

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2011

In re: Dale B. Adams, Petitioner

Dale B. Adams

Plaintiff - Petitioner

v. **Case # 11-1625**

Tyson Foods Inc.

Defendant – Respondent

**ON PETITION FOR A
WRIT FOR A CERTIORARI**

TO

The United States Court of Appeals for the Eighth Circuit

PETITION FOR A WRIT FOR A CERTIORARI

28 U.S.C. § 2403(a) May Apply

Dale B Adams
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Harrison, AR. 72601
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QUESTIONS PRESENTED

- Is the USA Patriot Act and Bio-Terrorism Act Un-Constitutional by denying plaintiff a fair and unbiased tribunal, equal justice under the law and other Constitutional rights in a civil case
- Is the Patriot Act, et al, UnConstitutional for violating Adams First Amendment rights?
- Is the Patriot Act, et al, UnConstitutional for violating the Separation of Powers Doctrine? Do public officials err denying legal rights as they conspire with law enforcement to entrap Adams with a crime while he is engaged in litigation protected by the first and fifth amendment?
- Is the Patriot Act, et al, UnConstitutional as violating the Fifth Amendment? Does Adams have a right to due process of law to challenge the assertion he is a terrorist, which is adversely affecting his civil litigation – to prevent undue deaths?
- Is the Bio-Terrorism Act, et al, UnConstitutional for violating the Fourth Amendment?
- Does statute governed legislation, such as Civil Rights Act or FOIA bar the Court from exercising jurisdiction under Article III of common law rights to preserve due process of law converting Article III judges into Article IV judges abiding only by Congress will and direction?
- Did Congress violate Adams rights by passing the Detention Authority Provisions in S. 1253, a.k.a. H.R.1540 / S. 1867 of the National Defense Authorization Act for Year 2012 (Sections 1021m 1022, and 1036), to prevent him from challenging the Patriot Act and is the NDAA a Bill of Attainder?
- Does a litigant wrongfully placed onto the Patriot Act have a right to motion the court for due process to challenge this watch list status, if it is denying him due process of law within his civil court case which led to three (3) undue deaths of innocent family members?
- Is corporate personhood case law contrary to the Constitution causing all three branches of government to neglect the rights of We The People showing a bias to the rights of corporations?
- Is the first amendment violated when the court refused to file or timely file Adams pleadings?
- Did Appellate court err to deny Writ of Mandamus or Habeas Corpus to prevent undue deaths?

LIST OF PARTIES

Dale B. Adams, Pro se

- Plaintiff – Petitioner

Cherie L. Adams - **Life in Jeopardy**

– Silent Petitioner

Clarence D. Adams; *Deceased* [June 6, 2010]

– Silent Petitioner

Joel D. Adams; Unborn Child *Deceased* [March 8, 2010]

– Silent Petitioner

Linda F. Gattis, *Deceased* [January 1, 2011]

– Silent Petitioner

v.

Tyson Foods Inc.

- Defendant – Respondent

AND

- Respondent

The United States Government

-Silent Respondent

Although all official parties appear in the caption of the cover page, the silent parties involved have been added because this Court should be aware of how the decisions of the lower courts adversely affected them.

*Dedicated in Loving memory of my Father; Clarence Dale Adams; Retired, Master Sergeant, USAF
[Disabled Veteran from voluntary service in Vietnam War] [April 27, 1940 – June 6, 2010]*

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I. OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix **A** to the petition and is published

The opinion of the United States District Court, Western District of Arkansas appears at Appendix **B** to the petition and is published on Pacer

The opinion of the United States court of appeals appears at Appendix **C** to the Petition for Rehearing and is published on Pacer

The opinion of the United States Department of Labor Administrative Review Board appears at Appendix **D** to the petition and is published on Pacer, [ARB U S DOL#2009-SOX-00061]

The opinion of the United States Equal Employment Opportunity Commission appears at Appendix **E** to the petition and is unpublished, [EEOC #493-2009-00939] & [EEOC #864-2009-28101]

The opinion of the United States court of appeals appears at Appendix **F** to the petition and is published [Writ of Mandamus denied case #10-2228, #11-1144 and case #10-3395]

Evidence within the United States District Court, Western District of Arkansas appears at Appendix **G** to the petition and is unpublished [Two Patriotic Articles posted online in 2006]

Motion in the United States District Court, Western District of Arkansas appears at Appendix **H** to the petition and is Doc 32 [Denying Motion to Determine if Adams was on a Terrorist Watch list]

Motion in the United States District Court, Western District of Arkansas appears at Appendix **I** to the petition and is Doc 64 [Denying Motion to Determine if Adams was on a Terrorist Watch list]

The opinion of the United States District Court, Western District of Arkansas appears at Appendix **J** to the petition and is Doc 40 [Denying Motion to Determine if Adams was on a Terrorist Watch list]

Motion in the United States District Court, Western District of Arkansas appears at Appendix **K** to the petition and is Doc 212 [Denying Motion to preserve first amendment rights]

The opinion of the United States District Court, Western District of Arkansas appears at Appendix **L** to the petition and is Doc 62 [Order dismissing SOX Act Claim] [See Case #10-1972, 8th Cir. Below]

The opinion of the United States court of appeals appears at Appendix **L** denying SOX appeal
The Report and Recommendation of the U S District Court of January 6, 2010 denying SOX [App. P]

II. BASIS FOR JURISDICTION

This court has original jurisdiction “of all justiciable matters” under U.S. Constitution Art. III, § 2, and because the rights sought to be protected herein are secured by the U.S. Constitution and federal common law. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties. This court also has jurisdiction pursuant to *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803) and *Cohens v. Commonwealth of Virginia*, 19 U.S. 264 (1821).

The United States Supreme Court has jurisdiction over decisions arising from the United States Court of Appeals in the Eighth Circuit. Jurisdiction is based on 28 U.S.C. § 1254(1). The United States Court of Appeals for the Eighth Circuit issued a final judgment on October 7, 2011. Petition for en banc rehearing and also for rehearing by panel filed by Appellant Adams w/service October 20, 2011. Judge order denying petition for rehearing by panel filed by Appellant Adams was filed on November 18, 2011. Pursuant to Supreme Court Rule 13, this Petition for a Writ for a Certiorari has been filed within 90 days. This Petition for Certiorari was filed under Rule 11, mailed February 13, 2012 and received by the court February 16, 2012 and within 90 days.

Pursuant to Rule 29.4(b), 28 U.S.C. § 2403(a) may apply and notice was served on the Solicitor General and this court. Notice was also served on the Solicitor General pursuant to (FRAP) Rule 44(a) in the United States Court of Appeals for the Eighth Circuit. They opted not to respond.

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE UNITED STATES CONSTITUTION

The Suspension Clause of Section 9, Clause 2 of Article I of the Constitution provides that “[t]he 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.”

Separation of Powers Doctrine

“No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny.” James Madison *Federalist Papers* #47

Section 8, Clause 11 of Article I provides that Congress possesses the power “[t]o declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.”

Section 2, Clause 1 of Article II provides in pertinent part: “The President shall be Commander in Chief of the Army and Navy of the United States”

U.S. Const. Bill of Attainder Clause, Art. I, §9

U.S. Const. Ex post Facto Clause, Art. I, 10 “No Bill of Attainder or ex post facto Law shall be passed.”

AMENDMENTS TO THE CONSTITUTION

U.S. Const. Amend. I

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”

U.S. Const. Amend. IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. Amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when

in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. Amend. VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. Amend. VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Const. Amend. XIV.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATUTES

18 U.S.C. § 4001(a) provides that “[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.”

Electronic Communications Privacy Act of 1986 (ECPA Pub. L. 99-508, Oct. 21, 1986, 100 Stat. 1848, “relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.” 18 U.S.C. § 2709(a) and 2709(b)(2) (2000 & Supp. IV 2005)

Patriot Act, Uniting and Strengthening America Act by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 Pursuant to Section 215, “Investigations must also not be

performed on U S Citizens who are carrying out activities protected by the First Amendment to the Constitution of the United States.”

Bio-Terrorism Act, Public Health Security and Bioterrorism Preparedness and Response Act of 2002 - Public Law 107-188 - June 12, 2002 “SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE. “(a) IN GENERAL.—The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842), In 1998, Congress further amended FISA to permit the installation and use of pen register and trap and trace devices in the investigation of international terrorism and clandestine intelligence activities but the new section includes an admonishment, however, that specifically prohibits the investigation of U.S. persons for activities that are protected by the first amendment to the U.S. Constitution

Detention Authority Provisions in S.1253, a.k.a. H.R.1540 / S. 1867 of the National Defense Authorization Act for Year 2012 (Sections 1021,1022, and 1036)(2) mandate military detention of some civilians who would otherwise be outside of military control, including civilian suspects apprehended within the United States itself; and (3) transfer to the Department of Defense core prosecutorial, investigative, law enforcement, penal, and custodial authority and responsibility now held by the Department of Justice, including by the Criminal Division, the National Security Division, the various United States Attorneys, the Federal Bureau of Investigation, the Bureau of Prisons....

Urgent Deficiency Appropriation Act of 1943 no....respondents out of any monies then or thereafter

STATEMENT OF THE CASE

BACKGROUND

1. In April of 2006 Adams began exercising his 1st amendment right to free speech researching and writing the book entitled, “*Care Giving Made Easy – How to be an Awesome Caregiver,*”
2. Adams began posting articles online in July 2006 to promote his website and book
3. On August 17, 2006 he posted the article titled, “*Is Our Government to Blame For High Gas Prices?*” which was posted onto 40, 000 websites by RSS feed

4. Although Adams' IP address from Time Warner had always been the same of 68.206.112.58 Corpus Christi, TX where he was located, his IP address changed in September to 72.183.57.73 Herndon, VA. preventing him from getting into his website to post more articles [App. N]
5. Adams called Time Warner and asked a man named Jim why it had changed and that he needed his old IP address back and it appeared Jim was making false statements about this matter
6. On September 14, 2006 Adams began drafting the article titled, "*Homeland Security At Work - Destroying Our U.S. Constitution.*" to describe this situation to others for help [App. G]
7. On September 15, 2006, Adams computer was being aggressively hacked into and they successfully turned off his firewall which had never happened to him before and the FBI has a department specifically designed to hack suspected terrorists [U S DOJ 2010 Report] [App. N]
8. September 16, 2006 Adams emailed Road Runner Abuse copies of this Zone Alarm firewall breach and requested to know who was hacking into his computer and they had a delayed response because he had to email them on September 16th, 18th, 21st, and on the 26th of the problem [App. N]
9. On September 17, 2006 Adams took the advise of an employee of the Newsvine Blog and did a trace route from his IP location to the newsvine blog where his article was located to determine who was hacking into his computer and Adams has substantial physical evidence of this matter
10. September 21, 2006, Adams emailed the ACLU in Houston, TX seeking counsel to pursue legal redress for violating his forth amendment rights to privacy and unreasonable search [App. N]
11. Adams doesn't believe he ever received a response from the ACLU which he thought was odd because he also contacted the ACLU in San Antonio Texas with no response [App. N]
12. Adams endured the hacking and continued to exercise his first amendment rights because he has an extraordinary firmness of defending his civil and Constitutional rights and he was intent on promoting his book so he could pay his Mother back her retirement money that he had lost

13. On October 11, 2006 he posted the article titled, ““*Before You Vote, A Word From Thomas Jefferson,*” in support of social justice describing the reason we have so many problems in our nation is because we keep electing the same members of Congress for 20-50 years [App. G]
14. Adams alleges that within hours after posting this article online, his phone lines and computer were being tampered with and police cars were following him around among other oddities and supporting affidavits and written depositions confirm these facts. [Property of Judge Hendren]
15. Plaintiff was wrongfully and unlawfully placed on the USA Patriot Act for exercising his first amendment rights to write patriotic articles that were protected, thereby violating Section 215
16. The government's conduct frightened Adams and he promptly removed the two patriotic articles from the internet and abruptly went out of business and quit posting articles online [App. G]
17. On October 25, 2011, Adams discovered and saved the following cited article on his computer about how the FBI violated the law and the First Amendment rights of, “targets” in 2006, to illegally obtain warrants by circumventing the Foreign Intelligence Surveillance Court

Eggen, Dan (March 14, 2008), *FBI Found to Misuse Security Letters*

<http://www.washingtonpost.com/wpdyn/content/article/2008/03/13/AR2008031302277.html>

18. In this article it stated the name of the FBI lawyer, “Valerie E. Caproni” who was responsible for authorizing illegal warrants despite denial by the Foreign Intelligence Surveillance Court,

“But the FBI went ahead and got the records anyway by using a national security letter. The FBI's general counsel, Valerie E. Caproni, told investigators it was appropriate to issue the letters in such cases because she disagreed with the court's conclusions.”

19. That proof the FBI violated the law came from an investigation of the US DOJ Inspector

General as stated below,

“According to the findings by Justice Department Inspector General Glenn A. Fine, the FBI tried to work around the Foreign Intelligence Surveillance Court, which oversees clandestine spying in the United States, after it twice rejected an FBI request in 2006 to obtain certain records. The court had concluded "the 'facts' were too thin" and the "request implicated the target's First Amendment rights," the report said .”

U S DOJ Office of Inspector General, (January 2008), *A Review of the FBI's Use of Section 215 Orders for Business Records in 2006*

20. Adams First Amendment rights were violated in 2006, and he was wrongfully placed onto the Patriot Act watch list as the evidence below indicates [App. M]

“The FBI OGC determined that 266 telephone numbers listed in exigent letters and in 3 of the 11 blanket NSL's were related to criminal investigations or domestic terrorism investigations for which NSL's are not an authorized technique under the ECPA NSL statute, the Attorney General's NSI Guidelines, or FBI policy.”

U S DOJ Office of Inspector General, (January 2010), *A Review of the Federal Bureau of Investigation's Use of Exigent Letters and Other Informal Requests for Telephone Records*

21. Although the FBI was required to purge illegally obtained information and should have purged any information obtained about Adams, they retained this information and misused it to wrongfully place Adams onto the Bio-Terrorism Act watch list when he began to exercise his first amendment rights to pursue legal redress against Tyson Foods [App. M]

22. Appendix M is page 198 from the U S DOJ Office of Inspector General, (January 2010), *A Review of the Federal Bureau of Investigation's Use of Exigent Letters and Other Informal Requests for Telephone Records*, that displays the dates they violated the law to obtain information with blanket NSL's were the same dates in the Fall of 2006 when Adams posted his “protected” Patriotic articles online in support of the U S Constitution [App. M] [App. G]

23. As a result three (3) innocent members of plaintiff's family have died an undue and wrongful death, plaintiff and his disabled wife have suffered from cruel and unusual punishment and had most of their civil and Constitutional rights stripped from them – to this day

COURT PROCEEDINGS

SOX CLAIM

24. On June 18, 2009, Adams filed a SOX complaint with the US DOL/OSHA [App. D]

25. On August 4, 2009 Adams filed a Title VII and a Sarbanes Oxley Act claim [Doc 5]
26. The US DOL Administrative Review Board granted Adams' motion to withdraw his SOX claim from the ARB on February 16, 2010, to pursue in the U S District Court [App. D]
27. On March 17, 2010 Adams' strongly objected to the SOX dismissal pursuant to well settled case law below in a Response to a Report and Recommendation [Doc 49]
28. The court violated the common law rule on concurrent jurisdiction. —Where concurrent jurisdiction is vested in different tribunals, the first exercising jurisdiction rightfully acquires control to the exclusion of, and without interference of, the other. *Patterson v. Isom*, 338 Ark. 234, 239, 992 S.W.3d792, 796 (1999) (quoting *Tortorich v. Tortorich*, 324 Ark. 128, 131, 919 S.W.2d 213, 214 (1996))
29. The court didn't have jurisdiction to dismiss the SOX claim and violated the doctrine of Stare decisis
30. On April 13, 2010 the SOX claim was wrongfully dismissed [Doc 62] [App. L]
31. Although Adams appealed to the 8th Circuit they denied his appeal [Case # 10-1972] [App. L]

DUE PROCESS

32. Adams' valid EEOC complaints were both wrongfully and unlawfully dismissed [App. E & F]
33. Adams knew something was terribly wrong when every law enforcement agency he contacted to file charges against Tyson Foods failed to abide by the law and he moved the lower court at least twice with a Motion to Determine if Adams was on a Terrorist Watch list [App. H & I]
34. The court denied these Motions for Adams' to obtain due process of law or challenge the Patriot Act in his civil action which adversely affected his litigation [App. J]
35. Adams' maintains that he should be given due process of law and able to challenge their assertion of him being a danger to our nation, pursuant to 50 U.S.C. § 1806(g), if the court, “*determines that the surveillance was not lawfully authorized or conducted, it shall, in*

accordance with the requirements of law, suppress the evidence which was unlawfully obtained'

36. On March 1, 2010 Adams filed a Motion to Reveal if Plaintiff is listed on a Government Watch List [Doc 32] [App. H] (*Adams' unborn child died about March 12, 2010*)
37. On March 8, 2010 this motion was denied along with due process [Doc 40] [App. J]
38. On April 16, 2010 Adams filed another Motion for Government to Reveal if Plaintiff is on a Government Watch List [Doc 64] [App. I] (*Adams' Father died June 6, 2010*)
39. On August 6, 2010, the court denied this Motion and we lost the life to my wife's Mother, Linda Gattis who died on January 1, 2011 [Doc 139]

FIRST AMENDMENT RIGHTS ABRIDGED BY THE COURT U.S. Const. Amend. I

40. Adams has been under extreme duress for three years because all of his civil and Constitutional rights have been stripped from him and he has typed thousands of documents and over a million words attempting to regain his rights, to no avail
41. While a normal civil case may have less than 30 documents on the docket, this case # 09-3054 has over 200 documents due to Adams' prolific filings to obtain due process and his Sanity
42. On August 6, 2010, the court issued an order depriving Adams of his first amendment rights which Adams disputes because they appear to be abusing this process to adversely affect him
43. The August 6, 2010, transcript on page 42, line 20-24, COURT: —*What I'm going to order, Mr. Adams, is that the clerk's office, I'm going to order them not to accept any... Motions from you unless they clear through the Court first, all right? So they're not going to file anything.*”
44. The court claimed Adams was filing too many motions which was an abuse of process
45. The court then abused this process and denied Adams' 1st Amendment rights by failing to file relevant evidence and motions thereby showing a bias towards Tyson Foods
46. On August 6, 2010 during the hearing plaintiff intended to object to the SOX claim being dismissed again but was cut off by the court and the transcript proves plaintiff made the

- following comment on page 32 line 12, MR. ADAMS: “*Your Honor, I’d like to –*” [Doc 144]
47. On October 23, 2010, Adams mailed an Objection to the court for dismissing his SOX claim with a Memorandum for Record, both of which were not filed [Doc 153]
48. On October 23, 2010, Adams also mailed the court a *Motion to Rescind Court Order Violating Plaintiff’s First Amendment Rights to Freedom of Speech*, and Judge Hendren opted to deny Adams’ due process, an unbiased tribunal, nor any sense of fairness and didn’t file this motion
49. On line # 22-24 of this Motion Adams asserted a Constitutional Challenge against the Patriot Act, “22) *That I hereby move this court to make a Constitutional Question to the U S Attorney General* 23) I declare the Patriot Act to be Un-Constitutional and needs to be abolished [App H]
50. The Judges were denying Adams’ rights to an appeal by not filing this objection
51. A Judge already has an enormous amount of power over a case
52. When a Judge is also permitted to file the documents he chooses, he can make the record look however he wants in order to base decisions how he wants them
53. He can hold documents for weeks without filing them allowing deadlines to become mute
54. A Judge is able to create Tyranny by having this liberty to deny a plaintiff his 1st, 5th and 14th Amendment Rights to follow due process
55. This was plain error and an abuse of process that caused significant harm to this case and others
56. In February 2011, Adams noticed this deliberate error of this motion not being filed and informed Chief Judge William J. Riley and after plaintiff sent a second copy of the *Motion to Rescind Court Order Violating Plaintiff’s First Amendment Rights to Freedom of Speech* – it was finally filed February 14, 2011 [Doc 212] [App. K] (See certificate of service)
57. That this document stated on line # 34, —*That the U S A Patriot Act and Bio-Terrorism Act is a Bill of Attainder forever wiping out any civil and Constitutional rights of a U S citizen for having a criminal record or being placed on a watch list and has wiped out the Separation of*

Powers Doctrine – making both of these laws Un-Constitutional” [App. K]

58. It is Black Letter Law that a person is not supposed to be retaliated against for exercising his 1st Amendment rights and Judge Hendren deliberately failed to file this Motion showing a bias towards Tyson Foods to harm Adams and his litigation, to deny an appeal
59. Judge Hendren of the Western District of Arkansas issued a final judgment on the date of March 15, 2011 [App. B]
60. The Eighth Circuit Court of Appeals dismissed Adams appeal on October 7, 2011 [App A]
61. The 8th Circuit Court of Appeals denied the Petition for Rehearing November 18, 2011 [App C]
62. That case law *Wright Langhammer v Suhl*, 2009 WL 2176584 (E.D. Ark., July 17, 2009), placed overbearing demands on a litigant to defend against Motions to Dismiss and as a result, valid lawsuits and a U S citizens only chance at obtaining Justice, are being dismissed in epidemic proportions creating Tyranny nationwide and is contrary to generations of case law from the U S Supreme Court, which caused Adams' valid claims to be dismissed
63. Supreme Court Rule 24.6 bars Adams from making further claims and he moves the court to review this matter De Novo, and does not waive any rights to appeal on other issues
64. Although I disagree with Judge Hendren's decisions, he may have had Honorable intentions, but the trauma we suffered is not light - nor reparable [App. O]
65. Adams filed three Writs of Mandamus to the Eighth Circuit Court of Appeals pleading for his Constitutional rights in case #10-2228, #10-3395 and #11-1144 and they were denied [App. F]

V. REASONS FOR GRANTING THE PETITION

United States v. Olmstead, 277 U.S. 438 (1928), The Honorable Justice Brandeis dissenting;

“The door of a court is not barred because the plaintiff has committed a crime. The confirmed criminal is as much entitled to redress as his most virtuous fellow citizen; no record of crime,

however long, makes one an outlaw...

VIOLATION OF THE FIRST AMENDMENT U S Const. Amend. I.

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”

In broad terms, the First Amendment protects the right to be free from government abridgment of speech. Retaliation for the exercise of First Amendment rights is a **black letter** constitutional violation. The first amendment of the U S Constitution guaranteeing people the right to freedom of speech is by far the most important fundamental right. Freedom of speech is one of our most precious rights to protect our liberty. James Madison eloquently described this below;

"The right of freely examining public characters and measures, and of free communication among the people thereon...has ever been justly deemed the only effectual guardian of every other right." This is the essential cornerstone of Popular Sovereignty -- a government of the People, by the People and for the People.

James Madison

Exploring Constitutional Conflicts, (2011), Introduction to the Free Speech Clause
<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/firstaminto.htm>

The Patriot Act and Bio-Terrorism Act abridge Adams' ability to exercise his first amendment rights. The executive branch violated the first amendment by wrongfully placing Adams onto these intolerable acts. Adams maintains these laws have an irreconcilable variance with the U S Constitution as clearly stated, *“Congress shall make no law...abridging the freedom of speech ...”* Although Adams was able to file a complaint against Tyson Foods and some administrative agencies, they sabotaged his valid claims while simultaneously investigating him for alleged criminal conduct under these acts. This abridged Adams first amendment rights to, *“petition the Government for a redress of grievances”* while violating his fifth amendment right to due process of law. The court further violated our first amendment rights by failing to file or timely file legal pleadings and valid evidence in support of our claims. It is well-settled law that a "loss of First Amendment freedoms, for even minimal periods of

time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976 (plurality)).

As a result three (3) innocent members of Adams' family are deceased violating Adams' eighth amendment rights causing cruel and unusual punishment. My wife has suffered so much trauma that she describes us as suffering from post traumatic stress disorder and she no longer has the will to live.

The Patriot Act and Bio-Terrorism Act are comparable to the Alien and Seditions Act of 1798 that were rightfully repealed before they could be challenged under the first amendment. The Sedition Act, Ch.74, 1 Stat. 596, made it a crime to publish "false, scandalous, and malicious writing" against the government or certain officials. Facts indicate that Adams was placed onto the Patriot Act for posting Patriotic articles online that were protected conduct under the first amendment. Both Thomas Jefferson and James Madison protested these laws as being forbidden by the Constitution as stated,.

“subverts the general principles of free government; as well as the particular organization, and positive provisions of the federal constitution; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto;_ a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.”

The Virginia Resolution, December 24, 1798, *The Conservative Caucus Documents of Freedom Collection*, authored by Thomas Jefferson and James Madison

Adams agrees with Jefferson and Madison that intolerable acts have an irreconcilable variance with the Constitution and should meet the same fate as the Alien and Seditions Act of 1798. That was settled by this court in *Miranda v. Arizona*, 384 US 436, 491 "*Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.*"

VIOLATION OF THE FORTH AMENDMENT U.S. Const. Amend. IV

This court has been very liberal about allowing the executive to infringe on rights protected by

the forth amendment. Does this court also agree that local, State, and federal authorities can conspire together as they eavesdrop even on our bedroom conversations plotting to entrap Adams with a crime?

Although Adams contacted the U S Department of Justice many times offering to provide any information to them, concerning possible law violations, they didn't respond. Adams also informed the court he would take a lie detector test and volunteer information of his innocence to protect our rights to privacy. They instead violated the forth amendment rights of my wife and I, eavesdropping on our every transmission. They also went thru our trash and were inside our car during that rainy night because the seats were wet the next day. We suspect a tracking device and a wire tapping device may even be in our car. We have no peace.

Although law enforcement may need some latitude in their efforts to keep our nation safe, when a person offers to cooperate and make voluntary admissions of their innocence to protect the privacy of their family under the forth amendment, the government should be required to at least respond.

The facts of this case will reveal that the government made a serious error and misjudgment that caused us great and unnecessary harm. The Patriot Act is flawed. They obtain snips of information and make moral judgments about people that can be very wrong - because they don't know everything. This court should reconsider their light position of forth amendment rights and it is sad that *United States v. Olmstead*, 277 U.S. 438 (1928) and the sage counsel of Justice Brandeis were overruled.

BILL OF ATTAINDER

Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a trial, are 'bills of attainder' prohibited under this clause. U.S. v. Lovett, 328 U.S. 303 (1946)

The word "attainder", meaning "taintedness", is part of English common law. Under English law, a criminal condemned for a serious crime, whether treason or felony, could be declared "attainted", meaning that his civil rights were nullified. A bill of attainder, is a legislative act which inflicts

punishment without judicial trial and includes any legislative act which takes away the life, liberty or property of a particular named or easily ascertainable person or group of persons because the legislature thinks them guilty of conduct which deserves punishment. Bills of attainder were used for centuries in England, and were applied to British colonies as well. History proves that one of the motivations for the American Revolution was anger at the injustice of attainder

The provision forbidding state law bills of attainder reflects the importance that the framers attached to this issue, since the unamended constitution imposes very few restrictions on state governments' power. I ask that the Court pause ... at the severity of and the determination our founding Fathers had - about this evil form of government and tyranny.

That I have a criminal record that I'm not proud of that ended over 20 years ago. A criminal record is a determining criteria for placing a person onto a terrorist watch list. Congress has violated the U S Constitutional provisions forbidding Bills of Attainder when they passed the U S A Patriot Act and the Bio-Terrorism Act. Both of these laws automatically determine a person as guilty of a crime and allows them to strip a U S citizen of life, liberty or property if he has a criminal record.

This court addressed these issues in *U.S. v. Lovett*, 328 U.S. 303 (1946). In *Lovett*, Congress passed the Urgent Deficiency Appropriation Act of 1943 which harmed individuals because of what Congress thought of their political beliefs. Likewise, Adams was placed onto the Patriot Act for his political beliefs of social justice defending the rights of We the People versus corporations in his articles in 2006.

This court further stated, "*The Constitution did not contemplate that congressional action aimed at three individuals, which stigmatized their reputations and seriously impaired their chances to earn a living, could never be challenged in court.*" P. 328 U. S. 314. Adams has also been financially devastated by the Patriot Act unable to earn a living with employment, books, inventions or any other

avenue.

The Justices found, “*Section 304 clearly accomplishes the punishment of named individuals without a judicial trial*”. P. 328 U. S. 316. Under the Patriot Act Adams' and his family suffer from relentless punishment without a trial to challenge their assertions.

The court noted, “*The fact that the punishment is inflicted through the instrumentality of an Act specifically cutting off the pay of certain named individuals found by Congress to be guilty of disloyalty make it no less effective than if it had been done by an Act which designated the conduct as criminal.*” P. 328 U. S. 316. Adams' punishment is from the Congressional act of the Patriot Act in addition to the Bio-Terrorism Act and he suffers from financial oppression because Congress found Adams as disloyal, and he suffers from ongoing harm unable to challenge this intolerable act in court.

The quote from Alexander Hamilton cited is appropriate today as it was then,

“ . . . a limited constitution . . . [is] one which contains certain specified exceptions to the legislative authority, such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.” Federalist Paper No. 78. Page 328 U. S. 315

This court held, “*that § 304 falls precisely within the category of congressional actions which the Constitution barred by providing that “No Bill of Attainder or ex post facto Law shall be passed.”* In *Cummins v. Missouri*, 4 Wall. 277, 71 U. S. 323, this Court said, “*A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties.*” Adams and his family have suffered severe harm and three undue deaths that satisfy the criterion of the bills of pains and penalties.

The Patriot Act appears to violate the delegation doctrine. The U.S. Constitution vests all

legislative powers in Congress, and all judicial powers in the Supreme Court and inferior courts, except as specifically expressed. Executive branch officials may subdelegate but must remain responsible for the actions of their subordinates. There can be no authority exercised that is not accountable through constitutional officials. *Delegata potestas non potest delegari*. A delegated power cannot be delegated. 9 Inst. 597 Congress doesn't have the authority to pass any law that infringes on the rights of the Judicial branch under article III.

Adams was placed onto the Patriot Act for an innocent association he had with Indians ten years prior to the Patriot Act even being formed and it appears to also violate the Expo Facto clause.

In summary, the battle of Liberty versus Tyranny will forever endure. The Alien and Seditions Act prove that even at the birth of our nation there were those within our government who wanted to control the people, versus accept the concept of liberty. That battle still exists today along with this honorable court's responsibility to make equitable considerations. In 1798, *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), wasn't yet established by Chief Justice Marshall. I believe Chief Justice Marshall would have found these Seditious acts and the Patriot Act repugnant to the Constitution.

NDAA

Adams contacted numerous members of Congress about Patriot Act abuse and they opted to pass the Military Detention Provisions of the NDAA, versus address Adams concerns. The NDAA will defeat Adams' ability to challenge the Patriot Act under the first amendment. The NDAA violates Adams' every Constitutional right and has an irreconcilable variance with the Constitution. It alters our form of government from a Republic to a Monarchy, the very evil our founders designed the Constitution to prevent. The NDAA is also contrary to the Suspension Clause.

The Constitution provides no inherent authority for the government to indefinitely detain American citizens in the United States and Congress has expressly granted such authority in the

NDAA, certifying it as a Bill of Attainder. Indeed, Congress could not have been more clear in requiring explicit legislative and executive authority for the indefinite detention of U S citizens. Because the Executive branch possesses power solely by virtue of the Constitution and the Congress, *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952), and no statute explicitly permits the indefinite detention at issue, the unprecedented expression of Executive power is illegitimate.

18 U.S.C. § 4001(a), provides that “[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” and Section 2, Clause 1 of Article II, “The President shall be Commander in Chief...” However our founders didn't intend for Congress to pass UnConstitutional laws to deprive citizens of their rights to Life, Liberty and Property for expressing their first amendment rights, nor grant them power to alter our form of government.

In *Aptheker v. Secretary of State*, 378 U.S. 500 (1964), this court held the Subversive Activities Control Act of 1950 too broadly and indiscriminately restricted the right to travel and thereby abridged the liberty guaranteed by the Fifth Amendment and that section 6 of the Control Act was unconstitutional on its face. The Military Detention Authority of the NDAA too broadly and indiscriminately restrict a citizens every Constitutional right, and should meet the same fate.

This court held against such conduct in *Ex parte Milligan*, 71 U.S. (4 Wall.) 2 (1866). This court recently affirmed that holding in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004). The Justices recognized the power of the government to detain enemy combatants, but ruled that detainees who are U.S. citizens must have the ability to challenge their enemy combatant status before an impartial judge. Although Adams submitted substantial pleadings to the courts, he wasn't granted the ability to challenge the unlawful denial of his Constitutional rights, since he wasn't detained. Adams can verify the enlightened holding by this court in *Ex parte Milligan*. "*Wicked men, ambitious of power, with hatred of liberty and contempt of law, may fill the place once occupied by Washington and Lincoln; and if this right is conceded, and the calamities of war again befall us, the dangers to human liberty are*

frightful to contemplate." Congress decision to allow military troops authority within our nation violates the public duty doctrine and the Posse Comitatus Act of 1878, endangering the people.

In *United States v. Brown*, 381 U.S. 437 (1965), this court noted the similarities of a Bill of Attainder. Justice Goldberg held,

(a) The Bill of Attainder Clause, Art. I, 9, cl. 3, was intended to implement the separation of powers among the three branches of the Government by guarding against the legislative exercise of judicial power. Pp. 441-446. The NDAA violates the separation of powers doctrine.

(b) The Bill of Attainder Clause is to be liberally construed in the light of its purpose to prevent legislative punishment of designated persons or groups. *Cummings v. Missouri*, 4 Wall. 277; *Ex parte Garland*, 4 Wall. 333; *United States v. Lovett*, 328 U.S. 303. Pp. 447-449. Adams is being punished by the Legislature for writing Patriotic articles in support of social justice, a cause Justice Brandeis fully supported.

James Madison wrote: "*The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.*"

As Alexander Hamilton observed:

"By a limited constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing." *The Federalist*, No. 78, pp. 576-577

History proves that Bills of Attainder were made to deter people from preventing a change in government. Adams' articles were in support of the U S Constitution and Congress

appears intent on altering our Republican form of government with an aggressive assault of laws contrary to the U S Constitution, too numerous to list.

Congress are bound to obey by the U S Constitution and when they violate their sacred oath of office to pass laws contrary to the U S Constitution which causes significant harm to us and our nation, there should be some remedy to hold them accountable for their indiscretions. This court addressed that issue in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), “*But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.*” Chief Justice Marshall's opinion was inline with the thoughts and beliefs of our founders that a system of checks and balances was the best method to protect the integrity of our nation and form of government.

FIFTH AMENDMENT U.S. Const. Amend. V

The Fifth and Fourteenth Amendment to the Constitution provides in pertinent part: “nor shall any person . . . be deprived of life, liberty, or property, without due process of law.” U S Const Amend.V. U.S. Const. Amend. XIV

The right to be heard in opposition to the government’s effort to strip a person of his liberty is at the heart of the procedural protections due under the Constitution. *See Lachance v. Erickson*, 522 U.S. 262, 265 (1998); *Rock v. Arkansas*, 483 U.S. 44, 51 (1987); *Hughes v. Rowe*, 449 U.S. 5, 11 (1980); *Washington v. Texas*, 388 U.S. 14, 19 (1967); *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 165-66 (1963). Adams was denied his right to be heard and three members of his family are deceased.

“This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). By refusing to allow Adams to be heard

in civil litigation, the Eighth Circuit has denied Adams this basic constitutional right. Detention or denying life without the opportunity to be heard, moreover, constitutes a paradigmatic affront to the Due Process Clause. *See Kwong Hai Chew v. Colding*, 344 U.S. 590, 597-602 (1953); *accord Zadvydas v. Davis*, 533 U.S. 678, 692 (2001)

In *Hamdi*, the court noted, “The serious constitutional problem arising out of a statute that, in these circumstances, permits an indefinite, perhaps permanent, deprivation of human liberty without any such [Due Process] protection is obvious.” “[The Court] need go no further” to find the Executive branch’s treatment of *Hamdi* unconstitutional. *See Kennedy*, 472 U.S. at 167.

Every plea Adams made to the Eighth Circuit and lower court to challenge the Patriot Act was denied. The Eighth Circuit’s opinion threatens to permit the indefinite and virtually incommunicado imprisonment of innocent Americans by the government. As this Court acknowledged shortly after the Civil War, “military forces act in the field according to the laws of war, and seize that which is apparently the subject of capture. They act upon appearances, not upon testimony.” *Lamar v. Brown*, 92 U.S. 187, 196 (1875); *accord* (App. 24a “The murkiness and chaos that attend armed conflict mean military actions are hardly immune to mistake.” Indeed, such mistakes have been made by our forces in Afghanistan. *See* Carlotta Gall, U.S. Sends 18 at Guantanamo To Afghanistan to Be Freed, *N.Y. Times*, Mar. 25, 2003, at B13; Greg Miller, Many Held at Guantanamo Not Likely Terrorists, *L.A. Times*, Dec. 22, 2002, at 1.

“[T]he Due Process Clause contains a substantive component that bars certain arbitrary, wrongful government actions ‘regardless of the fairness of the procedures used to implement them.’” *Zinermon v. Burch*, 494 U.S. 113, 125 (1990) (quoting *Daniels v. Williams*, 474 U.S. 327, 331 (1986)). This substantive element prohibits, for example, government intrusion into certain intimate private conduct, *Lawrence v. Texas*, 123 S. Ct. 2472, 2484 (2003), and even our bedroom conversations are being recorded, interference in the exercise of parental rights, *Troxel v. Granville*, 530 U.S. 57, 65

(2000), we lost our only chance at having a child, egregious and shocking conduct by the government, *Chavez v. Martinez*, 123 S. Ct. 1994, 2005 (2003); *County of Sacramento v. Lewis*, 523 U.S. 833, 846-47 (1998); and to be denied basic Constitutional rights by the courts within the Eighth Circuit is unconscionable and arbitrary deprivations of liberty, *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting); *Daniels*, 474 U.S. At 331.

The Executive branch's treatment of Adams is comparable to the type of conduct that offends the "decencies of civilized conduct" central to substantive due process. See *Rochin v. California*, 342 U.S. 165, 173 (1952); cf. *Demore v. Hyung Joon Kim*, 123 S. Ct. 1708, 1726 (2003) (Kennedy, J., concurring) (noting relation between the need for continued detention and prohibition on arbitrary deprivations of liberty). Under the Eighth Circuit's rulings, in the absence of press coverage or an eligible "next friend," an American citizen labeled as an "enemy combatant" may be entirely unknown to the legal system, a possibility that could not be more at odds with the Constitution. Cf. *The Federalist No. 84* (Alexander Hamilton) "[C]onfinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore A MORE DANGEROUS ENGINE of arbitrary government.". Whether the effectively incommunicado detention and interrogation of an American citizen is consistent with the substantive protections afforded by the Due Process and Suspension Clause deserves plenary review by this Court .

VIOLATES THE SEPARATION OF POWERS CLAUSE

Section 8, Clause 11 of Article I provides that Congress possesses the power "[t]o declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water." However, Congress doesn't have the power to alter our form of government by wiping out this structural doctrine or by abridging Article III. Our founders intent to make a Free Nation for, "We The People" is clearly established below by Montesquieu and James Madison.

When The Alien and Seditious Act of 1798 was passed Thomas Jefferson and James Madison helped author the resolution below in opposition to the federal government passing laws contrary to the Constitution that violated the separation of powers doctrine.

“RESOLVED, That the General Assembly of Virginia, doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former...”

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts" passed at the last session of Congress; the first of which exercises a power no where delegated to the federal government, and which by uniting legislative and judicial powers to those of executive, subverts the general principles of free government; as well as the particular organization, and positive provisions of the federal constitution; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; _a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.”

The Virginia Resolution, December 24, 1798, *The Conservative Caucus Documents of Freedom Collection*, authored by Thomas Jefferson and James Madison

Our founders considered the wise counsel of great minds such as Baron Charles Montesquieu as they authored the U S Constitution that are still relevant today.

“Nor is there liberty if the power of judging is not separated from legislative power and from executive power. If it [the power of judging] were joined to legislative power, the power over life and liberty of the citizens would be arbitrary, for the judge would be the legislature if it were joined to the executive power, the judge could have the force of an oppressor. All would be lost if the same ... body of principal men ... exercised these three powers.”

"The Spirit of the Laws", (1748) Baron Charles Montesquieu, Retrieved from

<http://books.google.com/books?id=5zZJAAAAMAAJ>

“No political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny.” James Madison, *Federalist Papers No. 47*

James Madison stated that “unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.” *The Federalist No. 48*

This case presents fundamental questions about the right of American citizens to be free from indefinite detention by the government without charge or trial, the power of the Executive branch to abbreviate due process of law during wartime, and the role of the federal courts in resolving these issues. The appropriate balance between the rights of citizens and the Executive power to defend against threats to national security is an old question, see, e.g., *Ex parte Bollman*, 8 U.S. (4 Cranch) (1807), and one that was answered by the Eighth Circuit in a fundamentally alarming way. They ignored Adams' every plea.

By refusing to permit judicial review of the facts related to the oppression of an American citizen, the court not only embraced an unchecked Executive power to indefinitely harm American citizens suspected of being affiliated with enemies, but it also abandoned procedural safeguards designed to promote truth and fairness. Cf. *Penson v. Ohio*, 488 U.S. 75, 84 (1988) “This system is premised on the well-tested principle that truth — as well as fairness — is ‘best discovered by powerful statements on both sides of the question.’ (quoting *United States v. Cronin*, 466 U.S. 648, 655 (1984)). Once the Executive branch asserts that a person is an enemy combatant, the Eighth Circuit ruled, no factual testing of that determination is allowed.

For these important reasons, this Honorable Court should accept review of Adams' case.

DENIAL OF WRIT OF MANDAMUS

Adams petitioned the Eighth circuit court of appeals three times pleading with them to issue a Writ of Mandamus to protect the rights of him and his family due to excessive law violations by numerous public officials. On June 2, 2010 a Writ of Mandamus was filed as case # 10-2228, on October 28, 2010 a Writ of Mandamus was filed as case # 10-3395, and on January 20, 2011, a Writ of Mandamus was filed as case #11-1144, to the Eighth Circuit U S Court of Appeals. These writs were pleadings for the Eighth Circuit Judges to require public officials to abide by the law to prevent any further deaths in our family. These writs were all denied although they had jurisdiction pursuant to *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), and the Judges were fully aware of serious law violations by public officials that were causing deaths in our family. The Judges of the Eighth Circuit violated our rights under U S Const. Amend. I, IV, V and VIII, that caused us great harm. My Father died on June 6, 2010 and my wife's Mother died on January 1, 2011. On January 19, 2011 a Writ of Mandamus was submitted to the U S Supreme Court. They were returned by the clerk as not compliant with their rules of the court. Adams was financially devastated from constant law violations of every possible federal agency and wasn't financially able to resubmit them and it appeared hopeless.

These cases are similar to *Marbury*. In that case William Marbury filed a Writ of Mandamus to require the U S Secretary of State, James Madison to abide by the law. Adams filed three Writs of Mandamus to require federal agencies and the lower court to abide by the law to preserve his civil and Constitutional rights. Chief Justice Marshall surmised the issue to three basic questions including, “*If he has a right, and that right has been violated, do the laws of his country afford him a remedy?*” On Page 5 U. S. 163, he concluded,

“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. One of the first duties of government is to afford that protection. In Great Britain, the King himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court.

In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. “In all other cases,” he says,

“it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.”

A common theme Adams claimed in every Writ of Mandamus was stated to the Eighth Circuit, “ Plaintiff had a valid civil rights complaint and attempted to get state and federal law enforcement agencies to investigate and charge Tyson Foods for violating the law. That every one of these state and federal agencies ignored or denied plaintiff's valid claims, which caused harm to his civil rights claim. Evidently, once you are placed on a terrorist watch list – you have no civil nor Constitutional rights. That these questionable terrorist laws are a Bill of Attainder and are a violation to the U S Constitution.”

Although the Eighth Circuit was aware Adams' Constitutional rights were being denied causing him and his family great harm, they refused to accept jurisdiction to decide these important issues. Adams needed to obtain due process to challenge the assertion that he was a danger to our nation.

It appears Tyson Foods had an employee make a statement about Adams concerning a conversation they had, that indicated Adams had bad faith and may have been committing a fraud on the court. Adams was denied discovery so he can't say for certain if this is correct. However, this employee of Tyson Foods, Thomas Paradiso, did admit to Adams that Tyson Foods supervisor Debbie Trost had him rip up a statement he wrote about me three times before Tyson accepted it. He stated he didn't remember what it said, “*but that it was bad.*” During appeal Adams informed the court about this conversation proving he was acting in good faith, and the statement of Thomas Paradiso was made in bad faith. Although Adams had informed the lower court, the FBI and the U S Attorney, Deborah

Groom that he would answer any questions, they failed to allow him due process or any fairness and continued to violate our right to privacy, even in our bedroom. They assumed a criminal record indicated Adams had no honor or integrity and was guilty of wrongdoing. The two simple words, “due process,” often quoted with little meaning - will always have significant value and meaning to me.

I ask the Justices of the Supreme Court to act as the Judges of the Eighth Circuit should have and abide by the wisdom of Chief Justice Marshall below.

It is emphatically the duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret the rule. If two laws conflict with each other, the Court must decide on the operation of each. Page 5 U. S. 178

So, if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If, then, the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

If courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

Between these alternatives there is no middle ground. The Constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.

VI. CONCLUSION

"We the People are the rightful masters of both Congress and the Courts--not to overthrow the Constitution, but to overthrow the men who pervert the Constitution." Abraham Lincoln

I respectfully request that this court grant me the civil and Constitutional rights that are supposed to be guaranteed to all citizens. Adams' was wrongfully placed on the Patriot and Bio-Terrorism Act watch list for exercising his 1st Amendment rights to free speech and legal redress. The NDAA was authored to further punish Adams for exercising his rights to free speech. Adams' requests this court remove him from these lists and determine if they have an irreconcilable variance with the U. S. Constitution.

Adams moves the court to offer swift and fair relief from this travesty of justice as the court deems just. Adams is reluctant to claim he is suffering from a travesty of justice because the harm we endured doesn't compare to all of the people that are detained and tortured by the military who may also be innocent. Article III must never be compromised or abridged by any act of the legislature. Any legislation devised to protect our nation should always have checks and balances to prevent Tyranny.

The petition for a writ of certiorari should be granted.

Signed this 13th day of February, 2012, in the spirit of the rules and in *Honor of our Founding Fathers*.

Respectfully Submitted,

Dale B. Adams

2313 Anvil Drive
Harrison, Ar. 72601
P: (870) 204-6164

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2011

In re: Dale B. Adams, Petitioner

Dale B. Adams

Plaintiff - Petitioner

v. **Case # 11-1625**

Tyson Foods Inc.

Defendant – Respondent

CERTIFICATE OF SERVICE

I Dale B Adams, do declare that on this 27th day of February, 2012, as required by Supreme Court Rule 29, I have served the enclosed Motion For Leave to Proceed in Forma Pauperis and Petition For A Writ Of Certiorari on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third party commercial carrier for delivery within three (3) calendar days.

The names of those served are as follows:

The Supreme Court of the United States
One First Street, NE,
Washington, DC 20543
Phone: 202-479-3211

Solicitor General
Room 5614, Dept of Justice
950 Pennsylvania, Ave, N.W.
Washington D.C. 20530-0001

Kathlyn Graves
Mitchell Williams
425 W. Capital Ave. Ste. 1800
Little Rock, AR. 72201

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27th day of February, 2012

Dale B Adams

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