Habeas Corpus Suspended by the United States Supreme Court
The Sacred Writ has been Removed from the Constitution

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Outpost of Freedom
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What is Habeas Corpus?

There is only one Right embodied in the Constitution; the remainder are found in the Bill of Rights. For the most part, the Constitution created a government and granted it only certain powers and authorities. So, what right is so significant as to be included within the Constitution, while the Bill of Rights was not adopted until 2 years later?

> *The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.* [Article I, §9, cl. 2]

What? That says "Privilege". Well, a "Privilege" is a right that can be suspended, under certain circumstances. Those circumstances are only in "Cases of Rebellion or Invasion", and, being in Article I, of the Constitution, the authority to suspend that right lies only with the Congress.

If you were old enough, or fortunate enough, to have been taught about Habeas Corpus in your early schooling, you would know that it is the "sacred writ" and that it means, "produce the body". Well, that doesn't tell you a lot, though it does demonstrate that even in school, the assurance that you had a rudimentary understanding of what Habeas Corpus was a part of the educational process.

So, what is Habeas Corpus? We can look to Black's Law Dictionary, 5th Edition, to find what a modern definition is:

> ***habeas corpus ad subjiciendum***. *A writ directed to the person detaining another, and commanding them to produce the body of the prisoner, or person detained. This is the most common form of habeas corpus writ, the purpose of which is to test the legality of the detention or imprisonment; not whether he is guilty or innocent.*
>
> *This is the well-known remedy in England and the United States for deliverance from illegal confinement, called by Sir William Blackstone the most celebrated writ in the English law, and the great and efficacious writ, in all manner of illegal confinement. The "great writ of liberty", issuing at common law out of the Courts of Chancery, King's Bench, Common Pleas, and Exchequer.*

Perhaps we can look for a more specific explanation of just what it means by "*the purpose of which is to test the legality of the detention or imprisonment.*" Detention, of course, would be simply "arrest", while imprisonment is a consequence of conviction. This is important to

understand, as we proceed. Now, we can see what some legal scholars, in the era of the framing of the Constitution, have to say.

First, we will look at the very foundation of Habeas Corpus in the Magna Carta, from 1215 A.D., which states, in Article 39, "*No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land."*

Now, as you continue to read, you will see reference to "ill nature [or] mere inattention of government"; "repels the injustice of unconstitutional laws or despotic governors"; and, that it is "the great bulwark of personal liberty." Understand, regardless of what you have believed, that the Framers were concerned, as they understood human nature, and provided for, not in the Bill of Rights, but, in the body of the Constitution, this single means, this right, to challenge unconstitutional laws, giving the people, themselves, the means to nullify such enactments that were contrary to the powers and authorities granted by the Constitution.

In 1768, William Blackstone, in his Commentaries, says of the writ, "*A remedy the more necessary, because the oppression does not always arise from the ill-nature, but sometimes from the mere inattention of government*."

In 1829, William Rawle, in his "A View of the Constitution of the United States", tells us that it "*is the great remedy of the citizen or subject against arbitrary or illegal imprisonment; it is the mode by which the judicial power speedily and effectually protects the personal liberty of every individual, and repels the injustice of unconstitutional laws or despotic governors*."

Finally, in 1833, Justice Joseph Story, in his "Commentaries on the Constitution", provides that, "*At the common law there are various writs, called writs of habeas corpus. But the particular one here spoken of is that great and celebrated writ, used in all cases of illegal confinement, known by the name of the writ of habeas corpus ad subjiciendum... It is, therefore, justly esteemed the great bulwark of personal liberty.*"

There is another aspect of Habeas Corpus that is not addressed in any of the above descriptions, though, as we will learn as we continue down this road, the Supreme Court of the United States has also ruled that since there is both a federal constitution and a constitution within each state, jurisdiction is a consideration of Habeas Corpus, as well.

Demand for a Writ of Habeas Corpus

Habeas Corpus is two things; first, it is the demand for a writ of habeas corpus. It is not automatic, and absent such request, there is no reason for the courts to even consider it.

Second is the issuance of a writ of habeas corpus, which, in past practice, required that the party incarcerated be brought before the court to determine if his imprisonment is legal.

So, we can look, once again, to the legal scholars, to see what they say about the demand. However, before we do this, there is another source from which modern Habeas Corpus emanates, and we shall consider it.

In 1679, the first Habeas Corpus Act was enacted in England. From that Act, we find:

> *And be it further enacted by the authority aforesaid, That if any officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or deputy, shall neglect or refuse to make the returns aforesaid… shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds; (2) and for the second offence the sum of two hundred pounds, and shall and is hereby made incapable to hold or execute his said office…*

So, we see that punishment for failure to respond to a writ of habeas corpus has penalties.

> And, from Blackstone, we find, "*it was, and is still, necessary to apply for it by motion to the court,...* [that] *if a probable ground be shewn, that the party is imprisoned without just cause, and therefore hath a right to be delivered, the writ of habeas corpus is then a writ of right, which may not be denied, but ought to be granted to every man that is committed, or detained in prison, or otherwise restrained, though it be by the command of the king, the privy council, or any other."*

So, the question arises, can the court not issue the Writ of Habeas Corpus, without showing cause why it should not be issued? To answer this, we must first understand just what "suspend" means. From Black's Law Dictionary, Fifth Edition:

> Suspend - To interrupt; to cause to cease for a time; to postpone; to stay, delay, or hinder; to discontinue temporarily...

Is Habeas Corpus Suspended?

Habeas Corpus, being a "writ of right", as explained above, has a status similar to an "objection" during a trial. Once demanded, it must be answered, prior to proceeding, as the objection will be "sustained" or "overruled" before proceeding. Habeas Corpus, once demanded, is treated equally, in that it must be answered, prior to proceeding. That answer can be either a refusal to grant the writ, based upon grounds expressed by the opposing party, or it must be granted and the writ issued.

It is significant, in terms of timeliness, to understand that when the writ is demanded, from 28 U.S.C. § 2243:

> A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith [immediately] award the writ or issue an order directing the respondent to

> show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.
>
> The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The judge or justice must respond to the demand immediately, and then the person having custody has three days, except for cause, which extends those three days up to twenty. That is a requirement for a timely response, by the judicial branch, to a demand for habeas corpus.

So, we must begin at the beginning to understand that Habeas Corpus has been not only suspended, but has been blatantly ignored by the Judicial Branch of government, at every level; absent any lawful suspension by the Congress.

A Demand for Habeas Corpus was served on the jailers of Larry Mikiel Myers on January 27, 2012, direct to the Court. This Demand was also mailed directly to the Sheriff, who should have forwarded it to the District Court Judge. Mr. Myers received no response and was tried in the District Court beginning February 9, 2012. The trial should not have commenced until the Habeas Corpus was answered.

A Demand for Habeas Corpus was prepared and sent, Certified Return Receipt, on February 10, 2012, to the District Court, the Sheriff, the 11th Circuit Court of Appeals, and, the Florida Supreme Court. It was received by all parties on February 12, 2012. The Sheriff and the District Court never acknowledged the service.

The 11th Circuit replied by returning the Demand for Habeas Corpus and saying that it must be filed with the District Court, and referenced FRAP (Federal Rules of Appellate Procedure) 22, which states, "*Application for the Original Writ. An application for a writ of habeas corpus must be made to the appropriate district court. If made to a circuit judge, the application must be transferred to the appropriate district court*." So, even though their rules state that THEY must transfer it to the District Court, They chose to pass it back to the Petitioner, avoiding dealing with their obligation to justice.

The Florida Supreme Court returned the Demand claiming that they had no jurisdiction -- contrary to the record in which Wisconsin, in fulfilling its obligation to its citizens, twice, granted habeas corpus so that it could be taken to the United States Supreme Court.

So, the lower courts have failed to answer and return habeas corpus, effectively denying it, or, perhaps, since their own rules establish procedures, they "suspended" habeas corpus, arbitrarily and capriciously; and permanently.

This left only one recourse to assure that Mr. Myer could get a fair ruling on the constitutionality of the laws he was charged under. If the Constitution still had standing in the government of the United States, original jurisdiction was forced, by inaction of the lower courts, to the United States Supreme Court -- which is obligated to assure that the people of the United States have justice.

On November 26, 2012, the Petition for Habeas Corpus was submitted to the United States Supreme Court. It was directed to Justice Antonin Scalia as the designated Justice for the Fifth Circuit, where Mr. Myers is currently incarcerated. The Rules provide that the appropriate Justice may hear a habeas corpus, and in a review of Supreme Court decisions where the original jurisdiction (first hearing) of a habeas corpus was before that Court, it was always heard and decided by a single Justice. However, the Clerk's office, through seven rounds of correspondence, refused to direct it to Scalia, changed the caption from "In Re Larry Mikiel Myers" to "In Re Gary Hunt", where the record shows that the incarcerated person is the proper name for the caption, not the "attorney of record."

In an effort to correct these errors, on September 22, 2013, an "Emergency Petition for Writ of Mandamus" (a Mandamus is an order for an official to perform his duty) (Exhibits to Mandamus) was served on the Court. Receiving NO response, whatever, to that Petition, a follow up letter was sent on October 12, and no response has been forthcoming regarding the Mandamus. It would appear as if they can't respond to something with legal authorities, they just don't respond.

The final effort at disposing of the original Petition by the Clerk's office was a claim that I had no right, as a non-attorney, to file a Petition of Habeas Corpus on behalf of another party, Mr. Myers (See Mandamus and Exhibit 9 to Mandamus, linked above). A 1990 Supreme Court decision dispelled that claim (you would think that the Clerk's office should know what decision the Court had made in that matter), wherein the decision did allow one in my position to file on behalf of Mr. Myers. The Petition was finally put on the Docket on June 29, 2013, to be discussed in Conference on September 3, 2013. That Conference then DENIED the Petition. Subsequently, a Petition for Rehearing was filed, within the requisite time frame, for a November 26, 2013 (exactly one year after the first service to that Court -- so much for being timely) Conference, and this, too, was subsequently DENIED on December 2, 2013.

Who can Suspend Habeas Corpus?

> *"Under the constitution of the United States, congress is the only power which can authorize the suspension of the privilege of the writ."*
>
> *"The clause of the constitution, which authorizes the suspension of the privilege of the writ of habeas corpus, is in the 9th section of the first article. This article is devoted to the legislative department of the United States, and has not the slightest reference to the executive department. It begins by providing "that all legislative powers therein granted, shall be vested in a congress of the United States, which shall consist of a senate and house of representatives." And after prescribing the manner in which these two branches of the legislative department shall be chosen, it proceeds to enumerate specifically the legislative powers which it thereby grants [and legislative powers which it expressly prohibits]; and at the conclusion of this specification, a clause is inserted giving congress "the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this*

constitution in the government of the United States, or in any department or officer thereof."

The above from Ex Parte Merryman, Circuit Court D, Maryland, April Term 1861, Decision by Supreme Court Justice Robert B. Taney.

Now, there may be some ambiguity in just what is meant by "suspend", so we will refer to Black's Law Dictionary, Fifth Edition:

> *To interrupt; to cause to cease for a time; to postpone; to stay, delay, or hinder; to discontinue temporarily...*

However, if Congress were to suspend Habeas Corpus, it would have to be an enactment, by them, stating what the cause was, rebellion or invasion, and other matters that would advise us that they had temporarily, suspended habeas corpus, and when the "suspension' would be concluded. Any other denial of that right would be a blatant and unmitigated violation of the Constitution. On the other hand, the United States Supreme Court has simply done away with Article I, Section 9, clause 2, of the Constitution -- they have simply removed it from the Constitution -- a blatant and unmitigated violation of the Constitution.

The Petition for Rehearing

Some of the arguments presented in the Petition for Rehearing include:

> A court has a legal and constitutional obligation to answer and return a Writ of Habeas Corpus, when demanded. When the District Court refuses to answer and return, the next step is the Circuit Court. When the Circuit Court refuses, in violation of their own Rules, to send the Demand for Habeas Corpus to the District Court, and refuses to answer and return, that leaves only this Supreme Court in which a citizen may find remedy, by answer and return.
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> To Deny this Petition [for Rehearing] is to Deny the obligation on government created by Article I, § 9, clause 2.
>
> To Deny to answer and return the Demand for Habeas Corpus is to Deny the Constitution, itself -- and the government created thereby.

This last argument is based upon a decision by the North Carolina Supreme Court in 1787, they being cognizant of the relationship and responsibility of the government to its constitution. The case is **Bayard v. Singleton** (1 N.C. 42):

> *But that it was clear that no act they [the legislature] could pass could by any means repeal or alter the constitution, because* ***if they could do this, they would at the same instant of time destroy their own existence as a legislature and dissolve the government thereby established***.

That is the consequence of a government failing to abide by its responsibility under a constitution.

Article I

United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand [illegible] but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Objects bound to, or from one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of

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From: [Supreme Court Docket 13-5008]

No. 13-5008

Title:	In Re Gary Hunt, Petitioner v.
Docketed:	June 27, 2013

~~Date~~~	~~~~~~~Proceedings and Orders~~~~~~~~~~~~~~~~~~~~~
Jun 19 2013	Petition for writ of habeas corpus and motion for leave to proceed in forma pauperis filed.
Jul 3 2013	DISTRIBUTED for Conference of September 30, 2013.
Oct 7 2013	Petition DENIED.
Nov 1 2013	Petition for Rehearing filed.
Nov 12 2013	DISTRIBUTED for Conference of November 26, 2013.
Dec 2 2013	Rehearing DENIED.

~~Name~~~~~~~~~~~~~~~~~~~~~~	~~~~~~~Address~~~~~~~~~~~~~~~~~~~	~~Phone~~~
Attorneys for Petitioner:		
Gary Hunt	25370 Second Avenue Los Molinos, CA 96055	(530) 384-0375
Party name:		

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So, there, you have it. If you understand what the Supreme Court has done to remove that sacred right embodied in the Constitution, you might also realize that if this is to change, it will be to the benefit of ourselves, our Posterity, the Constitution, and the insight of the Framers who wanted to give us a form of government that would not find us resorting to our "duty", according to the Declaration of Independence, to secure our Liberties"

> *"Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when long trains of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, **it is their duty**, to throw off such government, and to provide for new guards for their future security."*

I believe that, if we can muster our forces, the Supreme Court needs to be put on trial in the Court of Public Opinion. This would require a massive effort to get the information out to as many as possible, such as:

To your Congressional Representatives, as the Court has usurped their authority.

To radio and TV talk shows.

To patriot websites.

To everybody on your mailing lists, with a request that they pass it on to all of their lists, show hosts, representatives, etc.

Let the Court of Public Opinion Convene

The People and the Constitution v. United States Supreme Court

There is more to this story at Another Story Behind the Story

This article can be found on line at Habeas Corpus Suspended