

CONSTITUTIONAL LAW & CRIMINAL STATUTES
GOVERNING 4 FEDERAL JUDGES' COVERUP

Four federal judges, namely, Appellate court judges Robert B. King, Allyson K. Duncan, William W. Wilkins of Richmond, Virginia & district court judge Rebecca Beach Smith of Norfolk, Va., since August 2004, in violation of criminal statute 18 USC section 1001(a)(3), are knowingly using their opinion's false writing of "FOOTNOTE NINE" of Ruhbayan, 406 f.3d 292 at 301 n.6 (4th Ct./Apr. 2005) and FOOTNOTE NINE'S materially false "Assum(ed), without deciding" calculation facts of a B.O.L. OF 32-36, C.H.C. OF VI and STATUTORY MAXIMUM'S GUIDELINE CUSTODIAL SENTENCE RANGE OF 210-405 MONTHS, to, in violation of criminal statute 18 USC section 1001(a)(2), make a materially false representation about my filed, on August 20, 2004, 14 page brief's pages' 11-12's true contested calculation facts of a B.O.L. OF 12, C.H.C. OF III and STATUTORY MAXIMUM'S GUIDELINE CUSTODIAL SENTENCE RANGE OF 15-21 MONTHS, in order to, in violation of criminal statute 18 USC section 1001(a)(1), coverup the following three material facts:

1) that the four federal judges, since Oct. 2003, are holding me illegally detained beyond my, above stated, brief's pages 11-12's contested 5th & 6th Amendment rights' Legitimate Expected sentence ceiling authority of 21 months and release date ceiling authority of Oct. 2003, based on the U.S. Supreme Court's Directive of Booker ("DOB"), 543 US 220 at 268 (January 12, 2005), and its requirement, upon the four judges, that they " must apply" a full application of the mandatory legal tenets of 18 USC sections 3553(b)(1), 3585(b) and 3624(a) of the Sixth Amendment Holding of Booker ("SAHB"), 543 US at 226-234, to my true contested calculation facts of my, above stated, brief's pages 11-12.

2) that the four judges, violation of my, above stated, 5th & 6th Amend. rights' Legitimate Expected Finality as to the severity of my sentence & release date's ceilings, exposes them to an obligation of liability to redress me at least \$12,500 a day for each day of the ongoing 19 years I've suffered loss of my liberty, since Oct. 2003; based on the general federal national standard for cases involving illegal detention, such as the federal case of Velez v. United States, 693 f. supp. 51 (S.D. NEW YORK/1988) (Plaintiff illegally detained for two days received a total of \$25,000 (i.e., \$12,500 for each day of false imprisonment).

3) that the four judges, are depriving me of my 5th Amend. right of access to redress, in a federal court, my, above stated, brief's pages 1-12's 5th & 6th Amend. rights' contested Legitimate Expected Finalities of sentence & release date; as to under the DOB, 543 US at 268, and it requirement, upon the four judges, that they " must apply" an application of the mandatory legal tenets of sections 3553(b)(1), 3585(b) & 3624(a) of the SAHB, 543 US at 226-234, to my brief's pages 11-12's true contested calculation facts of a B.O.L. OF 12, C.H.C. OF III & STATUTORY MAXIMUM'S GUIDELINE CUSTODIAL SENTENCE RANGE OF 15-21 MONTHS.

False Statements & Entries statute 18 USC section 1001(a)(1-3), in quote reads as follows:

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or JUDICIAL BRANCH, of the Government of the United States, knowingly and willfully----

- (1) falsifies, conceals or covers up by any trick, scheme or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document, knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years...

The U.S. Supreme Court, in Tucker, 404 U.S. 443 at 447 (1972), & Townsend, 334 U.S. 736 at 741(1948), recognized, in general, that a prisoner's challenge to sentence is not cognizable on habeas review, provided the sentence falls within the statutorily mandated guidelines. The Supreme Court has established an exception to this rule where the sentence is based upon either of the following 'two' circumstances:

1. " MISINFORMATION OF A CONSTITUTIONAL MAGNITUDE" (e.g. see, 18 USC SECTION 1001(a)(1-3)); or upon,
2. " a foundation so extensively and materially false, which the prisoner had no opportunity to correct...that it renders the proceedings lacking due process. " (e.g. see 18 USC SECTION 1001(a)(1-3)).

In light of Tucker, at 447, Townsend, at 741, and False Statements' Criminal statute 18 USC section 1001(a)(1-3), It is not the duration or severity " of my sentence being enhanced to LIFE, WITHOUT PAROLE, after on the same jury verdict for the same offenses, I had previously fully served, by Oct. 2003, the ceiling of the 21 months of discretionary custodial sentence & detention amount of authority granted to judges King, Duncan, Williams, Smith & Warden Leu, that renders it unconstitutionally or criminally invalid; specifically it is their CARELESSNESS (i.e., for Tucker & Townsend supra purposes) or DESIGNED (i.e.,

willful for section 1001(a)(1-3) supra purposes) decisions of their direct review courts of both Apr. 2005 & May 2007, resentencing courts of both Nov. 2005 & Mar. 2009, and habeas review court of Apr. 2011, on the BASIS of MATERIALLY FALSE ASSUMPTIONS or MISINFORMATION of " FOOTNOTE NINE " of Ruhbayan, 406 f.3d at 301 supra, that constitutes, for reasons articulated above, both error of CONSTITUTIONAL & CRIMINAL MAGNITUDE that prejudices & prevents my brief's pages 11-12's 5th & 6th Amend. claims reaching an adequate adjudication on each of their merits; which, due to their errors of both CONSTITUTIONAL & CRIMINAL MAGNITUDE, I have had no previous opportunity to correct, that renders all, above stated, four judges court proceedings, since Apr. 2005, lacking due process.

Accordingly, under Tucker & Townsend and 18 USC section 1001(a)(1-3) supra, I must meet the following four prongs:

1) SHOW: The challenged information is " materially false", and 2) the " False or unreliable information " actually served as the " basis" for the sentence or judgment; and, 3) the false information is shown to be exposed to any of the criminal acts of 18 USC section 1001(a)(1-3); and, 4) Pursuant to Federal Rules of Evidence, Rule 901(b)(1 & 9): A sealed Affidavit , under the penalty of perjury for purposes of 28 USC section 1746, is sworn to by a forensic specialist or legal jurist that in their findings the challenged information is, in fact : "MATERIALLY FALSE" or/and that the process or system used to achieve that information was based upon an unreasonably inaccurate or false method, in light of Supreme Court or Congressional case law.

SPECIAL NOTE: Rule 901(a)(b 1 & 9), in quote reads as follows:

(a) General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations: By way of illustration only; and NOT BY WAY OF LIMITATION, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) Testimony of witness with knowledge. Testimony that a matter is what it is claimed to be.

(9) Process or System. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate (or inaccurate) result.

CANONS OF REPEALMENT

My non-violent offense of obstruction of justice was committed, in September 2000; I was indicted under the following four old statutes of 18 USC SECTIONS 371 (five years), 1622 (five years), 1623 (five years) & 1512(b)(1) (Ten years): ran concurrently these four statutes constituted a maximum penalty of ten years: ran consecutively these four statutes constituted a maximum penalty of sentence of twenty-five years.

For sentencing purposes only, from the years 1987 - January 12, 2005 the mandatory penalty language within the new guideline statutes of 18 USC SECTIONS 3553(b)(1), 3585(b) & 3624(a) acted as an IMPLIED REPEAL or SUPERCEDING of the, above stated, four old statutes' prescribed maximum penalties. Therefore the four judges' statutory maximum of penalty authority was governed, not by the old statutes, but by the new guideline statutes, which new guideline statutes prescribed the four judges a maximum sentence of 21 months. Because my offense occurred in Sept. 2000, & from my initial arrest and detention, on Jan. 8, 2002, until the jury's verdict of guilty, on Oct. 2003, I had fully served the 21 months, within the operative window of the new guideline statutes (i.e., 1987-Jan. 12, 2005), then any detention of my person, beyond Oct. 2003, constitutes illegal detention, on the part of the four judges. The fact the new guideline statutes acted as an implied repeal of the old statutes is verified, clearly established & affirmed by the U.S. Supreme Court's--- Directive of Booker ("DOB"), 543 U.S. 220 at 268 (Jan. 12, 2005) & the DOB's requirement to the four judges that they " MUST APPLY " the mandatory language of the binding legal tenets of SECTIONS 3553(b)(1), 3585(b) & 3624(a) of the Sixth Amendment Holding ("SAHB"), 543 U.S. at 226-234, to my, above stated, brief's pages 11-12's 5th & 6th Amendmend rights' contested calculation facts; which had the four judges not defied the immediate foresaid DOB's directive, by their coverup of pages 11-12 of my brief, then I was entitled immediate release.