
**In the United States Court of Appeals
for the Eighth Circuit**

TERRY LEE HINDS,
Plaintiff/Petitioner - Appellant, (“[P/A]”),

v.

DONALD TRUMP, ET AL.,
PURSUANT TO FED. R. APP. P 43(c)(2)

Defendants, Appellees (“[D/A]”)
Defendants/Respondents/Interested Party (“[D/R/I P]”) same as [D/A].

On Appeal from the United States District Court for the
Eastern District of Missouri
No. 4:25-CV-00047 AGF
Hon. Judge Audrey G. Fleissig, District Judge

FILED

DEC 18 2025

U.S. Court of Appeals
Eighth Circuit

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U.S. COURT OF APPEALS
EIGHTH CIRCUIT

**LEGAL NOTICE: QUESTIONS PRESENTED – What is it Used For?
“interpretation” and “construction” vs. “intellectualism of indifference”**

To: The United States Supreme Court & Eighth Circuit Court of Appeals, the
Honorable Brett M. Kavanaugh, Associate Justice, 8th Circuit Assignment &
Honorable Steven M. Colloton, Chief Judge Eighth Circuit Court of Appeals

The following legal notice concerns *substantive due process, inter alia*,
with a vital motion that was denied, without explanation by the Court. This
constitutional case of a *“first impression”* is pursuant to [P/A]’s *free exercise*
of a *religious liberty* of FAITH in [LAW]. The ensuing concerns, matters &
issues articulated as ten questions of exceptional importance presented, to wit:

1.

QUESTIONS OF EXCEPTIONAL IMPORTANCE PRESENTED

These Supreme Court cases as law represent critical legal precedents that form the backbone of constitutional and administrative law. These laws challenge the scope of federal power and sovereign immunity. Here is an analysis of each significant threshold issue and how they interrelate in [P/A]'s arguments:

1. Significant Threshold Issue: *Langford v. United States* (1879) (Rejection of the "King Can Do No Wrong" Maxim)

Whether an *expansive application* of sovereign immunity doctrine, within any federal court as jurisdictional boundaries, shall prevent [P/A]'s claims against the government or its officers; when this application of law, fundamentally conflicts with the principles established in *Langford v. United States* (1879)?

Answer: No. The panel's judgement conflict with the Supreme Court's reasoning in *Langford* for the core principle that the government and its officers are not above the law and are subject to constitutional limitations.

The precedent: The panel's actions confirm a jurisdictional bar is rooted in the "King can do no wrong" maxim that the Supreme Court explicitly rejected in *Langford* over 144 years ago: "***As applicable to the government or any of its officers, the maxim that the King can do no wrong has no place in our system of constitutional law.***" The *Langford* Court established that the government and its officers are not above the law and are subject to constitutional limitations. The Court distinguished between suits based on contracts (where the government consents to be sued) and those based on torts (where it generally does not), emphasizing a foundational case that **solidified** Congress's intent to **limit liability** to authorized actions. *Emphasis added.*

The argument: In *Langford*, a civil action involving the government taking and using the property of an individual against one's consent, whereby the Constitution creates an implied obligation to pay for property, or for the use of property, so taken. The Court presented "two distinct propositions" held:

1. That the maxim of English constitutional law, that the King can do no wrong, is one which the courts must apply to the government of the United States, and that therefore there can be no tort committed by the government.

- 2.

2. That by virtue of the constitutional provision that private property shall not be taken for public use, without

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just compensation, there arises in all cases where such property is so taken an implied obligation to pay for it.

The Court declared: **“It is not easy to see how the first proposition can have any place in our system of government.”** *Emphasis added.*

Langford is a landmark case that solidified the jurisdictional boundaries of the Court of Claims. By applying sovereign immunity to dismiss [P/A]'s claims & case, the panel's decision & its *overbroad application* with this case as a jurisdictional bar resurrects this antiquated maxim and shields government officers from accountability, a result fundamentally at odds with the sound constitutional principles that animate *Langford*. While *Langford* denied a remedy against the government for those specific torts, it ***necessarily preserved a remedy against the officers*** as individuals, a principle the panel allegedly disregarded. Additionally, panel's is indifferent to the ***doctrine of stare decisis*** by disregarding a Supreme Court's rejection of federal sovereign immunity maxim. In summary, the argument concludes that the panel's application of sovereign immunity **as a *comprehensive jurisdictional bar*** is inconsistent with *Langford's* reasoning that government officers are not above the law and are subject to constitutional limitations. This raises a question of exceptional importance regarding the continued vitality of American rejection of absolute sovereign power, especially with Congress' intent in APA § 702.

2. Significant Threshold Issue: *United States v. Lee* (1882) (Limits on Sovereign Immunity)

Whether the panel's decision conflicts with the principle established in *United States v. Lee* (1882) because it has incorrectly extended sovereign immunity to shield federal officers who allegedly committed unconstitutional acts? or

Does the panel's holding shield government officers from accountability for actions that unlawfully deprive a citizen of life, liberty, or property without due process, in contradiction to established Fifth Amendment principles

3.

enforced through cases like *Lee*? Or,

Whether a broad application of federal sovereign immunity doctrine has override constitutionally guaranteed vested rights to property & due process?

Answer: Yes. In *Lee*, the Supreme Court confirmed that immunity for the government does not protect its agents when they act unconstitutionally.

The precedent: The Ruling: The Supreme Court (5-4) found for the *Lees*, holding that the U.S. government's sovereign immunity did not shield its officers from lawsuits challenging unlawful possession of property. It affirmed that even the government is not above the law.

Key Takeaway: A blow for judicial review and property rights against government overreach in the post-Civil War era.

The argument: The panel's decision cannot be reconciled with the Supreme Court's reasoning in *United States v. Lee*. In *Lee*, the Court permitted a suit for the recovery of property against federal officers who were unlawfully holding it. It held that while sovereign immunity prevents direct suits against the government, it does not immunize government agents who acted without lawful authority or unconstitutionally deprived a citizen of property. By rejecting [P/A]'s APA claims vs sovereign immunity, the panel effectively granted immunity to the government's officers, contradicting the principle that constitutional violations by agents of the government ***can be redressed through the courts.*** *Emphasis added.*

This is a question of exceptional importance for several reasons: (1) The panel overlooked the record about this legal issue raised, (2) it is a binding precedent with sovereign immunity limitations, and (3) As James Madison held conscience "*the most sacred of all property*" because he believed it was an inalienable right and fundamental to individual liberty, unlike other property rights that depend on human laws. Madison argued that the government's role is to protect this inherent right of thought and belief, as reflected in his work on the First Amendment, which safeguards freedoms of the tangible properties of speech, religion, & conscience as FAITH in [LAW]. This raises issues with important systemic consequences for the development

of the law and the administration of justice.

3. Significant Threshold Issue: *Marbury v. Madison* (1803) (The Right to a Remedy and Judicial Review)

Whether the panel's decision has conflicted with *Marbury v. Madison* (1803) because it leaves constitutional violations without a remedy by misapplying the *scope of sovereign immunity*, over the "essence of civil liberty" with a government "of laws and not of men"? Or,

Does an expansive view of sovereign immunity effectively nullify the judiciary's power of judicial review and its duty to provide remedies for constitutional violations by government officers?

Answer: Yes. This undercuts Chief Justice Marshall's foundational assertion that *"the very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury."* With panel's expansive view of sovereign immunity in their judgement or opinion effectively nullifies the judiciary's power of judicial review.

The precedent: The primary precedent set by Chief Justice John Marshall in *Marbury v. Madison* (1803) is that the federal judiciary has the power to review acts of Congress and the executive branch and declare them void if they are found to be unconstitutional.

The argument: The panel's decision conflicts with the principles of *Marbury* because it applies sovereign immunity interpretation so broadly that it leaves [P/A]'s constitutional violations without a legal remedy. The argument's core points are:

- **Right to a Remedy:** Chief Justice Marshall's assertion that "the very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury". The [P/A] argues the panel's decision violates this by leaving a "right without a remedy" via a jurisdictional dismissal based on the Church of England dogma. ("the King can do no wrong"). This *religious doctrine* violates [P/A]'s FAITH in [LAW] & establishment clause of 1st Amend

- **Government of Laws, Not Men:** [P/A] contends that allowing a government agency and its official sued in their official capacity, to act "with impunity" through an "overbroad application" of sovereign immunity contravenes the principle that the U.S. is a "government of laws, and not of men."
- **Judicial Duty:** The panel shirked its "essence of judicial duty" to provide a remedy for a [P/A]'s vested legal right, in the 3rd Amendment as declared by Supreme Court Justice Joseph Story, who wrote that the Third Amendment's "plain objective is to secure the perfect enjoyment of that great right of common law, that a man's house shall be his own castle, privileged against all civil and military intrusion". This is a question of exceptional importance especially with a "*petition in equity case*" seeking relief within a Petition for Judicial Review, Judgement or Decree and for all Writs Necessary or Appropriate to this Case, as well as Issue Writs Agreeable to Usages & Principles of Law.

This involves the interpretation of fundamental legal or constitutional rights. The determination of the issue has significance beyond the specific case itself.

4. Significant Threshold Issue: *United States v. Klein* (1871) (Separation of Powers and Congressional Power)

Whether the panel's dismissal of the case based on a jurisdictional bar presents a structural constitutional concern that echoes the principle established in *United States v. Klein*, (1871)?

Or

Does the panel's decision allow for an unconstitutional encroachment by one branch of government (the judiciary, in its self-limitation) that undermines the Congressional intent of APA's waivers of federal sovereign immunity or the fundamental balance of powers?

Answer: Yes. The argument is that an overly broad application of sovereign immunity, used to shield a government agency from judicial review of its actions, functions similarly to Congress dictating a "rule of decision" for the courts, which was prohibited by the Supreme Court in *Klein*.

Rule of Decision: Under *Klein*, if a court has jurisdiction, it cannot be forced by another branch to apply a rule—such as an overbroad sovereign immunity—that effectively dictates a dismissal despite an underlying constitutional violation.

The precedent: *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1871) the Supreme Court established a fundamental separation-of-powers principle. Congress may not prescribe a "rule of decision" for the judiciary in pending cases, nor can it use its power to limit jurisdiction as a way to force a court to ignore constitutional rights. Congress can define the boundaries of federal court jurisdiction; it cannot do so in a way that requires the court to become a "**passive instrument**" of the other branches. In *Klein & Marbury*, the Court ruled that separation-of-powers concerns cannot override the judicial creation of remedies, particularly in matters of equity.

The argument: The panel's invocation of a jurisdictional bar to dismiss a case involving constitutional rights raises a structural constitutional concern similar to that addressed in *United States v. Klein*. In *Klein*, the Supreme Court held that Congress could not use its power over jurisdiction to "prescribe a rule of decision" for the courts or interfere with the powers of another branch of government. The panel's decision, by allowing a government agency to use a jurisdictional doctrine to dictate the outcome and shield its actions from judicial review, functions like a congressional attempt or an unconstitutional attempt to control the judicial process. This violates the separation of powers and undermines the judiciary's independence and is a question of exceptional importance.

5. Significant Threshold Issue: *Yick Wo v. Hopkins* (1886) & *Bolling v. Sharpe* (1954) & Reverse Incorporation Doctrine (*Ex parte Young* jurisdictional analysis of sovereign immunity - Equal Protection and Due Process)

Whether the panel's review and application of sovereign immunity could be seen as conflicting with the principle of popular sovereignty affirmed in *Yick Wo v. Hopkins*, 118 U.S. 353 (1886)? Or

Does the panel's ruling, by applying sovereign immunity, prevent the court

from reviewing claims of discriminatory or unequal application of federal laws by government officials, thereby conflicting with the Fifth Amendment's equal protection guarantees? Or

Whether the panel's decision disrupts uniformity in the court's decisions by conflicting with the "stripping doctrine" (where officers are "stripped" of immunity when acting unconstitutionally) and related principles that hold officers accountable for violating constitutional rights, thereby demanding a rehearing *en banc*?

Answer: Yes. By using a jurisdictional bar to dismiss claims of constitutional violations, the panel has allowed government agents to misuse their delegated authority arbitrarily and without judicial review, condoning the very behavior *Yick Wo* condemned in gov't overreach used as discriminatory acts.

The precedent: *Yick Wo*, 118 U.S. at 370 which held that government is forbidden from misusing its delegated authority to engage in arbitrary and discriminatory acts. The Court held "*Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.*" The Court famously stated that a law is unconstitutional if it is applied with an "*evil eye and an unequal hand,*" regardless of its neutral wording. In *Bolling v. Sharpe*, 347 U.S. 497 (1954) (*Bolling*) it held that the Due Process Clause of the U.S. Const., 5th Amend. contains an "equal protection component," effectively applying the component of equal protection principle to federal actions through the Reverse doctrine, established by *Bolling*, 347 U.S. 497. In the doctrine of *Ex parte Young*, 209 U.S. 123 (1908), which establishes an important limitation on the *sovereign-immunity principle*, as the *Young* doctrine "*has been accepted as necessary to permit the federal courts to vindicate federal rights*" *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105 (1984). *Emphasis added.*

The argument: The argument frames the doctrine of federal sovereign immunity as a tool that can be used to unjustly bar constitutional claims, thereby undermining the legal principles established in *Yick Wo*, 118 U.S. 356 and *Bolling*, 347 U.S. 497. The core of the argument is that federal sovereign

immunity—the legal doctrine that the government cannot be sued without its consent—is in direct tension with the principles of constitutional accountability developed in *Yick Wo*, and *Bolling*. Sovereign immunity can function as a barrier to bar justice, as a "**forbidding practice**" by allowing the government to block constitutional claims through jurisdictional arguments &/or preventing individuals from holding the federal government accountable for arbitrary/discriminatory actions. It effectively shields the government from being held accountable in court for any & all "arbitrary and discriminatory acts," which is precisely what *Yick Wo* forbids. The panel's sovereign immunity analysis has short-circuited constitutional guarantees, leaving [P/A] without a remedy for a government action that would otherwise be illegal & discriminatory under *Ex parte Young*. A matter of importance.

This has the potential to affect a substantial number of people & rule of law.

6. Significant Threshold Issue: *Louisville & Nashville Railroad Co. v. Mottley* (1908) (Well-Pleaded Complaint Rule)

Whether the panel's decision to affirm the lower court opinion/judgement based on federal sovereign immunity, using it as a "jurisdictional bar" for an *affirmative defense (lack of subject matter jurisdiction)* arguably misapplies the principle established in *Louisville & Nashville Railroad Co. v. Mottley* (1908)?

Answer: Yes. If sovereign immunity is an affirmative defense, then under *Mottley*, it should not affect the court's initial jurisdiction to hear the case. Treating it as a "jurisdictional bar" essentially allows a defense to dictate whether the court has the power to act—the very thing *Mottley* sought to prevent. The "well-pleaded complaint" rule established in *Mottley* dictates that *federal question jurisdiction* must arise solely from the plaintiff's statement of their own claim, not from *anticipated defenses*.

The precedent: The key precedent established by this Supreme Court decision is that a federal court has *subject-matter jurisdiction based on a "federal question"* only when the plaintiff's statement of their own cause of action shows that it is based upon the Constitution or federal laws.

The argument & Key points of conflict:

- The Mottley Rule: Jurisdiction is only established if the plaintiff's cause of action itself relies on federal law or the Constitution. Federal Question Jurisdiction: The rule is used to assess if a case "arises under" federal law, which is a prerequisite for *subject-matter jurisdiction* in a federal district court
- Sovereign Immunity: Sovereign immunity is a defense that the defendant (usually the government) must raise; it is not typically part of the plaintiff's initial pleading.
- The Misapplication Argument: By using an anticipated defense (sovereign immunity) to extinguish subject-matter jurisdiction from the outset, the panel appears to violate the core tenet of *Mottley*, which forbids using *anticipated defenses* as the basis for determining initial federal jurisdiction.
- In 2025 a pertinent Supreme Court decision, *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22 (2025) reaffirmed the principle that plaintiffs are the "masters of their complaints". The Master of the Complaint Doctrine: Asserting that the plaintiff's choice of claims—including well-pleaded constitutional ones—should dictate the jurisdictional analysis.
- [P/A] contends that if the complaint itself pleads a direct violation of the Constitution (such as a First Amendment claim), a court cannot use an external doctrine like sovereign immunity to negate that well-pleaded jurisdictional basis.

In sum, [P/A]'s argument posits that sovereign immunity functions as a defense and should be overseen as such, rather than as a basis for dismissing the civil action under the strict jurisdictional pleading standard set by *Mottley*.

This involves the interpretation of fundamental legal or constitutional rights.

7. Significant Threshold Issue: *Loper Bright v. Raimondo* (2024) (Chevron Deference and The Rule of Law vs. Rule by Men)

Whether the panel's was required to use heightened scrutiny under *Loper Bright* (2024) as applied to sovereign immunity in this *suit of equity's claims* & whether Congress *intended* to waive immunity in specific statutes of APA?

Did the panel err by deferring excessively to an agency's interpretation of a statute regarding a waiver of immunity, in light of *Loper Bright*'s emphasis on judicial interpretation? And did it misapply jurisdictional rules in a way that conflicts with basic principles of federal court authority as outlined in *Mottley*?

Answer: Yes. [P/A]'s argument correctly applies the animating principle of *Loper Bright*—that courts must exercise independent judgment in statutory interpretation—to the threshold question of whether sovereign immunity has been waived, which must be unequivocally expressed in the statutory text and strictly construed in favor of the sovereign prior to raising a jurisdictional bar.

The precedent: *Loper Bright* overruled the long-standing Chevron deference doctrine, which had previously required courts to defer to a federal agency's reasonable interpretation of an ambiguous statute. The Supreme Court held that, under the APA, it is the role of the courts, not agencies (IRS/DOJ) to "say what the law is" & exercise independent judgment in statutory interpretation.

The argument: [P/A] argues because *Loper Bright* requires courts to independently interpret the law, the court must strictly scrutinize whether the statute of APA under Congress' intent has unambiguously waived the United States or [D/A]'s immunity from [P/A]'s *equity suit* for non-monetary relief.

In *Loper Bright* enables [P/A]'s to challenge federal agency actions by applying "heightened judicial scrutiny," which effectively means courts will no longer automatically defer to an agency's interpretation in a limitations of waiver of immunity. Applying this principle to questions of federal sovereign immunity and the Court use of a jurisdictional bar vs "clear statement rule:

- Sovereign immunity issues involve interpreting federal statutes to determine if Congress has explicitly waived the United States' immunity from suit. (see APA section 702 as plead in ECF. No. 1).
- Because courts must now use their independent judgment to determine the "best" reading of a statute, they must apply heightened scrutiny (their own independent judgment) to the text involving mixed law & facts to determine congressional intent regarding immunity waivers, rather than deferring to an agency's interpretation.

- This aligns with the general rule that waivers of sovereign immunity must be unequivocally expressed in statutory text and will be strictly construed in favor of the sovereign. The *Loper Bright* decision reinforces that the judiciary retains the final authority to interpret these statutory provisions.
- **The Panel's Error:** A panel's use of a non-explicit procedural rule (FRCP 12(b)(1)) as a basis for *subject matter jurisdiction* dismissal is making an erroneous finding. They are effectively reintroducing a "technical defense" (the modern equivalent of the pre-1976 sovereign immunity defense) that Congress sought to abolish. The jurisdiction granted by § 702 should prevail, making the procedural issue a waivable one between the parties, **not an immutable jurisdictional defect that requires dismissal.**

**8. Significant Threshold Issue: *United States v. Wong* (2015).
(This Case Non-Jurisdictional Bar)**

Whether that the general six-year statute of limitations for civil actions against the U.S. (28 U.S.C. § 2401(a)), which applies to APA claims, is a "claims-processing rule" rather than a jurisdictional bar?

Answer: Yes. This argument correctly applies the animating principle of *United States v. Kwai Fun Wong*, 575 U.S. 402 (2015).

The precedent: The Exceptions and Regulations Clause of Article III, § 2, provides that the Supreme Court's appellate jurisdiction is subject to "such Exceptions, and under such Regulations as the Congress shall make". This clause serves as a critical mechanism in the system of checks and balances, granting Congress authority to shape and limit the scope of federal judicial review.

The argument: [P/A] argues the panel erred with its application or upholding of a jurisdictional bar because in 2024 Supreme Court case *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 603 U.S. 799 (2024) the Court reaffirmed that § 2401(a) governs APA claims but focused on the definition of "accrual". The Court held that an APA claim "accrues" only

when a plaintiff is actually injured by a regulation, not necessarily when the regulation is first published.

These modern-day Supreme Court precedents establish that once sovereign immunity is waived *via* the Administrative Procedure Act (APA), the associated statute of limitations is presumptively subject to equitable tolling.

Waiver and Forfeiture: The government must affirmatively raise the statute of limitations as a defense; unlike a jurisdictional defect, the court is not required to raise it on its own (*sua sponte*). If the government fails to do so, the court may consider the defense waived or forfeited. [D/A] raised no such defense pursuant to the record.

This case has a “Non-Jurisdictional Bar”: The Court clarified that the general six-year statute of limitations for civil actions against the U.S. (28 U.S.C. § 2401(a)), which applies to APA claims, is a "claims-processing rule" ***rather than a jurisdictional bar.***

Circuit Court Consensus: Multiple federal circuits have explicitly ruled that § 2401(a) is a claims-processing rule, including:

D.C. Circuit: Ruled in *Jackson v. Modly* (2020) that § 2401(a) is not jurisdictional.

Second Circuit: Reached the same conclusion in *Desuze v. Ammon* (2021).

Sixth, Tenth, and Eleventh Circuits: Have all adopted similar interpretations, moving away from older precedents that viewed the six-year limit as a condition of the waiver of sovereign immunity.

Under these current U.S. Supreme Court precedents & the panels’ error in law with application of the lower court decision by dismissing [P/A]’s case under federal sovereign immunity doctrine vs. APA’s waivers; is the direct result of ***unforgiving consequences*** from a ***jurisdictional bar***. This matter (an "intercircuit conflict") is exceptionally important for full court consideration.

In *Wilkins v. United States*, 598 U.S. 644 (2023), the Supreme Court affirmed that procedural time limits in federal statutes are generally not jurisdictional. The decision reinforces the idea that courts should avoid treating procedural

requirements such as FRCP 12(b)(1) requirements as absolute jurisdictional bars.

- **2025 Precedents on Non-Jurisdictional Rules:**
 - **Riley v. Bondi, 606 U.S. ____ (2025):** The Supreme Court held that certain filing deadlines in immigration statutes (e.g., § 1252(b)(1)) are "**not jurisdictional**" but are instead non-jurisdictional claims-processing rules.
 - **Harrow v. Department of Defense, 601 U.S. ____ (2024):** The Court reiterated that "most time bars are nonjurisdictional," regardless of whether they are framed in mandatory terms, unless there is "unmistakable evidence" to the contrary.
- **FRCP 12(b)(1) vs. 12(b)(6):** [P/A]'s analysis correctly identifies that if a rule is non-jurisdictional, it cannot be the basis for a dismissal under **Rule 12(b)(1)** for lack of subject-matter jurisdiction. Instead, it should be treated as a defense on the merits (Rule 12(b)(6)) or an affirmative defense, which is waivable and subject to equitable exceptions.

9. The Exceptions and Regulations Clause (Art. III § 2)

Whether the panel's dismissal of the case based on an assertion of sovereign immunity raises a structural separation of powers concern that implicates the Exceptions and Regulations Clause of Article III, § 2?

Answer: Yes. The core of the argument is that the executive branch, (*i.e.*, DOJ) by successfully asserting immunity claims to avoid judicial review of alleged constitutional violations, is effectively usurping congressional and judicial authority by defining the limits of judicial power. The panel's ruling implicates the Exceptions and Regulations Clause of Article III, which grants Congress authority to make exceptions to the Supreme Court's appellate jurisdiction. However, as *Klein* established, this power is limited and cannot be used to undermine the constitutional structure. The proper interpretation of this constitutional clause & the limitations on executive power present a question of exceptional importance that should be heard by the full court.

Key Precedents and Legal Principles:

- ***Ex parte McCardle* (1869):** The Court affirmed that while its appellate jurisdiction is conferred by the Constitution, Congress has the express power to withdraw that jurisdiction through legislation. In *McCardle*, the Court dismissed a pending case after Congress repealed the statute that granted it the authority to hear the appeal, stating its only role was to "announce the fact and dismiss the cause".
- ***United States v. Klein* (1871):** The Court established a vital limitation on the Exceptions Clause, ruling that Congress cannot use its power to withdraw jurisdiction as a means to dictate a "rule of decision" or force the judiciary to ignore constitutional rights. *Klein* remains the primary check against "jurisdiction-stripping" that targets specific outcomes or constitutional protections.
- **Modern Interpretations (2025):**
 - **Statutory vs. Constitutional Grants:** Since the Judiciary Act of 1789, Congress has affirmatively granted jurisdiction over specific subsets of cases. 2025 legal summaries clarify that acts of Congress granting jurisdiction imply the negation of any jurisdiction not explicitly provided for.
 - **Judicial Review Expansion:** In **June 2025**, the Supreme Court issued rulings broadening the judiciary's role in reviewing agency actions, even when statutes like the Hobbs Act attempt to centralize or limit that review to specific appellate courts.
 - **Separation of Powers:** 2025 analyses indicate that the Exceptions Clause does not exist in a vacuum; its application is restricted by broader principles of separation of powers and other constitutional provisions that protect fundamental rights.

Furthermore, U.S. Supreme Court decision in *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1868) upholds [P/A]'s arguments that the panel's decision "Upon careful review, we agree that the district court lacked subject matter jurisdiction." in this manner creating significant constitutional and legal

implications with the determination of the issue has broad significance beyond the specific case itself.

10. [P/A]'s FAITH in [LAW] with Systemic Legal Consequences (Sovereign Immunity: Jurisdictional Bar vs. Affirmative Defense)

Whether the *procedural distinction* between federal sovereign immunity *with factual matters under dispute* as a *jurisdictional bar* versus an *affirmative defense* is a crucial legal question that gravely impacts the scope of *de novo review*, particularly concerning the finality of a dismissal and the standards for raising or if erred in how they treated facts? Or

Whether the panel's *de novo standard of review* in the context of a motion to dismiss for *lack of subject-matter jurisdiction* under Fed. R. Civ. P. 12(b)(1), considered the [D/A]'s motion was a *facial attack* or a *factual attack* analysis when these challenges differ based on the evidence a court can consider?

These distinction determines the legal "character" of the panel's review. These distinctions dictate how an appellate court oversees the case and what errors can be raised with an *unassailable jurisdictional bar*:

Impact on Scope of Review and Appeal

- **Waiver and Preservation:** If sovereign immunity is an *affirmative defense*, it may be subject to stricter waiver or forfeiture rules if not properly raised in the district court. The *de novo review* would focus on whether the defense was properly raised (APA waiver) and adjudicated.
- **Standards of Review:** A facial vs. factual attack under Rule 12(b)(1) is effective for challenging a summary denial, as it directly addresses the evidentiary standards the panel used. If the panel dismissed [P/A]'s case *by resolving disputed facts* while supposedly performing a *de novo review of the case*, the panel likely applied the wrong standard.
- **De Novo Review Impact:** A panel conducting *de novo review must identify which framework applies*. Erroneously treating immunity as a "defense" may lead to a final judgment that improperly bars future litigation of the same facts. This effect is merely a review of the Record.

The scope of this *de novo review* is heavily influenced by its characterization. This raises issues with important systemic consequences for the development of the law and the administration of justice.

CONCLUSION

For the reasons stated above [P/A]'s request that the Court review this Legal Notice of QUESTIONS OF EXCEPTIONAL IMPORTANCE PRESENTED.

What is it Used For?

“interpretation” and “construction” vs. “intellectualism of indifference”

On a very personal note, as a *pro se* litigant:

The past & present-day challenges with transparency in the Administration of Justice vs. judicial transparency in a Federal Court of Law; were to balance our legal system for common people with equity or legal matters vs lawyers or judges practicing the “*intellectualism of indifference*” as a faith in legalism.

At present, a war of words is used in civil litigation as a modern-day warfare platform. Litigation as "Lawfare" is the latest version of legalism, as a visible abomination being used as an offensive weapon rather than a defensive shield.

The "Legalism" Paradox: While the Judiciary Act of 1789 intended for courts to ignore "want of form" to find the "right of the cause," modern lawfare often does the opposite—using "want of form" and procedural hurdles to obstruct the truth and delay justice indefinitely.

The U.S. adversarial system is fundamentally built on the assumption that truth is best discovered through "combatants" fighting as hard as possible to present their side. Where is the truth in a system, when [P/A]'s vital motion requesting additional words, manifesting a summary denial by the Court? When asked, "What is truth" while being judged by those whose every action was bathed in inapt power; failed to grasp the reality of the moment. FAITH in [LAW] is the embodiment of God's reality, ***not just a mixture*** of law & facts, religious beliefs, acts or as a personal religion or right to exist as “I Am.”

What is it Used For? The "ultimate purpose" is realities anchoring in Eternity.

Respectfully submitted,



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December 18th, 2025.

Certificate of Compliance

This document complies with the word limit of Fed. R. App. P. 32(c), excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 4844 words. In compliance with Fed. R. App. P. 32(g), I have relied on the word-count feature of Microsoft® Word 365 to prepare this certificate. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft® Word 365 in 14-point Times New Roman.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing LEGAL NOTICE was filed on this 18th day of December 2025 with the court, with a true and correct paper copy, served upon [D/R/I P] through their counsel for the defense, by First Class U.S. Mail, postage prepaid, at the following address and attorney, ROBERT J. BRANMAN U.S. Department of Justice, P.O. Box 502 Washington, D.C. 20044. Also, a copy of this Document was mailed to Honorable Kavanaugh & to Chief Judge Colloton at their respective business address.

Respectfully submitted,



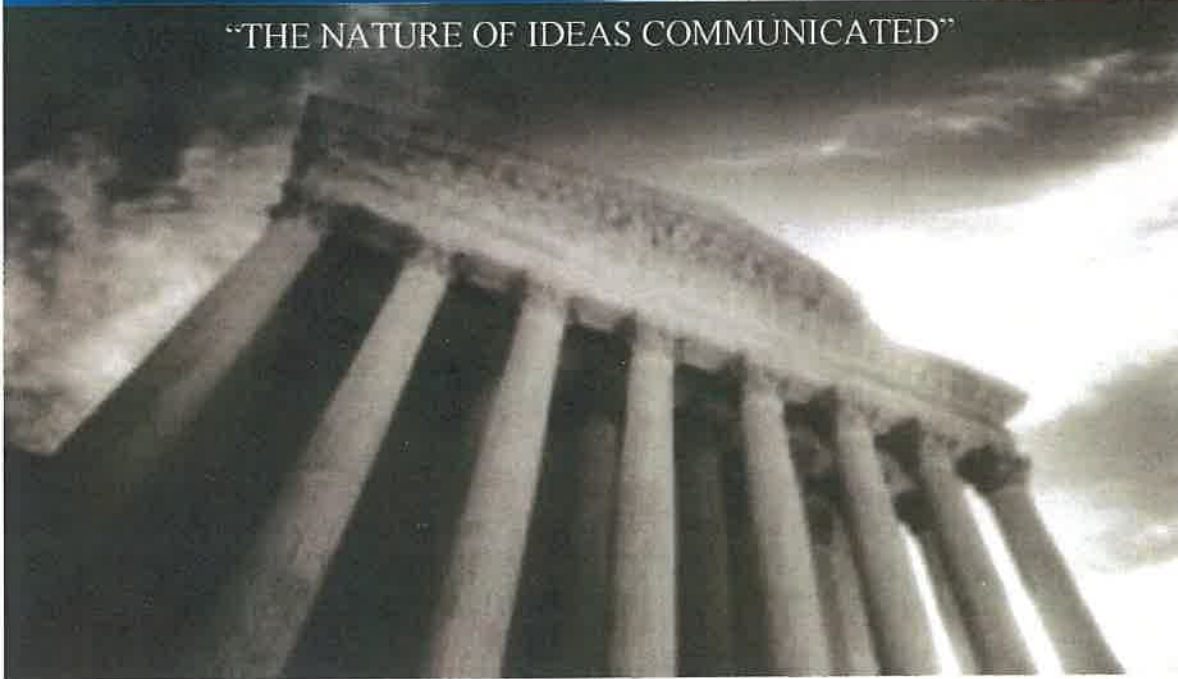
TERRY LEE HINDS,
Pro Se & Suri Juris

December 18th, 2025.

Attached: Exhibit- "What is it Used For?"

What Is It Used For?

“THE NATURE OF IDEAS COMMUNICATED”



“We are in a sense as much responsible for what we do to others with words... as we would be with weapons”

If so, “the path to our own destruction may lie less in the weapons we can conceive” and more with the destructive construction in the laws we can create.

“It is said that God made man in his image... but man fell from grace. Still, man has retained from his humble beginnings... the innate desire to create. But how will man’s creations fare? Will they attain a measure of the divine... or will they too, fall from grace?”

*Mankind has created a legal system and attempted to introduce a distinction between “interpretation” and “construction”, but what if, our understanding of these concepts is defined... only by the intellectualism of indifference and not from Mankind’s true creations of “**empathy, sacrifice, love**... these qualities are not confined to walls of flesh and blood... but are found within the deepest, best parts of man’s soul no matter where that soul resides.”*

Q.U.E.S.T. a program to reshape the human condition... thoughts which reaches from the inner mind to the outer limits of our soul.