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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

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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 fails 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 of Governor Perry in his official capacity, are void as applied to 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 therefore in the public interest to grant Governor Perry habeas relief from his indictment. Even if the provisions were not void as applied to Governor Perry, they are void as applied to any Governor of Texas because of the reasons of constitutional magnitude, including the separation of powers doctrine, that underlie the democratic system of government. Governor Perry should have the same right to habeas relief 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 as applied to Governor Perry, they fail on their face or as applied, the facts alleged by the State still fail on their face to support the charges.

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