[redacted]

IN THE UNITED STATES COURT OF APPEALS
FOR THE [redacted] CIRCUIT

[redacted]

[redacted]

Plaintiff-Appellant,

v.

THE UNITED STATES,

Defendant-Appellee.

[redacted]

On Appeal from the United States District Court, Western
District of Texas, San Antonio Division, No. SA-[redacted]-CV-[redacted],
Honorable [redacted], United States District Judge

[redacted]

[redacted] OF APPELLANT

[redacted]

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

CERTIFICATE OF INTERESTED PERSONS

Michael Sammons, pro se, certifies that the following listed persons and entities as described in Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

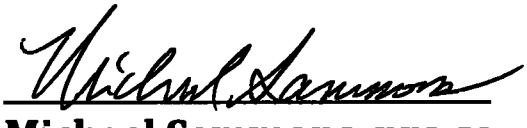
Appellant
Michael Sammons, pro se

Appellee
The United States

United States Department of Justice:
R. Charlie Merritt, Esq.
Mark Stern, Esq.
Abby Wright, Esq.
Gerald Sinzdak, Esq.

Entities with an interest:

Federal National Mortgage Association ("Fannie")
Federal Home Loan Mortgage Corporation ("Freddie")



Michael Sammons, pro se

STATEMENT REGARDING ORAL ARGUMENT

Appellant Michael Sammons does not request oral argument. This appeal involves a single question of law on undisputed facts.

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JURISDICTIONAL STATEMENT

Plaintiff-Appellant, Michael Sammons, pro se, appeals from a district court Order (1) denying a "Motion for Declaratory Judgment on Jurisdiction" and (2) granting the Defendant-Appellee's "Motion to Dismiss" as to the same jurisdiction issue under FRCP, Rule 12(b)(1), entered on March 9, 2017.

A timely Notice of Appeal was filed on March 9, 2017.

The district court held that it did not have subject matter jurisdiction – its Article III jurisdiction over takings claims exceeding $10,000 having been stripped from it by the Tucker Act, 28 USC §1491.

Plaintiff-Appellant Sammons argued that the Tucker Act is unconstitutional *as applied* to such takings cases and therefore the district court had jurisdiction directly under the Takings Clause of the Fifth Amendment to the U.S. Constitution.

This Court has appellate jurisdiction pursuant to 28 USC §1291.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

Whether the U.S. Court of Federal Claims, an Article I "legislative" court, presiding over a $900,000 constitutional takings case against the United States, violates Article III and Stern v. Marshall, 131 S. Ct. 2594 (2011).

Whether the Tucker Act is unconstitutional under Article III "as applied" to constitutional takings cases for damages exceeding $10,000 insofar as the Tucker Act bestows *exclusive* jurisdiction upon the Article I legislative U.S. Court of Federal Claims.

STATEMENT OF THE CASE

In 2008 the United States came to the aid of Federal National Mortgage Association (Fannie) and Federal Home Loan Mortgage Corporation (Freddie), collectively the "GSEs," during a time of national financial crisis. In return for its financial support, the United States received an option to purchase 79.9% of the GSEs for a token $10,000, as well as a 10% priority preferred dividend payment per year on all funds advanced to the GSEs.

By 2012 the country had substantially recovered and the GSEs revealed to the United States that they could now produce sustainable profits going forward. In fact, as expected by the Government, an accounting adjustment/reversal in 2013 would contribute to GSE profits of ***$130***

BILLION in 2013 alone. Seeking to mitigate a looming debt ceiling crisis a desperate Treasury quickly and unilaterally changed the 2008 agreement to provide that ***all*** equity and ***all*** of the enormous expected profits in the GSEs would go to the United States ... ***forever***. This was the infamous "Net Worth Sweep ("NWS")." The Government's motive – its only motive – as in most white collar criminal cases in which a majority partner decides to steal his minority partner's share of a profitable business – was greed.

And although the Treasury provided $187 billion *in total* financial aid to the GSEs, the Treasury has been repaid to date with ***over $256 billion*** **(not even counting the *$100+ billion* value of their warrants to own 79.9% of the GSEs for a nominal cost)**, while the private investors in the GSEs –the Government's minority partners who had invested over ***$36 billion*** in GSE preferred stock - will never receive a penny from their investments in the GSEs under the NWS.

The "taking" of the private equity investors financial interests in the GSEs, the extinguishment of *all* future value in their GSE investments, constituted the largest, most blatant "regulatory taking" by the United States in the history of this nation. See generally Penn Cent. Transp. Co. v. City of N.Y., 438 U.S. 104 (1978)(elements of a regulatory taking).

Plaintiff Michael Sammons is a GSE preferred stock investor, holding $1,000,000 in preferred shares. In this case Sammons seeks monetary damages against the United States in the amount of $900,000. His sole cause of action is an unconstitutional takings claim against the United States brought directly under the Takings Clause of the Fifth Amendment.

The Tucker Act, 28 U.S.C. §1491, states that the United States Court of Federal Claims shall have *exclusive* "statutory" jurisdiction of all constitutional claims against the United States for money damages in excess of $10,000.

In a "Motion for Declaratory Judgment on Jurisdiction," Sammons argued that the Court of Federal Claims is an Article I court, and not the Article III court which is constitutionally required to hear constitutional takings cases, citing Stern v. Marshall, 131 S. Ct. 2594 (2011) and other takings precedent. Since the Tucker Act is "unconstitutional" as applied to takings claims, Sammons argued that the district court had jurisdiction over his takings claim against the United States exceeding $10,000.

STANDARD FOR REVIEW

The standard for review of a dismissal based upon a finding of lack of subject matter jurisdiction is *de novo*. Choice Inc. of Tex. v. Greenstein, 691 F.3d 710, 714 (5th Cir.2012).

SUMMARY OF THE ARGUMENT

1. This is a case against the United States alleging a regulatory taking without compensation in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution.
2. The Tucker Act, 28 U.S.C. §1491, states that the United States Court of Federal Claims in Washington, D.C. shall have *exclusive* "statutory" jurisdiction over all constitutional claims against the United States for money damages exceeding $10,000.
3. However, the Court of Federal Claims is an Article I legislative court, and not an Article III court, and is therefore without "constitutional authority" to hear constitutional takings cases pursuant to Stern v. Marshall, 131 S. Ct. 2594 (2011).

ARGUMENT

NO APPELLATE COURT HAS *EVER* CONSIDERED WHETHER ARTICLE III AND STERN V. MARSHALL ALLOW A COURT OF FEDERAL CLAIMS ARTICLE I JUDGE TO DECIDE CONSTITUTIONAL TAKINGS CASES

Federal courts have repeatedly (and correctly) held that the Tucker Act, 28 USC §1491, provides exclusive "*statutory*" jurisdiction for the Court of Federal Claims to hear takings cases against the United States exceeding $10,000.

"The law of this circuit is clear: the Court of Claims has exclusive (*statutory*) jurisdiction of a Tucker Act claim in excess of $10,000." Ware v. United States, 626 F.2d 1278, 1287 (5th Cir 1980). The Fifth Circuit has

frequently cited Ware in subsequent Tucker Act cases. See Persyn v. US, 935 F. 2d 69, 72 (5th Cir 1991); Wilkerson v. U.S., 67 F.3d 112 (5th Cir 1995).

However, there are two problems with following Ware and its progeny: (1) the pre-1982 Court of Claims referred to by the Ware court "*was*" an Article III court – it was not until 1982 that Congress created the new "Article I" or legislative Court of Federal Claims; and (2) the Supreme Court recently made clear in Stern v. Marshall, 131 S. Ct. 2594 (2011) that "*statutory*" authority is not the same as "*constitutional*" authority.

No federal circuit court of appeals has ever considered this Article III issue under Stern, and all federal courts appear to have assumed that the Court of Federal Claims jurisdiction was proper based *solely* upon its statutory source, the Tucker Act, without assessing the Act's constitutionality (at least "a*s applied*" to constitutional takings claims).

But in Stern, the Supreme Court emphasized that "statutory authority" and "constitutional authority" are two *separate* issues – and a court must have *both* to properly have jurisdiction over a particular case. **"We conclude that, although the (Article I) Court had the statutory authority to enter judgment on Vickie's (common law) claim, it lacked the constitutional (Article III) authority to do so." Stern v. Marshall, 131 S. Ct. 2594 (2011).**

The Federal Circuit recently acknowledged that its many decisions holding that the Tucker Act provides the necessary "statutory" jurisdiction for the Article I Court of Federal Claims to hear takings claims, are not dispositive of the separate and independent question as to whether "constitutional" jurisdiction under Article III *also* exists.

In affirming a denial of a Sammons motion to intervene into the consolidated takings cases involving the Net Worth Sweep before the Court of Federal Claims as "untimely," Fairholme Funds v. U.S., No. 17-1015 (Fed. Cir. 3/14/2017), the Federal Circuit was nevertheless clearly troubled by the Article III issue, going out of its way to state:

> "(Sammons Article III challenge to the court's jurisdiction) must be addressed by the Court of Federal Claims ... even if Mr. Sammons is not a party and even if no party makes the argument he makes."

The Federal Circuit emphasized that the lower Court erred in failing to distinguish between "statutory" jurisdiction (which certainly exists under the Tucker Act), and "constitutional" jurisdiction (which is *highly* questionable under Article III and Stern v. Marshall):

> "The court stated its statutory basis for its jurisdiction over takings cases ... but it did not analyze Mr. Sammons's constitutional contention, which invoked Stern v. Marshall, 564 U.S. 462 (2011), and other decisions, that only an Article III court may hear takings claims."

What gave the Federal Circuit serious pause was apparently a scholarly 58 page law review article by Law Professor Michael P. Goodman, J.D., Ph.D: "*Taking Back Takings Claims: Why Congress Giving Just Compensation Jurisdiction to the Court of Federal Claims is Unconstitutional*", 60 Vill. L. Rev. 83 (2015). That law review article clearly troubled the Federal Circuit, as the treatise foreclosed every possible intellectual rationale for allowing a legislative entity (as is the Article I Court of Federal Claims), created *by Congress*, from hearing Article III takings cases seeking monetary damages *from Congress*.

It bears repeating, before this case *no* federal appeals court has *ever* addressed – in fact the issue had never been raised, let alone briefed, in *any* appellate court – whether the Tucker Act is itself constitutional *under Article III* of the U.S. Constitution "*as applied*" to constitutional takings cases. As will be discussed in detail below, which summarizes the Professor Goodman law review article, allowing an Article I or "legislative" judge to decide constitutional takings cases filed against the United States cannot possibly be squared with Stern or its Article III predecessors .

And, as the Federal Circuit obviously realized, the fact that this Article III constitutional wrong has gone *unnoticed* for decades by the courts, does not justify ignoring the constitutional wrong for the decades *to come*.

HOW CONSTITUTIONAL TAKINGS CASES CAME TO THE COURT OF FEDERAL CLAIMS

Congress did not create the Court of Federal Claims as an Article III court, but explicitly created it as a "legislative court" pursuant to Article I.

Article III of the Constitution, which created an independent judiciary, is an essential prong of the separation of powers doctrine, "an inseparable element of the constitutional system of checks and balances" that "both defines the power and protects the independence of the Judicial Branch." Stern v. Marshall, 131 S. Ct. at 2608:

> "The basic concept of separation of powers ... that flows from the scheme of a tripartite government adopted in the Constitution, the judicial Power of the United States ... can no more be shared with another branch than the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a Presidential veto."

It is the protections of lifetime tenure and the Compensation Clause that safeguards the independence of Article III judges:

> "Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support ... In the general course of human nature, a power over a man's subsistence amounts to a power over his will." The Federalist No. 79, at 1 (Alexander Hamilton, 1788).

Neither protection applies to Article I or "legislative" judges. Thus the judges who serve on the Court of Federal Claims are exactly what Congress intended: Article I judges, unprotected by the guarantees of independence

afforded Article III judges, and therefore susceptible to influence by the other branches.

This is not to say that Congress can never create Article I courts and judges. Such courts have been approved by the U.S. Supreme Court since 1828, when Justice Marshall first approved such legislative courts in the non-state territories. Subsequent approval was afforded Article I military courts, Article I Indian Territory courts, and most recently for District of Columbia Article I courts.

The rationale behind *all* these "legislative" courts created under Article I was simply that the cases heard "involve a constitutional grant of power that has been historically understood as giving (Congress) extraordinary control over the precise subject matter at issue." Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 66 (1982).

So the legal principle behind allowing Article I legislative courts is both simple and logical: a legislative or Article I court *only* decides cases and controversies which the legislature itself has the authority to resolve. Rights created by the legislature are subject to control by the legislature, whether through itself or legislative courts or any other entity or agency it creates. As Justice Brennan explained in his plurality opinion in Northern Pipeline, "it is clear that when Congress creates a substantive federal right, it possesses

substantial discretion to prescribe the manner in which that right may be adjudicated – including the assignment to an adjunct of some functions historically performed by judges." 458 U.S. at 80.

But Congress did *not* create the Takings Clause of the U.S. Constitution, and Congress has no "extraordinary control" over it, Northern Pipeline, 458 U.S. at 66, and in fact, Congress has absolutely *no* control over it, nor authority to suspend, regulate, or otherwise undermine its guarantees. "Congress has nothing to do with it." Stern, 131 S. Ct. at 2614. Congress can no more require such a constitutional case be heard in only an Article I legislative court, than it could delegate the claim to any other agency or entity it happens to create. The U.S. Constitution itself designates takings cases as solely a matter of *judicial* inquiry. "Congress has nothing to do with it." *id.*

The Supreme Court long ago rejected the idea that constitutional takings claims are the province of the legislature. As explained in Monongahela Navigation Co. v. United States, 148 U.S. 312 (1893):

> "When the taking has been ordered, then the question of compensation is judicial. It does not rest with the public, taking the property, through congress or the legislature, its representative, to say what compensation shall be paid, or even what shall be the rule of compensation. The constitution has declared that just compensation shall be paid, and the ascertainment of that is a judicial inquiry."

The United States and the court below believe that it is the waiver of sovereign immunity granted by Congress which justifies Article I courts. If Congress has the authority whether to allow a lawsuit to even be filed, it follows that it should be able to dictate the standards and terms for such hearing. With virtually all cases before the Court of Federal Claims this argument prevails; however, constitutional takings claims do *not* require a waiver of sovereign immunity. See Seaboard Air Line Ry. Co. v. United States, 261 U.S. 299, 302-303 (1923)("just compensation is provided for by the Constitution and the right to it cannot be taken away by statute"). See also Jacobs v. United States, 290 U.S. 13 (1933):

> "That right was guaranteed by the Constitution. The form of the remedy did not qualify the right. It rested upon the Fifth Amendment. Statutory recognition was not necessary."

Thus no waiver of sovereign immunity is needed or relevant to a constitutional takings case, due to what has been termed the "self-executing" nature of the Takings Clause. United State v. Clarke, 445 U.S. 253, 257 (1980).

"These Fifth Amendment (takings) cases are tied to the language, purpose, and *self-executing* aspects of that constitutional provision, and are not authority to the effect that the Tucker Act eliminates from consideration the sovereign immunity of the United States." United States v. Testan, 424 U.S.

392, 400-401 (1976)(emphasis added). Neither Congress, nor its Tucker Act legislation, has anything to do with it.

That the Takings Clause requires no waiver of sovereign immunity can no longer be seriously contested in the wake of First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304 (1987). In that case the United States, as amicus, argued that the "Constitution did not work a surrender of the immunity of the States, and the Constitution likewise did not withhold this essential attribute of sovereignty from the United States." The Supreme Court rejected that argument, noting that all its cases "make clear that it is the Constitution that dictates the remedy for interference with property rights amounting to a taking." First English, 482 U.S. at 316 n.9.

The United States has also argued that the Court of Federal Claims, though not an Article III court, may nevertheless decide constitutional takings cases as an "adjunct" of the Federal Circuit, a true Article III court, and also perhaps because the Federal Circuit reviews the lower Article I court's decisions. But since the Court of Federal Claims has power to enter final judgments, it is not a permissible adjunct of a higher Article III appeal court. Stern, 131 S. Ct. at 2618-19. So clearly the Court of Federal Claims is no more an "adjunct" of the Federal Circuit, than all district courts are adjuncts of the circuit courts of appeals.

But such an extended analysis in this case is unnecessary – this Court need look no further than the recent Supreme Court analysis in Stern. The Supreme Court in that case considered whether a bankruptcy judge, a non-Article III judge similar to a Court of Federal Claims judge, could consider a tortious interference common law counterclaim.

The Stern Court began by rejecting any notion that a right created by legislation was involved, noting that it is "not a matter that can be pursued only by the grace of the other branches," or "one that historically could have been determined exclusively by those branches," but instead was one that "does not depend on the will of congress; Congress has nothing to do with it." Stern, 131 S. Ct. at 2614. The Supreme Court went on to explain:

> "We deal here not with an agency but with a court, with substantive jurisdiction reaching any area of the *corpus juris*. This is not a situation in which Congress devised an "expert and inexpensive method" for dealing with a class of questions of fact which are particularly suited to examination and determination by an administrative agency specially assigned to that task. The "experts" in the federal system at resolving common law claims such as [the one at issue] are the Article III courts, and it is with those courts that the claim must stay." 131 S. Ct. at 2615

And even in the dissent in Stern, every factor advanced in dissent is readily distinguishable and militates against the Court of Federal Claims considering constitutional takings cases. The key points of Justice Beyer's dissent, none of which even applies to a constitutional takings case, were:

(1) "the nature of the claim" (originating from a statute - no);
(2) "appointment by Article III judges" (not applicable)
(3) "control exercised by Article III judges" (none);
(4) "the parties have consented" (not applicable[1]);
(5) "nature and importance of legislative purpose" (none applicable to constitutional takings claims).

Relevant History of the Court of Federal Claims

The previous discussion demonstrates that none of the rationales that the Supreme Court has relied upon to justify Congress removing various legal claims from Article III judges apply to constitutional takings claims.

Prior to 1982, all takings claims against the United States were heard by Article III judges, because the old Court of Claims *was* an Article III court. But

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[1] Sammons did not voluntarily "waive" his right to an Article III court. Furthermore, it is doubtful any plaintiff could voluntarily "waive" his right to an Article III court for a takings claim, at least where there can be no "considered Article I choice" because there is *no* Article III alternative court available due to the restrictions of the Tucker Act.

Article III "not only preserves to litigants their interest in an impartial and independent federal adjudication of claims. . ., but also serves as 'an inseparable element of the constitutional system of checks and balances.' . . . To the extent that this structural principle is implicated in a given case ... the parties cannot by consent cure the constitutional difficulty . . ." Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932 (2015).

"But allowing Article I adjudicators to decide claims submitted to them by consent does not offend the separation of powers ***so long as Article III courts retain supervisory authority over the process.***" Wellness, 135 S. Ct. at 1944 (emphasis added). Judges of the Court of Federal Claims have no such supervisory Article III judges. More importantly, litigants in the United States with takings claims exceeding $10,000 have "no" Article III alternative; i.e., there can be no considered choice or knowing waiver when no alternative Article III choice even exists.

Absent the necessary "supervision" by an Article III court, and given the structural infirmity of the absence of any Article III alternative choice, there can be no valid Article III waiver by *any* party in *any* takings case over $10,000.

in 1982, Congress created the Court of Federal Claims, with Article I judges, and the Court of Appeals for the Federal Circuit, with Article III judges.

Indeed, Congress did not *intend* to deprive citizens of their constitutional right to have "cases and controversies in the constitutional sense" heard by Article III judges. A Senate report captures Congress' thoughts *at the time* about why it departed from the requirements of Article III:

> "The court will be established under Article I of the Constitution of the United States. Because 28 USC §2509 of existing law gives the trial judges of the Court of (Federal) Claims jurisdiction to hear congressional reference cases, which are ***not 'cases and controversies' in the constitutional sense***, and because the cases heard ... are in many ways essentially similar to the ***limited jurisdiction cases*** considered by the tax court, judges of the (Federal) Claims Court are made Article I judges rather than Article III judges." S. REP. No. 97-275, at 13 (1981), reprinted in 1982 U.S.C.C.A.N. 11, 23. (emphasis added)

For whatever reason, Congress simply failed to realize that, contrary to its intent, "cases and controversies in the constitutional sense" *would* be heard in the new non-Article III Court of Federal Claims.

The Supreme Court has ***never*** held that the constitutional protections guaranteed under the Takings Clause of the Fifth Amendment deserve any less than the complete and independent protection of Article III judges.

Based upon *any* possible reading of the Supreme Court case of Stern, *including* the dissent, not *one* U.S. Supreme Court Justice would condone a "legislative" non-Article III judge deciding a constitutional takings case.

The Takings Clause of the Fifth Amendment to the U.S. Constitution deserves the defense of a truly independent Article III judiciary: the Supreme Court has *never* held otherwise, and would not do so now. *If the Supreme Court required Article III judges for a common law tort claim in Stern, how could it possibly require less than an Article III judge in this constitutional takings case?*

"The 'experts' in the federal system at resolving [inalienable common law or constitutional rights] such as [the one at issue] are the Article III courts, and it is with those courts that the claim must stay." Stern v. Marshall ,131 S. Ct. at 2615.

CONCLUSION

It is fair to say that few constitutional law professors now believe that Congress delegating takings claims to an Article I or legislative court, or any other entity Congress happens to create, comports with the requirements of Article III.

The above brief is taken almost *entirely* from a scholarly 58 page law review article by Law Professor Michael P. Goodman, J.D., Ph.D:

"***Taking Back Takings Claims: Why Congress Giving Just Compensation Jurisdiction to the Court of Federal Claims is Unconstitutional***", **60 Vill. L. Rev. 83 (2015).** That law review article clearly troubled the Federal Circuit, as its 58 page analysis foreclosed every possible intellectual rationale for allowing a legislative entity (as is the Article I Court of Federal Claims) created *by Congress* to hear Article III takings cases *against Congress.*

In his detailed treatise on this precise issue, Professor Goodman, in painstaking and thorough detail, recounted the complete history of the relevant courts and takings precedent pertaining to the question of whether an Article I or legislative court, or any other entity Congress happens to create, or for that matter Congress itself, has the "constitutional" authority under Article III to decide takings claims.

The lower court misread Professor Goodman's treatise in concluding:

> "Although Professor Goodman argues that takings claims must be brought before Article III judges, he calls on Congress – not the courts – to rectify the problem." Order, pg. 3.

Professor Goodman certainly did not, as Judge Biery suggested, conclude that "even if the Tucker Act violates the Constitution as applied, only Congress should remedy the wrong." Federal courts, including the Supreme Court, have never been timid in invalidating a statute if it is unconstitutional

"as applied." Responsibility for correcting constitutional violations by Congress must fall first and foremost to the judiciary.

Professor Goodman unequivocally opined that the status quo – allowing an Article I legislative entity to hear takings claims – removing such claims from the very same Article III courts which the Constitution itself states must hear takings cases - is an illegal and unconstitutional violation of Article III ... period. Therefore, the duty to act – and to act now - falls upon the judiciary.

The decisions by the district court that (1) the Court of Federal Claims, an Article I legislative court, has Article III authority over takings claims, (2) the Tucker Act, insofar as it transfers jurisdiction over takings claims exceeding $10,000 from Article III district courts to an Article I legislative court, is constitutional, and (3) that it is for Congress, and not the judiciary, to remedy statutes which are unconstitutional - must be reversed.

Respectfully submitted,

Michael Sammons, pro se
15706 Seekers St.
San Antonio, TX 78255
michaelsammons@yahoo.com
1-210-858-6199

Certificate of Service

A true and exact copy was delivered to all parties this 19th day of March, 2017.

Michael Sammons

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of FRAP Rule 32 because it contains 4,672 words, as determined by the word-count function of Microsoft Word 2010.
2. This brief complies with the typeface requirements of FRAP Rule 32 because it has been prepared using Microsoft Word 2010 in 14-point Cambria font.

Michael Sammons

CERTIFICATE OF ELECTRONIC COMPLIANCE

I hereby certify that I have requested that this brief be filed by the Court Clerk using the Fifth Circuit CM/ECF filing system, (1) the privacy redactions required by Rule 25 have been made, (2) the electronic submission is an exact copy of the paper document, and (3) the document has been scanned for viruses by the latest version of Microsoft Defender and is free of viruses.

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Michael & Elena Sammons
15706 Seekers St.
San Antonio, TX 78255
210-858-6199
michaelsammons@yahoo.com

Date: March 19, 2017

To: Court Clerk, Fifth Circuit

From: Michael Sammons

Re: Sammons v. United States, No. 17-50201

Dear Sir:

Please **replace** the Appellant's Brief you received from me on March 10th with the enclosed Appellant's Brief dated March 19.th The prior Appellant's Brief may be discarded.

The Records Excerpt you received on March 10th is fine and will not be replaced.

I have also enclosed a CD with the Appellant's Brief.

Once you approve this Appellant's Brief, and the initial Records Excerpt, I will forward the bound copies required of both to you.

Best regards,

Michael Sammons

United States Court of Appeals

FIFTH CIRCUIT
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NEW ORLEANS, LA 70130

March 28, 2017

Mr. Michael Sammons
15706 Seekers Street
San Antonio, TX 78255

No. 17-50201 Michael Sammons v. USA
USDC No. 5:16-CV-1054

Dear Mr. Sammons,

We are not filing or taking action on your Appellant's brief received March 24, 2017, as it is premature.

We will issue a notice advising you of the next procedural step necessary to process your appeal. When you receive the briefing notice, you must notify this office in writing if you want the premature brief filed.

Failure to notify this office or file a brief will result in dismissal of your appeal without further notice.

Sincerely,

LYLE W. CAYCE, Clerk

By: _____
Nancy F. Dolly, Deputy Clerk
504-310-7683

cc:
Mr. Robert Charles Merritt
Mr. Gerard J. Sinzdak
Ms. Abby Christine Wright