 1503 (1958). Defendant reminds the court that an indictment is formally produced as a matter of law, if such law is not followed there is no 'indictment' as a matter of law. **The form**, the '**due process form**' was not followed as is required, as a matter of law, therefore there is no indictment.

    indictment* - a formal charge or accusation of a serious crime. The formal charge is initiated by affidavit., pursuant to the 4th Amendment.

61. This is not necessarily true in the case of an information. See C. Wright, supra, §151; 8 J. Moore, supra, 9.02. If the government requests a warrant rather than a summons, good practice would obviously require the judge to satisfy himself that there is probable cause. This may appear from the information or from an

affidavit filed with the information. Also, a defendant can, at a proper time, challenge an information issued without probable cause.

62. The above is evidence that a/the/Hovind's warrant and 'indictment' requires an affidavit. Again an 'information' is limited by information from affidavits, or sworn statements and there are none in the record of this case.

63. Subdivision (a) is amended to make explicit the fact that a warrant may issue upon the basis of an information only if the information or an affidavit filed with the information shows probable cause for the arrest. This has generally been assumed to be the state of the law even though not specifically set out in rule 9; see C. Wright, Federal Practice and Procedure: Criminal §151 (1969); 8 J. Moore, Federal Practice par. 9.02[2] (2d ed. 1976).

64. This is evidence that a/the/Hovind's 'indictment' requires an affidavit. An 'information' come from information present in affidavit form.

65. In Gerstein v. Pugh, 420 U.S. 103 (1975), the Supreme Court rejected the contention "that the prosecutor's decision to file an information is itself a determination of probable cause that furnishes sufficient reason to detain a defendant pending trial," commenting: Although a conscientious decision that the evidence warrants prosecution affords a measure of protection against unfounded detention, we do not think prosecutorial judgment standing alone meets the requirements of the Fourth Amendment. Indeed, we think the Court's previous decisions compel disapproval of [such] procedure.

66. In Albrecht v. United States, 273 U.S. 1, 5, 47 S.Ct. 250, 251, 71 L.Ed. 505 (1927), the Court held that an arrest warrant issued solely upon a United States Attorney's information was invalid because the accompanying affidavits were defective. Although the Court's opinion did not explicitly state that the prosecutor's official oath could not furnish probable cause, that conclusion was implicit in the judgment that the arrest was illegal under the Fourth Amendment.

67. The affidavit is a Fourth Amendment requirement as to any arrest of Kent E Hovind. There must be one, or more valid affidavits evidenced. There is no evidence in the record that such an affidavit has been evidenced.

68. No change is made in the rule with respect to warrants issuing upon indictments. In Gerstein, the Court indicated it was not disturbing the prior rule that "an indictment, 'fair upon its face,' and returned by a 'properly constituted grand jury' conclusively determines the existence of probable cause and requires issuance of an arrest warrant without further inquiry." See Ex parte United States, 287 U.S. 241, 250 (1932).

69. Evidence of probable cause must come by a valid affidavit, or a 'valid-sworn-statement', by a man, not by a grand jury member. Grand jury members cannot be held liable, as a matter of law, as is a man making an affidavit, thus a man must be liable to what is sworn, or there is no point of swearing to its truthfulness.

70. The provision to the effect that a summons shall issue "by direction of the court" has been eliminated because it conflicts with the first sentence of the rule, which states that a warrant "shall" issue when requested by the attorney for the government if properly supported. However, an addition has been made providing that if the attorney for the government does not make a request for either a warrant or summons, then the court may in its discretion issue either one. Other stylistic changes ensure greater consistency with comparable provisions in rule 4.

71. That support is an affidavit, or evidenced sworn testimony, clearly stating evidence of 'probable cause' for any arrest warrant.

72. Appellant contends that a warrant can be issued by the United States Commissioner, or judge, only upon a **'complaint sworn'** to by the prosecuting **witness**, stating the essential facts constituting the offense charged; that the complaint here, fn. 2, supra, did not **contain a statement of the essential facts**; and that upon the taking of the testimony of the affiant it was apparent that the statements made by him were not within his personal knowledge, but must have been based upon information furnished by others. This is in accord with Rule 3, Federal Rules of Criminal Procedure, 18 U.S.C.A., which provides: "The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a commissioner or other officer empowered to commit persons charged with offenses against the United States." >>> "an indictment, 'fair upon its face,' and returned by a 'properly constituted grand jury' conclusively determines the existence of probable cause and requires the issuance of an arrest warrant without further inquiry." See Ex parte United States, 287 U.S. 241, 250 (1932).

73. In Kent E Hovind's case there is no evidence of the **initial required statement** as the above evidence of law strongly eludes too.

74. A 'properly constituted grand jury' is one that is of record of being properly constituted. Consisting of US citizens only as the 'Sole procedure' is authorized, as to becoming a citizen in USC 8 § 1421. Naturalization authority, as the jury, with the required proceedings record, with evidence of payment to a court reporter. No record is evidence of no constituted Grand Jury, or payment to a court reporter of any Grand Jury as associated with Defendant's, Kent E Hovind's case.

75. In this case the first two attempts to get a grand jury indictment failed, the third time is the charm, or more specifically **the deception**, all to destroy a God called, faithful, godly man.

76. **Wherefore**, Affiant, Kent E Hovind, the signed, motions this court, now, to **vacate** all judgments, orders, as associated with this case, for the court is evidenced as being in **want** of 'subject matter jurisdiction', for the irrefutable, due process violation(s), as enumerated, above, '**as a matter of law**', and justice. And being that Affiant is not an attorney trained in this court's procedures if this document is not correct to meet Affiant wish that the presiding court administrator provide assistance to perfect the document to meet all Affiants requests, and needs, as associated, with this motion. Justice delayed is justice denied. May God be honored by all men of this case.

Kent E Hovind

488 Pearl Lane, Repton, Alabama 35475,

a post location without the United States.

kenthovindofficial@gmail.com < Email

251-362-4635< Phone

(This brief is prepared by Paul John Hansen, freeinhabitant.info and submitted to the court by Kent Hovind.)

Personal Notes, not part of this document - Yet to come if need be: "It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction therefor." U.S. v. Benson, 495 F.2d, at 481 (5th Cir., 1974). Did Kent E Hovind's charged acts occur 'in' land of the United States? No evidence of such land jurisdiction exists by fact (documented) evidence. (Land jurisdiction will can never dissipate.)

The Thirteenth Amendment (Amendment XIII) to the United States Constitution - "abolished slavery and **involuntary servitude**, except as punishment for a crime." In Congress, it was passed by the Senate on April 8, 1864, and by the House on January 31, 1865. Does the above written law grant authority to place **involuntary servitude** upon Kent E Hovind as to a duty to acquire an EINumber and force Kent E Hovind to withhold from any man? No.

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