

TERRITORIAL JURISDICTION AND U.S. DISTRICT COURTS

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The United States District Courts (sic) are proceeding against many natural persons (i.e., natural born free adults) in want of territorial jurisdiction and are in fact using the courts' venue limitations to justify such illegal attacks and sentences.

Territorial jurisdiction is not the same as venue for purposes of a court's authority to adjudicate a criminal action. Venue does not refer to jurisdiction at all, Arganbright v. Good, 46 Ca.App.2d Supp. 877, 116 P.2d 186. Jurisdiction of a court means the inherent power to decide a case, whereas venue designates the particular county or city in which a court with jurisdiction may hear and determine a case, Stanton Trust and Savings Bank v. Johnson, 104 Mont. 235, 65 P.2d 1188, 1189. As such, while a defect in venue may be waived by the involved parties in an action, lack of territorial jurisdiction can never be waived. See "Venue," Black's Law Dictionary, 5th ed., p. 1396. Whenever it is determined that a court lacks jurisdiction, it cannot proceed even though requirements of federal venue statutes have otherwise been met, Vogel v. Tenneco Oil Co., 276 F.Supp. 1008 (1967).

Offenses triable in federal courts by U.S. indictments must allege facts as to the place which brings the offense territorially within the exclusive jurisdiction of the United States courts, Holt v. United States, 218 U.S. 245; Ford v. United States, 273 U.S. 593. The only places subject to the exclusive jurisdiction of the United States are those contemplated in Article I, section 8, clause 17 (Art. I:8:17) of the United States Constitution. See also 18 U.S.C. 7. Prosecutors are failing to specially and affirmatively allege, plead, and prove that alleged offenses are taking place in any property under the exclusive jurisdiction of the United States, e.g., federal enclaves, properties, etc.

It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction thereof, United States v. Benson, 495 F.2d 475 (5th Cir. 1974), at 481. Without proof by the prosecution of the required ownership or possession of the United States of the property involved (i.e., where the supposed crime took place), the crime has not been made out, United States v. Watson, 80 F.Supp. 649 (E.D.Va. 1948). To bring the alleged offenses within the jurisdiction of the courts of the Union, it must have been committed out of the jurisdiction of the involved State where the property is located, People v. Godfrey, 17 Johns. 225, at 233, for it is not the offense committed, but the PLACE in which it is committed, id. One element of proof required of the prosecution is to "establish the situs where (the crime was) committed and show that such situs was within the jurisdiction of the United States, Krull v. United States, 240 F.2d 122 (5th Cir. 1957).

The two powers given to the United States by the U.S. Constitution by which a natural person can be prejudiced as to his life, liberty and property, are those which are encompassed in Art. I:8:3, the commerce clause, and Art. I:8:17, referenced above. If the accused is not engaged in interstate/international commerce and does NOT hold a contract in such type of commerce (e.g., contract in admiralty, vice-admiralty, inland-admiralty, commerce, etc.) which would subject him to the regulations and provisions of the U.S. code or any other U.S. regulatory scheme (thus, such human being not being a "person" as defined, expressly or impliedly in the U.S. Code, see treatise on that subject), then he is not subject to the jurisdiction of the U.S. courts.

There is, then, only one provision under which the prosecution can proceed, and that is if the crime was committed in any federal enclave or property properly ceded to the United States and over which the U.S. has exclusive criminal jurisdiction as defined in Art. I:8:17 and 18 U.S.C. 7(3). See the territorial jurisdictional chart that accompanies this treatise for a visual explanation of this concept.

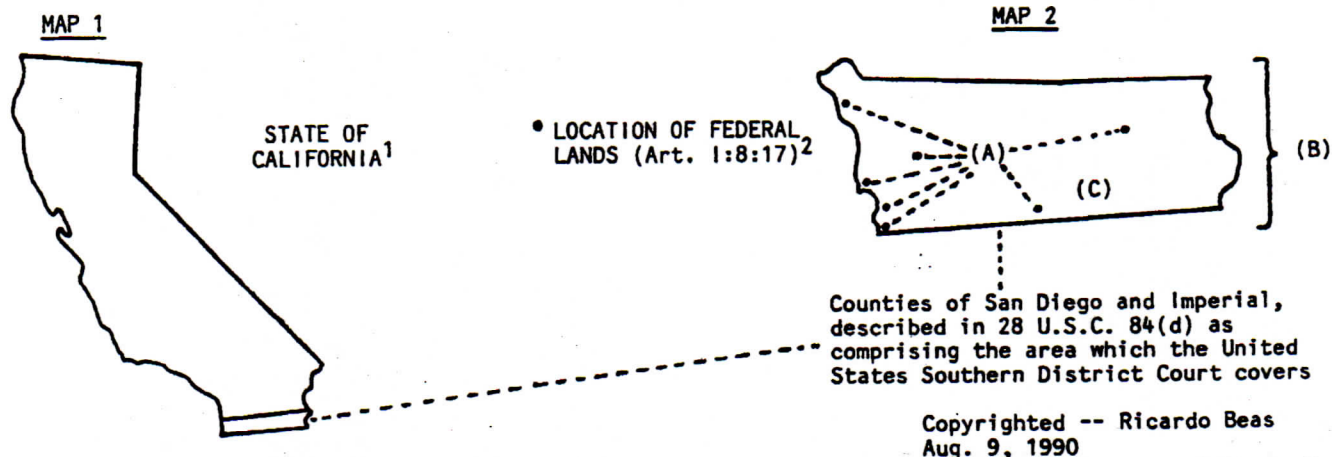
The prosecution must produce documentation that would prove that the involved State, where the property where the supposed crime was committed is, has ceded the property to the United States at a proper administrative agency hearing, United States v. Chenery, 318 U.S. 80 (1943), at 87; Government of the Canal Zone v. Burjan, 596 F.2d 690 (5th Cir. 1979). I would advise anyone going through criminal proceedings to contact their state's Land Commission or like Department of State agency and request ownership information on the property where any allege crimes took place, specifically, if such property has been properly ceded to the United States, and present such documentation in court.

The only purpose for which such Art. I:8:17 property can be used is for that described in said Art. I:8:17, United States v. Tierney, 1 Bond. 571 (C.C. Ohio 1864). Where such lands are acquired without cession, the position of the United States is simply that of an ordinary proprietor, Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885).

Where the prosecution may attempt to argue that some type of emergency measure, unknown to the general public (at the time of the Civil War or the Depression, etc.), has made the federal government the owner of such property, the same is a priori and unfounded in the record, and in any event does not extend the jurisdiction of the United States from a mere proprietor to one of exclusive jurisdiction, without which any conviction is null and void, for the question of jurisdiction over the place where the alleged crime was committed can be raised at any stage of a criminal proceeding, it is never presumed, but must always be proven, and it is NEVER waived by a defendant, United States v. Rogers, 23 F. 658 (D.C. Ark. 1885).

TERRITORIAL JURISDICTION

Example of the Territorial Jurisdiction of a U.S. Court, as opposed to its venue. Subject: U.S. District Court, Southern District of California, see Title 28 of the United States Code, section 84(c).



MAP 2: The notations in Map 2, (A), (b), and (C) are described below, noting that all three have to be taken in pari-materia with one another, each describing a different aspect of the territorial jurisdiction and venue of the involved court and the limitations imposed by each on the subject-matter jurisdiction of the court, as follows, to wit:

(A) The venue of a court is NOT the same as its territorial jurisdiction for purposes of Art. 1, sec. 8, cl. 17 of the U.S. Constitution. Venue does NOT refer to jurisdiction at all. See Arganbright v. Good, 46 Cal.App.2d Supp. 877, 116 P.2d 186. "Jurisdiction" of the court means the inherent power to decide a case, whereas "venue" designates the particular county or city in which a court WITH JURISDICTION may hear and determine the case. See Stanton Trust and Savings Bank v. Johnson, 104 Mont. 235, 65 P.2d 1188, 1189. As such, while a defect in venue may be waived by the parties, lack of jurisdiction may not. Territorial jurisdiction under Art. 1:8:17 (e.g., exclusive jurisdiction) is limited to federal enclaves and properties which are within the district court's venue which have been ceded by the consent of the legislature of the State of California for the erection of a fort, magazine, arsenal, dockyard, or other needful building needed in relation to the prior listed items. See 18 U.S.C. 7(3); see Black's Law Dictionary, 5th Ed., definition of the term "other" when used following an enumeration of a particular class (Note: Art. 1:8:17 also contemplates the seat of government, i.e., the District of Columbia, not applicable in this example).

(B) Under Art. 1, sec. 8, cl. 3 of the U.S. Constitution, the "commerce clause," the territorial jurisdiction of the court encompasses the whole of the court's designated area of authority (venue), but said jurisdiction affect only, and is limited to, legal entities and units involved in intrastate (in some instances, see 21 U.S.C. 801), interstate, and international commerce and which entities so operate by virtue of a special contract in said commerce (e.g., contract in admiralty, vice-admiralty, inland-admiralty, etc.); that is, said legal entities possess a grant, charter, franchise, or other state authorized privilege which is the sole source of its authority to so operate, creating in this manner a CONTRACTUAL NEXUS with one of the States of the Union, the United States/United States of America et al., and or the District of Columbia. A natural born, free, white, male, adult who holds NO contractual nexus as expressed or implied above, and who further is not an agent, officer, official, nor other representative of such a legal entity (e.g., corporation, government or governmental subdivision or agency, business trust, association, company, partnership, etc.) in regards to any acts or omission on his/her behalf which are the subject of some sort of criminal act defined in the U.S. Code (i.e., said natural person is NOT ACTING AS such a representative as regards the alleged criminal acts) -- is NOT SUBJECT TO NOR IS CONTEMPLATED BY THE U.S. CODE, and thus, any criminal prosecution brought against such a natural person is null and void and prosecuted in WANT OF TERRITORIAL JURISDICTION (see also WANT of in personam and subject matter jurisdiction, etc.).

(C) Where (i) the supposed crime does NOT occur within a federal enclave or property (supra) within the court's area of authority and venue, and (ii) the defendant in a criminal action is a natural person (i.e., a natural born, free, white, male, adult), the district court has NO TERRITORIAL JURISDICTION as regards the defendant and the property involved where any supposed criminal acts took place, regardless of where the defendant lives and where he/her was apprehended/arrested, for (i) it is not the offense committed, but the PLACE in which it is committed [e.g., Art. 1:8:17 property] which determines if the case can be prosecuted in the federal court, People v. Godfrey, 17 Johns. 225, 233; United States v. Watson, 80 F.Supp. 649 (E.D. Va. 1948); United States v. Benson, 495 F.2d 475 (5th Cir. 1974); and (ii) a special contract must be alleged, pleaded and proved by the Prosecution to exist between the accused and the United States et al., Ramsay v. Allegre, 12 Wheat. 611 (1827); Bank of Augusta v. Earl, 13 Pet. 519; Wisconsin v. J.C. Penny, 311 U.S. 435; Hale v. Henkel, 201 U.S. 43 (1905); Warren v. City, 444 A.2d 1 (Wa. D.C. 1981).