

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

10

MICHAEL CASEY JACKSON,	§	
Petitioner,	§	CASE NO. 1:18-cv-10136
v.	§	(USDC No. 1:16-cr-20347)
UNITED STATES OF AMERICA,	§	
Respondent.	§	

RESPONSE TO THE MAGISTRATE'S REPORT AND RECOMMENDATION

COMES NOW, Petitioner, Michael Casey Jackson, acting in pro per (pro se), respectfully submits this RESPONSE to the U.S. Magistrate's Report and Recommendation, dated March 14, 2018 and received at this FCC-Yazoo City Medium Facility on March 23, 2018, pursuant to all Federal Rules, Regulations and Procedures in conjunction with 28 U.S.C. § 2255. This RESPONSE is timely and within the fourteen day as requested by the US Magistrate to RESPOND. Petitioner further prays that this Court construe his pleadings liberally in all his filings in light of Haines v. Kerner, 404 U.S. 519, 520-21 (1972), holding that, "pro se litigants are to be held to a lesser standard of review than lawyers who are formerly trained in the law, and are entitled to a liberal construction of their pleadings." Petitioner contends the following: as OBJECTION No. 1:

F I L E D
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 CLERK'S OFFICE
 DETROIT

THE COURT DOES LACK JURISDICTION TO CONVICT PETITIONER OF A FEDERAL OFFENSE WHEN THE LOCATION OF THE ALLEGED INCIDENT/OFFENSE TOOK PLACE ON STATE/COUNTY/PRIVATE PROPERTY AND NOT ON FEDERAL LAND OR INDIAN LAND -

In the Magistrate's Report and Recommendation, the Magistrate claims that the offense/crime occurred within the Isabella Reservation of the Saginaw/Chippewa Indian Tribe of Michigan. Using 18 U.S.C. § 1151, the Magistrate contends that the "Indian Country" is defined as "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent.." The Magistrate continues to elaborate that, "Therefore, even if the land has been patented by the United States to a person such that neither the United States nor the tribe owns the parcel of land, as long as the land is located within reservations boundaries,¹ it meets the definition of Indian Country and jurisdiction in this federal court is appropriate."

The Magistrate's argument fails on two merits: 1) the Magistrate failed to produce any documentation that showed that the address where the alleged crime/offense occurred was legally patented to the United States; and 2) failed to elaborate on the 1949 AGT and include § 1154 and § 1156. Petitioner has attached an EXHIBIT that clearly shows that the address where the alleged crime/offense occurred is still Public/Private Property because the utilities are all City/County, including all taxes paid for by the owner in regards to Medical, Schooling/Education for the State/County, County Parks, etc. See Exhibit 1. The Tribal Owners do not pay for these when living on the reservation. In order to achieve a "patent," there should be a conveyed authority that lists the sale or exchange of tribal lands (that address where the alleged crime/offense occurred), in which the Secretary of

State issues a deed/patent or such an instrument of conveyance needed to effectuate the sale or exchange of. The Magistrate failed to produce any evidence that the property was "patented" to warrant a federal indictment and/or a federal conviction.

Petitioner laid out two pertinent facts that clearly are evident that the address where the alleged crime/offense occurred is 1) on privately owned property; 2) is a county/state issue; 3) was not patented; and 4) the US Government lacks subject matter jurisdiction.

FACT #1

Petitioner was originally arrested in 2016 on a prior case by the State of Michigan in the County of Isabella, at the same exact address where Petitioner was alleged/convicted of the current federal offense. The 2016 case was based on a violation of a Protective Order where Petitioner was convicted by the County/State and ORDERED by the County/State to serve 45 days in the County Jail. Petitioner attached exhibits of that arrest, that clearly show that he was not arrested by the tribe or the tribunal tribal police, nor was he federally indicted because his Indian/Native heritage background. This was a State/County matter, held in State/County Court. Petitioner's exhibits were attached to his § 2255 Petition. There was no Federal INDICTMENT nor any TRIBUNAL ARREST WARRENT.

FACT #2

Petitioner has attached an EXHIBIT of the County/State TAX Records of the address where the alleged crime/offense occurred. It is quite evident that this is County/State owned by a private person and is not tribal owned or federally owned. THEREFORE, there is no proof of any patent as the Magistrate contends and this Court lacks subject matter jurisdiction.

Furthermore, the Magistrate in his failure to produce any documentation that there was a patent involving the address where the alleged crime/offense occurred, the Magistrate failed to acknowledge that the U.S. does not have exclusive jurisdiction over property it has relinquished and reacquired unless a notice of acceptance has been filed pursuant to 50 U.S.C.S § 175. See Carlton v. Bello, (1975, W.D. Okla). Once again, the Magistrate failed to produce any documentation that showed any notice of acceptance being filed, because there was no notice ever filed on that address where the alleged allegation/offense occurred.

As a matter of note: Prior to the existence of the 1864 Treaty (where the Treaty reserved all "unsold lands...within the six townships of Isabella County,"), certain portions of the county were "owned" by non-members of the Saginaw Chippewa. The treaties only GRANTED TITLE to the SAGINAW CHIPPEWA for "SOME" parcels of land within the County of Isabella. NOT ALL of the parcels of land. See 14 Stat. 657, art. 1, art. 2, and art. 3. Therefore, it is impossible to have been a patent as to the address that where the alleged crime/offense occurred because it is still part of the State/County that was never GRANTED any TITLE to the Saginaw Chippewa. 2008 U.S. Dist. LEXIS 86684: Saginaw Chippewa Indian Tribe v. Granholm, (October 22, 2008).

1. Oneida Tribe of Indians v. Vill of Hobart (2008 E.D. Wis) 542 F.Supp. 2d 908 ("FEE-LAND within original boundaries of native american tribes reservation which was allotted pursuant to Federal Law, transferred to third parties and subsequently acquired by tribe in Fee-Simple on open market was subject to City's power of eminent domain; Indian ReOrganization Act (IRA) former 25 USCS §§ 450 et seq., because pursuant to former 25 USCS §§ 463(a) IRA was to have no affect on valid rights or claims of any persons to any lands already withdrawn from federal protection.

OBJECTION #2: COUNSEL OF RECORD WAS INEFFECTIVE FOR FAILING TO PROPERLY RESEARCH/INVESTIGATE INTO THE JURISDICTIONAL ISSUE OF THE PETITIONER'S CASE BECAUSE IT IS QUITE CLEAR/EVIDENT THAT THE COURT LACKED SUBJECT MATTER JURISDICTION -

Because the US Magistrate failed to address the ineffective claim, Petitioner's argument still stands as to the ineffective of Counsel of Record. Counsel's actions on the record are quite evident that counsel was unfamiliar with what "Indian country" was and/or what the term Indian Country involves to the extent of jurisdictional issues. Under 18 U.S.C.S. § 1154, the address of 1309 W. Pickard Street in Mt. Pleasant, MI 48858 would not apply, although the located address is within the boundaries of the Indian Reservation, because it is Non-Indian Community owned by Non-Indian(s), resulting only in common interest not government interest or tribal interest. US. v. Morgan, 614 F.2d 166 (1980 CA8 S.D.).

Furthermore, Petitioner's contentions remain the same as to his ineffective claim on his original § 2255 Petition because the Court WAVED or FAILED to address his ineffective claims, pursuant to all Rules incorporated under 28 U.S.C. § 2255.

OBJECTION #3: PETITIONER IS ENTITLED TO AN EVIDENTIARY HEARING -

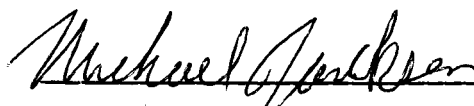
Because of the complexity of the case that involves a serious jurisdictional issues, this Court must either REMAND for an EVIDENTIARY HEARING to establish jurisdiction with proven documentation, or in the alternative VACATE Petitioner's sentence/judgment and REMAND for an IMMEDIATE RELEASE due to lack of subject matter jurisdiction, all in the interest of justice.

CLOSING

THEREFORE, based on the foregoing, Petitioner respectfully requests that based on a wrongful miscarriage of justice, that this Court GRANT his § 2255 and DENY the US Magistrate's REPORT AND RECOMMENDATION by Vacating Petitioner's SENTENCE and REMANDING for IMMEDIATE RELEASE or in the alternative to set for an EVIDENTIARY HEARING to allow the US MAGISTRATE the opportunity to support his R & R with the proper documentation that he has allegedly contended with his contention.

Petitioner has shown good faith and good cause to GRANT this § 2255 Petition, all in the interest of justice and based on a jurisdictional issue and a complete miscarriage of justice.

RESPECTFULLY SUBMITTED on this 24th day of March, 2018.



Michael Casey Jackson
Petitioner/Affiant
IN PRO PER

CERTIFICATE OF SERVICE

I, Michael Jackson hereby certify that I have served a true and correct copy of the following:

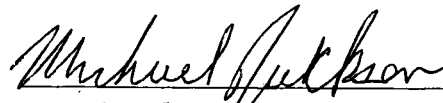
RESPONSE TO JUDGE MAGISTRATE'S RESPONSE (R & R)

This ACTION is deemed filed at the time it was delivered to prison authorities for forwarding, [see *Houston v. Lack*, 101 L.Ed.2d 245 (1988)], upon the defendant(s) or plaintiff(s) and/or their attorney(s) of record, by placing said MOTION/PETITION(s) in a sealed, postage pre-paid envelope addressed to:

US District Court
Eastern District of Michigan
US Courthouse
Clerk of the Court

This LEGAL ACTION was deposited in the United States Mail at the FCC-Yazoo City Legal Mail Room, located in Yazoo City, Mississippi. I declare, under penalty of perjury, that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

EXECUTED and SIGNED on this 27 day of March, 2018.



Michael Jackson
Petitioner/IN PRO PER
Reg. No. 26116-039

EXHIBIT

#7

03/22/2018
04:10 PM

ISABELLA COUNTY
TAX DETAIL

Page: 1/1
DB: Isabella County

PARCEL: 17-000-17-604-00 2017 SCHOOL: 37010 CLASS: 401

OWNER: OWL ALIAN
PROPERTY ADDRESS: 1309 W PICKARD ST MT PLEASANT, MI 48858

TAXABLE: 35,400 ASSESSED: 35,400 PRE: 100.00%

	Seas	Tax	Paid	Dlg
City Operating	Summ	420.19	0.00	420.19
City Recycling	Summ	0.00	0.00	0.00
City Capital Imp	Summ	70.80	0.00	70.80
City P/F Pension	Summ	66.55	0.00	66.55
City Borden Bldg	Summ	17.70	0.00	17.70
District Library	Summ	61.95	0.00	61.95
RESD Operating	Summ	9.34	0.00	9.34
RESD Spec. Ed.	Summ	142.82	0.00	142.82
RESD Voc. Ed.	Summ	35.40	0.00	35.40
State Education	Summ	212.40	0.00	212.40
School Operating	Summ	0.00	0.00	0.00
School 1997 Debt	Summ	46.02	0.00	46.02
School 2007 Debt	Summ	28.32	0.00	28.32
School 2016 Debt	Summ	25.84	0.00	25.84
County Operating	Summ	233.99	0.00	233.99
SCHOOL OPER FC	Summ	0.00	0.00	0.00
LOCAL ADMIN	Summ	7.96	0.00	7.96
TAX TOTAL	Summ	1,379.28	0.00	1,379.28
LOCAL INTRST	Summ	137.13	0.00	137.13
TOTAL				1,516.41
School Operating	Wint	0.00	0.00	0.00
School 1997 Debt	Wint	46.02	0.00	46.02
School 2007 Debt	Wint	28.32	0.00	28.32
School 2016 Debt	Wint	25.84	0.00	25.84
Med CareFacility	Wint	24.78	0.00	24.78
Comm. on Aging	Wint	31.06	0.00	31.06
County Parks	Wint	12.39	0.00	12.39
I-Ride	Wint	30.51	0.00	30.51
SCHOOL OPER FC	Wint	0.00	0.00	0.00
LOCAL ADMIN	Wint	1.98	0.00	1.98
TAX TOTAL	Wint	200.90	0.00	200.90
TAX TOTAL - ALL SEASONS			0.00	1,580.18
TOTAL LOCAL INTEREST				137.13
TOTAL				1,717.31

LEGAL DESCR:
ASSESSORS PLAT #1, LOTS 104 & 105.

Michael Jackson 26116-039
Federal Correction Complex
Yazoo City Medium
P.O. Box 5888
Yazoo City, MS
39194



JACKSON MS 39194
28 MAR 2018 PM 11

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BAY CITY, MICHIGAN

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BAY CITY, MI 48708
United States

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U.S. DISTRICT COURT
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