Case No.: 13-1158

IN THE SUPREME COURT
OF THE UNITED STATES

Douglas Vogt,

Petitioner,

vs.

United States District Court, Western District of Washington at Seattle,

Respondent.

Petition for Writ of Certiorari to the United States District Court for the Western District of Washington and the United States Circuit Court for the Ninth Circuit

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Petition for Writ of Certiorari

Douglas Vogt
Petitioner
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Questions Presented For Review

Petitioner Douglas Vogt presented a "Notice of Commission" to U.S. District Court Judge Robart requesting: (i) acknowledgment that Vogt had discharged his "notice" obligations under the federal Misprision statutes, and (ii) that Judge Robart "summon" a Grand Jury to hear Vogt's forensic evidence which demonstrated that the Certificate of Live Birth publicly proffered by Barack Hussein Obama, II, to prove his Constitutional eligibility to be President was indisputably a forgery.

In response, Judge Robart intentionally mischaracterized Vogt's Notice of Commission as an Article III "case" or "controversy" complaint and then – ignoring Vogt's requests – dismissed Vogt's Notice of Commission for lack of Article III subject matter jurisdiction. Accordingly, presented for review are the following questions:

WHETHER, the mischaracterization by Judge Robart of Vogt's Notice of Commission mandates this Court's supervisory intervention to insure the "waters of justice are not polluted".

WHETHER, the "public interest" in the compelling evidence of the forgery of the Certificate of Live Birth of Barack Hussein Obama, II obligated Judge Robart to "summon" a Grand Jury.

WHETHER, the refusal by Judge Robart to summon a Grand Jury is a reviewable judicial act.

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Petition for Writ of Certiorari to the United States District Court for the Western District of Washington and the United States Circuit Court for the Ninth Circuit

Douglas Vogt ("Vogt") prays that a writ of certiorari issue to review the below described orders of: (i) the United States District Court for the Western District of Washington and (ii) the United States Court of Appeals for the Ninth Circuit.

Opinions Below

The November 14, 2013, Order of the District Court is attached to the Appendix hereto, *Appendix-2*.

The January 14, 2014, order of the Circuit Court is attached to the Appendix hereto, *Appendix-5*.

Jurisdiction

The jurisdiction of this Court is first invoked under this Court's "supervisory jurisdiction over the proceedings of the federal courts", *McNabb v. United States*, 318 U.S. 332 (1943) and 28 U.S.C. §2106 which obligates this Court to: "require such further proceedings to be had as may be just under the circumstances."

The jurisdiction of this Court is additionally invoked under Article III and the Ninth and Tenth Amendments to the United States Constitution and

28 U.S.C. §1254(1).

Jurisdiction of the Circuit Court was invoked pursuant to the All Writs Act, 28 U.S.C. §1651(a). Jurisdiction of the District Court was invoked pursuant to: (i) 18 U.S.C. §4 - Misprision of Felony, (ii) 18 U.S.C. §2382 - Misprision of Treason, and (iii) Federal Rules Criminal Procedure, Rule 6(a).

Statutes and Procedural Rules Involved

18 U.S.C. §4 – Misprision of Felony states: "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than $ 500 or imprisoned not more than three years, or both."

18 U.S.C. §2382 – Misprision of Treason states: "Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same . . . to some judge of the United States . . . is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both."

18 U.S.C. §3332(a) – Powers and Duties states: "It shall be the duty of each such grand jury impaneled within any judicial district to inquire into

offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation."

Federal Rules Criminal Procedure, Rule 6(a) "When the public interest so requires, the court must order that one or more grand juries be summoned." (Emphasis added).

Statement of the Case

After failing to get a response from the U.S. Attorney pursuant to a request to submit evidence to the Grand Jury as required by 18 U.S.C. §3332, on October, 18, 2013, Vogt presented to the District Court Clerk for filing as a Miscellaneous matter a document captioned "In Re: Douglas Vogt" and titled: "Notice of Commission of (i) a Felony Cognizable by a Court of the United States as required by 18 U.S.C. §4 – Misprision of Felony and (ii) Treason against the United States as required by 18 U.S.C. §2382 – Misprision of Treason and Motion to Seal Document" ("Notice of Commission").

Attached to the Notice of Commission was

Vogt's publicly-available, 95 page affidavit in which he demonstrated forensically the existence of twenty (20) separate points of forgery in the Certificate of Live Birth ("COLB") of Barack Hussein Obama, II ("Obama"). In addition to the 95 page affidavit, Vogt also filed **under seal** a 75 page affidavit in which he identified the person who forged Obama's COLB and circumstantially traced that forgery directly to Obama.

In the Notice of Commission, Vogt sought *inter alia* from a federal district court judge: (i) an acknowledgment that Vogt had discharged his obligations under the federal Misprision statutes and (ii) that given the obvious "public interest" in preserving the integrity of the Office of the President from a pretender, the district court summon a Grand Jury to consider the public and sealed affidavits of Vogt.

Significantly, the District Court Clerk did not accurately record the Notice of Commission on the docket. Instead, the Clerk renamed the Notice of Commission as a "Complaint against defendant(s)". Additionally, though Vogt has not sought to sue anyone, the Clerk listed on the Docket as defendants those individuals referenced in the Notice of Commission. The matter was then assigned to United States District Court Judge James L. Robart.

On November 12, 2013, Vogt filed a pleading with Judge Robart in which Vogt explicitly stated:

> Vogt sought not to: (i) file a complaint, (ii) invoke the jurisdiction of the Court under Article III to resolve a "case" or "controversy", nor (iii) seek any relief against Barack Hussein Obama, II. . . . Moreover, while Vogt did not caption his Notice of Commission *Vogt v. Obama*, the Clerk – and now this Court – has done so. This misrepresentation of the record calls into question whether there has been a violation of 18 U.S.C. §2071(b) – Concealment, removal, or mutilation generally.

Finally, in the same filing, Vogt again prayed that Judge Robart: "formally recognize that Vogt has discharged his duty under the Misprision statutes" and "due to the 'public interest' in the allegations contained in Vogt's public affidavit and presently-sealed affidavit, superintend those affidavits to the Grand Jury for their consideration."

Two days later, on November 14, 2013, Judge Robart entered his "Order Dismissing Complaint for Lack of Subject Matter Jurisdiction". *Appendix-2*. Judge Robart commenced his order by disingenuously claiming: "Before the court is Plaintiff Douglas Vogt's complaint in which he alleges that the certificates of live birth from the State of Hawaii that President Barack Obama has publicly released are forgeries."

On November 27, 2013, Vogt filed a Petition for Mandamus with the Ninth Circuit Court of Appeal seeking three writs of mandamus directed to Judge Robart to: (i) correct the docket in the District Court to accurately reflect the proceedings below, (ii) acknowledge Vogt's discharge of his obligations under the Misprision statutes, and (iii) summon a Grand Jury to hear Vogt's forensic evidence regarding Obama's Certificate of Live Birth.

On January 14, 2014, the Ninth Circuit entered its order denying Vogt's Petition. Ignoring its duty to state its *ratio decidendi*, the Ninth Circuit simply concluded Vogt: "has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus." *Appendix-5.*

Reasons for Granting the Writ

I. Judge Robart Has Polluted The "Waters of Justice"

The granting of this Writ is first compelled by this Court's supervisory jurisdiction recognized in *Mesarosh v. United States*, 352 U.S. 1 (1956) which recognized the duty of this Court: "to see that the waters of justice are not polluted." Judge Robart's mischaracterization of Vogt's Notice of Filing as an Article III "complaint" is surely such a pollution of the "waters of justice" compelling this Court to intervene and correct.

The reason this "pollution" arose was because Judge Robart sought to avoid the Congressionally-imposed duty impressed upon inferior Article III judges by the Misprision statutes. That duty is to receive notice of the: "actual commission of a felony cognizable by a court of the United States . . ." By mischaracterizing Vogt's Notice of Commission as a "complaint", Judge Robart abdicated that duty thereby allowing him to avoid his directly related Congressionally-imposed Rule 6(a) duty to summon a Grand Jury

In an analogous context, Congress – outside the scope of any Article III responsibility – has obligated district court judges at 8 U.S.C. §1448(a) to administer the "Oath of renunciation and allegiance" during naturalization proceedings. Indeed, upon administering such an Oath, a district court is obligated to provide the oath-taker with a certificate attesting that the Oath was taken. *See*: Title 22 C.F.R. §50.10 "Certificate of nationality." Congress has similarly obligated district court judges to receive notice of the commission of a felony pursuant to the Misprision statutes. As with §1448, there is a concomitant duty to acknowledge receipt of such notice.

Thus, for this Court to allow Judge Robart to mischaracterize Vogt's Notice of Commission to avoid discharging that Congressionally-imposed duty to receive and acknowledge such Misprision notice is an abdication of the implicit design of the Misprision statutes. Accordingly, this Court must

intervene in its supervisory capacity to insure that criminally falsifying the court record does not become acceptable judicial practice through lack of sanction by this Court.

As in *Mesarosh*, "Pollution having taken place here, the condition should be remedied at the earliest opportunity."

II. Judge Robart Was Obligated to Summon a Grand Jury

Second, this Petition should be granted because the significant issue of the Congressionally-imposed duty imposed upon district court judges found at Rule 6(a) to summon a Grand Jury has not heretofore been addressed by this Court. Accordingly, this Court must address the issue of whether Judge Robart breached his Rule 6(a) duty when he refused to summon a Grand Jury after receiving Vogt's sworn evidence of the forgery of Obama's COLB.

As clearly stated in *Cohens v. Virginia*, 19 U.S. 264 (1821) it is the duty of an Article III court "**to perform that task which the American people have assigned to the judicial department**." (Emphasis added). Here, that "task" is found at Rule 6(a) to summon a Grand Jury when the "public interest" so requires – something Judge Robart and the Ninth Circuit have refused to do by begging the question of whether Vogt's Notice of Commission satisfied the standard of "public interest" thereby

triggering the obligation to summon a Grand Jury. Accordingly, this Court must now intervene and "say" what the law is regarding what exactly constitutes Rule 6(a)'s "public interest" which obligates a district court judge to summon a Grand Jury. Significantly, this is an issue of first impression as Rule 6(a)'s "public interest" phrase has not been heretofore judicially-defined.

For this Court to refuse to intervene and "say what the law is" mimics the behavior of the Nationalsozialistische Deutsche Arbeiterpartei by permitting ambiguous legal terms-of-art to acheive the goals that all tyrants crave: Different rules of law for different people – a fundamental breach of the legal compact upon which this federal republic was formed. *Accord*: *James B. Beam Distilling Co. v. Georgia*, 501 U.S. 529, 544 (1991)("But selective prospectivity also breaches the principle that litigants in similar situations should be treated the same, a fundamental component of *stare decisis* and the rule of law generally.")

For this Court to deny definition to the term "public interest" sanctions the use of legal indeterminacy in legal-terms-of-art and thus permits the unregulated and unreviewable exercise of brute federal judicial and executive power employed to assault the fundamentals of the rule of law to the end of creating a 21st Century federal *Volksgebundenheit* and *Artgleichheit*.

Further, what this Court would permit to

evolve if it refused to define "public interest" by denying this Petition is the death knell of the Grand Jury system as originally memorialized in the Constitution. That system guaranteed the People access to the Grand Jury for investigation of legitimate question even if those questions challenged the *status quo*. This system – created by the Congressional linking of the Misprision statutes and the Rule 6(a) obligation – envisions that legitimate matters of "public interest" will be superintended to the Grand Jury by a federal district court judge.

The scope of that "public interest" obtains definition when the role of the Grand Jury is put in historical context. In 1895, Justice Brewer in *Frisbie v. United States*, 157 U.S. 160, 163 (1895) described a system relying on an energetic Grand Jury: "[I]n this country the common practice is for the Grand Jury to investigate **any alleged crime, no matter how or by whom suggested to them,** and after determining that the evidence is sufficient to justify putting the party suspected on trial, to direct the preparation of the formal charge or indictment." (Emphasis added).

Similarly, as detailed in *U.S. v. Williams*, 504 U.S. 36, 47 (1992), by Justice Scalia:

> Rooted in long centuries of Anglo-American history, the Grand Jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It

> has not been textually assigned, therefore, to any of the branches described in the first three Articles. It "is a constitutional fixture in its own right." In fact the whole theory of its function is that it belongs to no branch of the institutional Government, serving as a kind of buffer or referee between the Government and the people. (Citations omitted).

The loss of the Grand Jury in its traditional, authentic, or runaway form, leaves the modern federal government with few natural enemies capable of delivering any sort of damaging blows against it. Indeed, Supreme Court Justice William Douglas wrote in 1973 that it was: "common knowledge that the Grand Jury, having been conceived as a bulwark between the citizen and the Government, is now a tool of the Executive." *United States v. Dioniso*, 410 U.S. 19, 23 (1973)(Douglas, J., dissenting). Simply stated, by statute, rule and case law, the Grand Jury has been steadily emasculated in what can only be viewed as an absolute *coup d'etat* upon the Grand Jury by the federal government.[1]

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1 This Court must recognize how perverse it would be to allow Obama's Department of Justice to determine whether to present evidence of Obama's criminal behavior to a Grand Jury.

In sum, can there be a higher "public interest" than the issue of whether Barack Hussein Obama, II, has foisted a forged Certificate of Live Birth upon the Citizens of the United States as indisputably detailed in Vogt's public affidavit? Obviously, that determination can only be had by reading Vogt's allegations. Accordingly, Vogt has lodged his public and sealed affidavits with the Clerk for this Court's obligatory review.

To allow Judge Robart to avoid the obligation to "summon a Grand Jury" by refusing to acknowledge Vogt's Notice of Commission would be the final nail in the coffin of the Grand Jury as envisioned by the Fifth Amendment and historical precedent. Accordingly, this Court must grant this Petition to review the important question of the definition of "public interest" which triggers the Rule 6(a) mandatory-duty to "summon" a Grand Jury.

III. The Refusal of Judge Robart to Summon a Grand Jury is Reviewable

Finally, review is compelled to determine the first-impression question of whether the refusal of a district court judge to summon a Grand Jury pursuant to Rule 6(a)'s mandate is reviewable.

Under Rule 6(a), a district court judge is not performing a traditional Article III adjudicatory function but instead is discharging a clerical duty to summon and pass information on to the Grand

Jury. As such, judicial review of that clerical decision is a well-established principal of law as there is a "strong presumption that Congress intends judicial review." *Bowen v. Michigan Academy of Family Physicians*, 476 U.S. 667, 670 (1986).

Moreover, there is a conflict between Circuit Courts on this particular point: *See: In re Texas Co.*, 201 F.2d 177 (D.C. Cir. 1952) and *Morris v. United States*, 128 F.2d 912 (5th Cir. 1942)(Mandamus was not available to compel a district court to summon a Grand Jury) and *District Court for the Southern District of West Virginia*, 238 F.2d 713 (4th Cir. 1956)(Holding that it had such mandamus authority to compel a district court to summon a Grand Jury.)

As such, this Court is obligated to review whether review of Judge Robart's failure to "summon" a Grand Jury is permissible.

Conclusion

This Petition at its core is about who can petition for invocation of the Grand Jury's unique investigative power. As well documented by Justice Scalia and others of this Court, originally that right to petition could be invoked by any one so that the Grand Jury could investigate any matter: "no matter how or by whom suggested to them."

Yet, as recognized by Justice Douglas in *Dioniso*, that access to the Grand Jury's power has

increasing been usurped from the People by the Executive with the complicit acquiescence of the Judiciary through "silent approaches and slight deviations from legal modes of procedure." *Reid v. Covert*, 354 U.S. 1 (1957).

Indeed, most recently, this Court tacitly approved the disemboweling of the Congressionally-created absolute right of a Citizen to present evidence to the Grand Jury codified at 18 U.S.C. §3332. In *Sibley v. Obama et al*, Case No: 12-cv-001(D.C. Dist. Ct. 2012); *summarily affirmed*, Case No.: 12-5198 (D.C. Cir. 2012); *cert. den*. Case No.: 12-736 (2013) the district court held: "The Court will deny the mandamus request, in keeping with prior decisions that 18 U.S.C. §3332 cannot be enforced by private individuals." Thus, while Congress under §3332(a), obligated the U.S. Attorney to "inform the Grand Jury of such alleged offense", the U.S. Attorney can ignore that mandatory obligation to "inform" with impunity as this Court has confirmed that there is no right to enforce §3332(a) by the one who seeks to invokes it.

Thus, before this Court is the question of whether a similar mandatory obligation imposed by Congress on district court judges can be avoided by allowing the Rule 6(a) "public interest" phrase to go undefined and thus imbue it with no meaning. A legal-term-of-art without precise meaning is nothing more than a tool of tyrants.

Accordingly, this Petition presents to the

Court the same question Justice Taney faced in *Ex parte Merryman*, 17 F. Cas. 144 (C.C.D. Md. 1861) (No. 9487) paraphrased as follows: "I can only say that if the authority which the constitution has confided to the [Grand Jury], may thus, upon any pretext or under any circumstances, be usurped by the [the Executive], the people of the United States are no longer living under a government of laws . . ." Query: Will this Court demonstrate the same commitment to the Rule of Law that Justice Taney did in *Merryman* though it apparently put him in fear of arrest?

For the reasons aforesaid, Vogt respectfully prays that this Court grant his Petition for Certiorari.

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Appendix-1

Contents of Appendix

Opinions Below

Appendix-2

United States District Court
Western District of Washington
At Seattle
Case No. C13-1880JLR

Douglas Vogt,

Plaintiff,

vs.

Barack Obama, et al.,

Defendants.
_____/

Order Dismissing Complaint for Lack of Subject Matter Jurisdiction

Before the court is Plaintiff Douglas Vogt's complaint in which he alleges that the certificates of live birth from the State of Hawaii that President Barack Obama has publicly released are forgeries. (See Compl. (Dkt. # 1) at 1-2.) He also alleges that President Obama "was not born in Hawaii and [i]s not a US citizen," and that a treasonous conspiracy exists among the various defendants "to take over a political party and install a Communist agent in [sic] as President of the United States so as to destroy the nation from within." (Id. at 5.) Accordingly, he asks the court "to bring to the attention of the Grand Jury the evidence of criminal

behavior sworn to herein." (Id. at 9 (internal quotation marks omitted).)

On November 5, 2013, the court ordered Plaintiff Douglas Vogt to show cause why his complaint should not be dismissed for lack of subject matter jurisdiction. (OSC 5 (Dkt. # 5).) On November 12, 2013, Mr. Vogt filed his response to the court's order. (Resp. (Dkt. # 6).) The court now considers Mr. Vogt's response and whether the court has subject matter jurisdiction over this action.

In his response, Mr. Vogt fails to provide a valid basis for this court's exercise of subject matter jurisdiction over his action. He insists that the court "is asking the wrong question" (id. at 3), that the court "clearly" has subject matter jurisdiction (id.), and that he is simply seeking to "discharge his civic duty as required by 18 U.S.C. § 4 - Misprision of Felony and/or 18 U.S.C. § 2382 -Misprision of Treason" (id. at 2). He argues that 18 U.S.C. § 4 and 18 U.S.C. § 2382 provide the necessary basis for the court's exercise of jurisdiction (Resp. at 2-3), and that the court is obligated to refer this matter to the Grand Jury (id. at 3-8).

Nevertheless, Mr. Vogt fails to address any of the case authority cited by the court in its order to show cause indicating that (1) there is no private right of action under 18 either 18 U.S.C. § 4 or 18 U.S.C. § 2382, (2) private parties generally lack standing to institute a federal criminal prosecution,

and (3) private citizens or voters, such as Mr. Vogt, lack standing to challenge President Obama's qualifications to hold office through the use of misprision of felony or misprision of treason statutes, or otherwise, because they have suffered no particularized injury. (See generally OSC.) The court, therefore concludes, consistent with the authorities cited in its prior order to show cause, that it lacks subject matter jurisdiction over Mr. Vogt's action and DISMISSES this action in its entirety without prejudice.

The court further DIRECTS the clerk to strike all pending motions from the calendar.

Dated this 14th day of November, 2013.

/s/ James L. Robart
JAMES L. ROBART
United States District Judge

Appendix-5

United States Court of Appeals
For the Ninth Circuit
No. 13-74137
D.C. No. 2:13-cv-01880-JLR
Western District of Washington, Seattle

In re: DOUGLAS VOGT.

DOUGLAS VOGT,

Petitioner,

ORDER
Filed:
January 14, 2014

v.

UNITED STATES
DISTRICT COURT
FOR THE WESTERN
DISTRICT OF
WASHINGTON, SEATTLE,

Respondent,

BARACK OBAMA; et al.,

Real Parties in Interest.
_____/

Before: TROTT, PAEZ, and BEA, Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See*

Bauman v. U.S. Dist. Court, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

No further filings will be entertained in this closed case.

DENIED.