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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPT. OF JUSTICE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re: Douglas Vogt
_____ /

Case No.: C13-1880 (JLR)

**RESPONSE OF DOUGLAS VOGT TO
ORDER TO SHOW CAUSE REGARDING SUBJECT MATTER JURISDICTION**

COMES NOW Douglas Vogt ("Vogt"), and responds to the Court's November 5, 2013, Order to Show Cause Regarding Subject Matter Jurisdiction, and states as follows:

I. SUMMARY

On October 18, 2013, Vogt filed with this Court through its Clerk his "*Notice of Commission of a Felony Cognizable by a Court of the United States as required by 18 U.S.C. §4 – Misprision of Felony -- and/or 18 U.S.C. § 2382 – Misprision of Treason and Motion to Seal Document*" ("Notice of Commission"). Nowhere in this document did Vogt seek to invoke the subject matter jurisdiction of this Court under Article III to resolve a "case" or "controversy". Hence, this Court's Order to Show Cause is a *non-sequitur* and its concerns about subject matter jurisdiction and standing are misplaced.

Nonetheless, this Article III "inferior court", bound by its duties imposed upon it by the Ninth and Tenth Amendments, Congress and the common law, is now duty bound to take two actions: First, to formally recognize that Vogt has discharged his duty under the Misprision statutes. Second, 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.

II. VOGT HAS NOT FILED A COMPLAINT TO RESOLVE A CASE OR CONTROVERSY

This Court completely misunderstands the nature of the filing before it. 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.

Rather, Vogt sought only to discharge his civic duty as required by 18 USC §4 - Misprision of Felony – and/or 18 U.S.C. §2382 - Misprision of Treason. The Clerk of the Court, after initially refusing to file Vogt's Notice of Commission, renamed it a “Complaint” and collected the full filing fee.¹ 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*².

The subject matter jurisdiction of this Court in this case is determined through the power invested in Congress by Article III to set the jurisdiction of this “inferior court”. *Accord: Keene Corp. v. United States*, 508 U.S. 200, 207 (1993) (“Congress has the constitutional authority to define the jurisdiction of the lower federal courts. . . .”). Congress has vested subject matter jurisdiction in this Court at 28 U.S.C. §1331 stating: “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Here, through the “laws” of the United States found at 18 U.S.C. §4 and 18 U.S.C.

¹ To the extent this Court recognizes that as improper, Vogt would seek a refund of that filing fee.

² “Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term “office” does not include the office held by any

§2382, Congress has imparted to this Court subject matter jurisdiction to receive “knowledge of the actual commission of a felony cognizable by a court of the United States.” This is all that Vogt has done. He has not sought to sue anyone as the Clerk and Court seek to convey through manipulation of the caption to include Vogt as a plaintiff and Barack Hussein Obama, II as a party-defendant.

Accordingly, this Court is asking the wrong question in its Order to Show Cause. As detailed below, the question is not whether this Court has subject matter jurisdiction – it clearly does – but what duties does this Court now have based upon the evidence that Vogt has proffered to this Court. As such, the “Complaint” should not be dismissed but instead the Docket in this matter corrected to reflect that which was filed: Vogt’s Notice of Commission.

III. VOGT IS DUE TO BE RECOGNIZED BY THIS COURT FOR HAVING DISCHARGED HIS MISPRISION OBLIGATION

“Misprision . . . of a felony . . . is a criminal neglect, either to prevent it from being committed, or to bring to justice the offender after its commission . . .” Joel Prentiss Bishop, *A Treatise on Criminal Law*, §717 (9th ed. 1923).³ Under English law, a conviction for misprision of felony required no affirmative act of concealment; a person could be guilty of the offense for a “mere failure or refusal to disclose” the existence of a felony. Carl Wilson Mullis III, *Misprision of Felony: A Reappraisal*, 23 Emory L.J. 1095, 1114 (1974).

person as a retired officer of the Armed Forces of the United States.”

³ The same definition is reiterated virtually *verbatim* in the opinion of every state court case holding common-law misprision of felony a part of its state’s criminal law: *State v. Carson*, 262 S.E.2d 918 at 920 (S.C. 1980); *State v. Flynn*, 217 A.2d 432 at 433 (R.I. 1966); *State v. Wilson*, 67 A. 533 at 533 (Vt. 1907); *State v. Biddle*, 124 A. 804 at 805 (Del. 1923)(The trial court instructed the jury that: “If . . . you believe . . . Steve Jankovicz was guilty of a felony . . . and . . . if you believe that, knowing that it had been committed the said Ida Biddle willfully failed and neglected to make any effort to prosecute the said Steve Jankovicz, and to bring him to justice for having committed said felony, your verdict should be guilty.”)

There has been a federal statutory crime of misprision of felony since 1790. Now codified at 18 U.S.C. §4, it currently reads: “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.” (Emphasis added).

Likewise, 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 not more than \$1,000 or imprisoned not more than seven years, or both.”

These statutes codify the long-standing common law tradition to raise the “hue and cry”. In *Roberts v. United States*, 445 U.S. 552, 558 (1980) the Supreme Court stated that “gross indifference to the duty to report known criminal behavior remains a badge of irresponsible citizenship.” Notably, as detailed in Vogt’s public affidavit, Vogt’s attempted to “make known” the felonies identified in his Notice of Commission to “other persons in civil or military authority” – i.e., the U.S. Attorney – but had failed to elicit any response from the U.S. Attorney. Thus, Vogt had no proof that he had discharged his misprision duty if subsequently prosecuted for failure to so report.

Thus, Vogt “made known” to a judge of the United States the commission of felonies and treasons as he is obligated to do under pain of criminal sanction. Yet, where is the proof of his required action for indeed, only the Clerk was served with the pleadings which sought to discharge Vogt’s misprision obligation. As such, it is incumbent upon this Court to

acknowledge that it has received that which Vogt has filed. Otherwise, the allegations may be lost to the electronic morass of the Clerk's PACER system and never be actually received — and reviewed — by this Court. Vogt deserves such a formal acknowledgment from this Court.⁴

IV. THIS COURT IS OBLIGATED TO REFER VOGT'S AFFIDAVITS TO THE GRAND JURY

This Court – given its singularly unique, recently-evolved, Constitutional role as the sole bulwark against overreaching by the Executive branch – is now obligated to expeditiously refer the allegations contained in Vogt's Public and Sealed Affidavits to a Grand Jury for investigation. Additionally, inasmuch as the misfeasance of the Executive Branch is at the heart of the allegations contained in Vogt's Affidavits, this Court must exercise its anomalous jurisdiction and appoint an independent counsel to advise and guide the Grand Jury in this regard.

The discretion of the Court in utilizing that authority is found at Federal Rules of Criminal Procedure, Rule 6(a) which states: "When the **public interest** so requires, the court must order that one or more grand juries be summoned." (Emphasis added). Thus, the discretion of the Court to bring to the attention of the Grand Jury evidence of criminal behavior is removed when the "public interest" demands Grand Jury action.

There can be no higher "public interest" than the issue of whether Barack Hussein Obama, II, has foisted forged Certificates of Live Birth upon the Citizens of the United States as indisputably detailed in Vogt's public affidavit. The only possible conclusion is that Barack Hussein Obama, II is not a United States citizen and therefore had to have a forged birth

⁴ Vogt recognizes that in a sense, the Order to Show Cause is a *de facto* acknowledgment of receipt of his Notice of Commission by a "judge of the United States" but nonetheless seeks a *de jure* acknowledgment.

certificate created to run for public office. Since he has not proven citizenship he is not entitled to occupy any public office within the United States of America. Coupled with the clear circumstantial evidence that links Barack Hussein Obama, II with the forger of his putative Certificates of Live Birth, this Court must refer Vogt's affidavits to the Grand Jury or be in breach of its Rule 6 obligation.

The scope of that "public interest" obtains definition when the role of the Grand Jury is put in historical context. Plainly, one of those historical purposes was to investigate government corruption. For example, although the infamous Tweed Ring in New York City was attacked by many well intentioned reformers, it took a New York City grand jury to actually break the Ring in 1872. The grand jury members conducted their own investigation, independent of the district attorney's office. See: United States District Attorney George Z. Medalie, *Grand Juries Value*, The Panel, Mar.-Apr. 1931, at 185.

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). In this instance, 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 forged COLBs to a Grand Jury.

Moreover, 18 U.S.C. §3332(a) states "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." (Emphasis added). This Court has the statutory right to present evidence, independent of the Justice Department, to a Grand Jury. Yet the access to the

Grand Jury that Congress sought to secure to the People in enacting 18 U.S.C. §3332(a)⁵ has been judicially-eviscerated. 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 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 §3332 obligates the U.S. Attorney to present evidence to the grand jury if requested by a Citizen, there is now no legal right to enforce that obligation rendering it toothless. Indeed, 18 U.S.C. §1504⁶ prevents Vogt from directly presenting evidence to the Grand Jury by making it a crime for anyone to communicate directly with the Grand Jury.

A truly independent Grand Jury – which pursues a course different from the prosecutor – is impossible today given §1504. 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. 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*

5 “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. (Emphasis added).

6 “Whoever attempts to influence the action or decision of any grand or petit juror of any court of the United States upon any issue or matter pending before such juror, or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any written communication, in relation to such issue or matter, shall be fined under this title or imprisoned not more than six months, or both. Nothing in this section shall be construed to prohibit the

v. *Dioniso*, 410 U.S. 19, 23 (1973)(Douglas, J., dissenting).

Simply stated, by statute, rule and case law, the Grand Jury has been emasculated in what can only be viewed as an absolute *coup d'etat* upon the Grand Jury by the federal government. The last remaining vestige then of Citizen access to the Grand Jury now resides in this Court's Rule 6 obligation to summon a grand jury "When the public interest so requires . . .".⁷

V. THE "PUBLIC INTEREST SO REQUIRES"

At his Press Conference on April 27, 2011, Barack Hussein Obama made the following statement regarding his Long Form Certificate of Live Birth:

As many of you have been briefed, we provided additional information today about the site of my birth. Now, this issue has been going on for two, two and a half years now. I think it started during the campaign. And I have to say that over the last two and a half years I have watched with bemusement, I've been puzzled at the degree to which this thing just kept on going. We've had every official in Hawaii, Democrat and Republican, every news outlet that has investigated this, confirm that, yes, in fact, I was born in Hawaii, August 4, 1961, in Kapiolani Hospital. We've posted the certification that is given by the state of Hawaii on the Internet for everybody to see."⁸

Plainly, the idea of the President of the United States involved in a conspiracy to defraud the American Public is difficult to process given the implications of such a criminal act. Yet that is exactly what the compelling, objective evidence that Vogt presents to this Court now indisputable demonstrates. Accordingly, given the threat that domestic enemies to the United

communication of a request to appear before the grand jury."

7 Other courts have recognized this right to avoid the U.S. Attorney's office and have the Court directly communicate information to the Grand Jury. *Accord*: "The submission of evidence to a grand jury is at the discretion of the prosecuting attorney, and without his or the judge's approval, private individuals have no right to communicate with a federal grand jury." *In re New Haven Grand Jury*, 660 4. Supp. 453,460 (D. Conn. 1985); *Baranoski v. United States Att'y Office*, 2006 U.S. Dist. LEXIS 2240, at *9 (D.N.J. 2006).

8 Retrieved from: <http://www.whitehouse.gov/the-press-office/2011/04/27/remarks-president>

States involved in these forgeries represent, and upon the Sixth Amendment oath that this Court took, this Court is now obligated to expeditiously: (i) refer this matter to a Special Grand Jury and (ii) appoint an independent prosecutor given the obvious conflict of interest that prosecution by Obama's Department of Justice represents.

VI. CONCLUSION

WHEREFORE, Vogt respectfully requests an order: (i) Directing the Clerk to conform the Docket in this matter to accurately reflect the documents Vogt filed, (ii) Issue an order acknowledging that Vogt has discharged his civic duty under the Misprision statutes, (iii) Refer Vogt's affidavits to a Special Grand Jury and (iv) Appoint an independent prosecutor given the obvious conflict of interest that prosecution by Obama's Department of Justice represents.

Dated: _____

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By: 