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Application for Pretrial Writ of Habeas Corpus

Presented By
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NO. D1DC14-100139

EX PARTE

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IN THE DISTRICT

OF TRAVIS COUNTY

JAMES RICHARD "RICK" PERRY

390TH JUDICIAL DISTRICT

APPLICATION FOR PRETRIAL WRIT OF HABEAS CORPUS

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- VIII. Section 36.03(a)(1) Is Unconstitutional On Its Face

 - A. Section 36.03(a)(1) Is Unconstitutionally Overbroad
 - B. Section 36.03(a)(1) Is Void for Vagueness

 - 1. The vagueness of the statute is highlighted by the fact that a threat to do a legal act does not constitute duress or coercion
 - 2. Section 36.03(a)(1)'s lack of scienter requirement renders it vague
 - 3. The vagueness of Section 36.03(a)(1) is further illustrated by other statutes in the same chapter of the

X. Section 39.02(a)(2)Is Unconstitutional As Applied

XI. Conclusion

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Exhibit 1: Indictment & Redacted Personal Bond.....

Exhibit 2: Text Of Relevant Penal Code Provisions.....

Exhibit 3: June 14, 2013 Proclamation (Veto & Veto Statement).....

Exhibit 4: June 10, 2013 Austin American Statesman Article

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TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, APPLICANT, JAMES RICHARD "RICK" PERRY,

counsel

of record, David L. Botsford,¹ and pursuant to Texas Code of Criminal Procedure

seq., presents this Application For Pretrial Writ of Habeas Corpus, and as

respectfully show this Honorable Court the following:

I.

NATURE OF RELIEF SOUGHT

This is a pretrial application for writ of habeas corpus seeking to

Applicant, Governor James Richard "Rick" Perry, on multiple constitutional

Some of these grounds relate to defects apparent on the face of the

indictment was heard, and there could be raised by any person whose name

parte Weise, 55 S.W.3d 617, 620 (Tex. Crim. App. 2001) (defendant is entitled to habeas relief when he alleges “that the statute under which he or she is prosecuted is void on its face; consequently, there is no valid statute and the charging instrument is void”)

In addition, *both* Section 36.03(a)(1) and Section 39.02(a) are void as applied to this case, and that is true regardless of whether they might pass constitutional muster in other circumstances. The statements and actions alleged in the indictment, including the indictment against Governor Perry's official capacity. Forcing Texas' head of state to stand trial on charges based on provisions that are clearly unconstitutional as applied to any Governor of Texas has a deleterious impact on the efficient operation of state government, now and in the future. It is not fair to require him to stand trial on charges based on statutes that are unconstitutional in whole or in part for reasons of constitutional magnitude, including the separation of powers doctrine. In a democratic system of government, Governor Perry should have the same right to habeas corpus through habeas corpus in this case if the provisions are merely void as applied to him as if they were facially unconstitutional.

Even if the statutes under which the Governor is indicted were not void in whole or in part on their face or as applied, the facts alleged by the State still fail on their face to show that the Governor is guilty of the crimes charged.

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