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# UNITED STATES COURT OF APPEALS FOR SEVENTH CIRCUIT

In re: )

)

Ambassador Leo Wanta, Somalia ) Court of Appeals Case No:

Ambassador to Canada )

and Switzerland, DPP#-04362 ) \_\_\_\_\_

& 12535, aka Lee E. Wanta, )

aka Leo E. Wanta; )

)

Petitioner, )

)

vs. )

)

State of Wisconsin, Dane County Circuit )

Court presently presiding judge over )

Case No. 92-CF-683; and )

)

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Petition for Writ of Mandamus and/or Injunctive → 2002

James E. Doyle, Attorney General of the )

State of Wisconsin; and )

)

Such other parties within the State of )

Wisconsin subject to the Orders of this )

Court to satisfy the requested relief, )

)

Respondents, )

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**“PETITION FOR WRIT OF MANDAMUS and/or  
INJUNCTIVE OR DECLARATORY RELIEF”**

Petitioner through undersigned counsel submit the following in support of this Petition for Writ of Mandamus and/or Injunctive or Declaratory Relief:

**I. RELIEF SOUGHT:**

1. Writ of Mandamus and/or appropriate Orders from this Court to the State of Wisconsin, Dane County Circuit Court directing dismissal and vacating of Case No. 92-CF-683, State of Wisconsin, Plaintiff, v. Leo E. Wanta based on lack of jurisdiction over the Petitioner (Defendant) Ambassador Leo E. Wanta. Specifically the Writ of Mandamus would be directed to the State of Wisconsin, Dane County Circuit Court, reversing the Order of the presiding Judge dated January 15, 1998 denying the International Diplomatic Immunity of Petitioner. (See Exhibit H attached hereto).
2. Writ of Mandamus and/or appropriate Orders from this Court to the State of Wisconsin, Dane County Circuit Court and/or other arms of the State of Wisconsin Court system, including the State of Wisconsin Attorney General's Office, investigators of the Department of Revenue and other agents or representatives of the State of Wisconsin (USA) directing the return of Petitioner's Diplomatic Passports, Diplomatic Papers, Diplomatic (briefcase) "Pouch" (including all papers, documents, records, files, reports, financial instruments, cash, blue nylon duffle bag weighing approximately 100lb's and other personal and similar items) taken from the Petitioner at the time of Petitioner's arrival /arrest in the United States on November 17, 1993.
3. Such other and further orders of this Court as deemed appropriate and necessary to protect the rights and privileges afforded to International Diplomats under both International law and the laws of the United States of America.

## II. ISSUES PRESENTED:

4. Is Petitioner entitled to Diplomatic Immunity under 22 USC 254 et seq. and the 1961 Vienna Convention on Diplomatic Relations, 23 U.S.T. 3227? The legal references provide in part as follows:

a. 22 USC 254(d) provides:

Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 254(b) or 254(c) of this Title, or under any other laws extending diplomatic privileges and immunities, shall be dismissed.

Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by applicable rules of procedure.

b. Article 40 of the Vienna Convention on Diplomatic Relations provides in part:

If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa is necessary, while proceeding to take up or return to his post, or when returning to his own country, the third state shall accord him inviolability and such other immunities as may be required to ensure his transit or return.

5. Does the United States Code Section and the provision of the Vienna Convention set forth in paragraph 4., above, based on all known facts, result in a lack of jurisdiction over the Petitioner by the State of Wisconsin?

6. Are there sufficient documented facts that have been readily available and known by the State of Wisconsin (USA) since July of 1993 and on or before November of 1993 to lead a reasonable person to believe that Petitioner satisfied the requirements of 22 USC 254(d) and applicable provisions of Article 40 of the Vienna Convention on Diplomatic Relations entitling Petitioner to be accorded inviolability from State of Wisconsin (USA) jurisdiction and such other immunities as necessary to protect Petitioner's International Diplomatic position?

7. Has the State of Wisconsin (USA) wrongfully maintained possession of Diplomatic Passports, .../ShowLetter?box=Inbox&MsgId=472\_59928\_1232\_1246\_31387\_0\_2622&bodyPart=2&YY=5 4/6/02

Diplomatic papers and/or Diplomatic/federally protected items beyond time periods deemed reasonable by International law and/or United States laws and regulations?

8. Has the State of Wisconsin (USA) had information, facts and/or substantiating documentation in the possession of the State of Wisconsin (USA) for more than a necessary period of time to enable a reasonable and prudent judicial court and/or judicial officer of the court to determine that Petitioner met the requirements of the applicable United States Code sections and provisions of International treaties to entitle Petitioner to Diplomatic Immunity?

9. Has Petitioner, contrary to both International law and the Laws of the United States of America been held as a political prisoner by the State of Wisconsin (USA) and subjected to violations of internationally protected Human Rights?

### **III. STATEMENT OF FACTS SUBSTANTIATING THIS COURTS GRANTING OF THE REQUESTED RELIEF:**

10. From on or about the end of June or first part of July 1992 thru the first part of July 1993 Petitioner was residing in and a declared legal resident of Toronto, Ontario, Canada.

11. On or about April 11, 1993 Petitioner, while a resident of Toronto, Ontario Canada, received official Somalia Government communications from Haji Mohamed Hashi Haile, the President of Somalia, appointing Petitioner as the Ambassador from Somalia to Canada. Exhibit A attached hereto and incorporated herein by this reference is a copy of the letter dated April 11, 1993. Exhibit A was presented to the State of Wisconsin Dane County Circuit Court and filed under Case No. 92-CF-683.

12. On or about April 29, 1993, the Somalia Ambassador to Great Britain, A.M. Musse sent a letter to the Foreign Ministry of Canada to inform the Government of Canada that Petitioner would become the official representative of Somalia Affairs in Canada starting from April 1993. Exhibit B attached hereto and incorporated herein by this reference is a copy of the letter dated April 29, 1993. Exhibit B was presented to the State of Wisconsin Dane County Circuit Court and filed under Case No. 92-CF-683.

13. On or about the first part of June 1993 Petitioner departed from Toronto, Ontario, Canada to Europe for the purpose of meeting with the President of Somalia in Paris, France. The purpose of said meeting was to formalize the investiture of Petitioner as Ambassador to Canada from Somalia; obtain official Somalia Government stamped and sealed documentation as to the investiture of Petitioner as Ambassador from Somalia to Canada and finalize documentation with the President of Somalia that Petitioner is the authorized signature on a transactional/custodial account for one hundred and sixty seven (167) metric tons of gold bullion on deposit for and on behalf of the Somalia Democratic Republic at the UBS Bank in Switzerland.

The official Somalia Government stamped and sealed documents concerning the investiture and appointment of Petitioner as Ambassador to Canada from Somalia were contained within the Diplomatic (briefcase) "Pouch" transported with Petitioner from his Diplomatic post in Switzerland to the United States. Petitioner last saw the originals of the subject documents when Petitioner was arrested and placed in restrained custody upon his arrival in the United States on November 17, 1993. Petitioner's Diplomatic Pouch also contained documentation concerning Petitioner's transactional/custodial account representation on behalf of the Somali Government with the UBS Bank in Switzerland.

14. Following the formal investiture of Petitioner in Paris, France Petitioner had official business to conclude in Europe and upon completion of business was to return immediately to Canada and present officially stamped, sealed and approved Somalia Government documents to appropriate Canadian Government officials to enable Petitioner to initiate the process of "taking up his Diplomatic post" as Ambassador from Somalia to Canada.

15. Upon leaving the Country of France Petitioner entered the Country of Switzerland. When entering the Country of Switzerland Petitioner presented Petitioner's Somalia Diplomatic Passports No: 04362 and 12535 for the purpose of identification to Switzerland immigration/customs officials.

16. On or about July 7, 1993 Petitioner was taken into custody by Switzerland law enforcement officials and verbally advised that he was being held by Switzerland authorities on the verbal request of the State of Wisconsin, United States of America. At the time of being detained by Switzerland authorities, Petitioner was not presented with any warrants for his arrest or any other documentation evidencing any charges of wrong doing issued by Switzerland and/or any United States of America judicial authorities.

17. From July of 1993 to the middle part of November of 1993 Petitioner was held in a Switzerland prison and at no time presented with any official charges, allowed representation by a personal attorney, notified of any extradition request and/or afforded any due process legal proceedings. Petitioner continually and throughout the time of Swiss confinement requested Swiss authorities to confirm under what authority Petitioner was being held. Swiss authorities continually advised Petitioner that the State of Wisconsin (USA) had advised them verbally that official paperwork for arrest and extradition was forthcoming.

18. On or about October 8, 1993 Petitioner was advised by Swiss authorities that Petitioner was being held on United States Government charges arising out of a case filed in the United States District Court in the Western District of Wisconsin under Case No: 93-0033M-X-01. Irrespective of the advice of these charges Petitioner was never brought before Swiss judicial authorities and presented with requests for extradition or afforded any rights of a foreign guest held in a third State as required by International law.

19. On or about November 17, 1993 Petitioner was removed from the Swiss prison and advised that he was being extradited to the United States. The action to extradite Petitioner was conducted by Swiss authorities without legal due process. The only response given to Petitioner, when he inquired as to where he was being sent and under what authority, was a Swiss authority response "that Petitioner was being sent back to America to face failure to pay tax assessment charges filed by the State of Wisconsin, United States of America".

20. Petitioner was transported on a Swiss Air carrier from Switzerland to the United States on November 17, 1993. When completing United States of America Immigration and Customs formalities, Petitioner presented the Customs Declaration form attached hereto as Exhibit C and incorporated herein by this reference. On the Customs Declaration form Petitioner represented himself as a US citizen with residence in Toronto, Ontario, Canada and specifically noted the word "Diplomat". It is noted that on the reverse side of Exhibit C Petitioner did not declare financial instruments and other items of value transported in Petitioner's Diplomatic Pouch. Petitioner presented his Somalia Diplomatic Passports DPP#-04362 & 12535 as his official identification document for Diplomatic admittance into the United States. After clearing United States immigration/customs

formalities Petitioner was arrested by special agents of the Federal Bureau of Investigation ("FBI"). Petitioner advised the arresting FBI agents when entering the United States of America that he was the Somalia Ambassador to Canada and that he was carrying "official" documents in an investiture/diplomatic capacity and in a Diplomatic Pouch. The FBI agents seized the Diplomatic Passports, (used for official identification purposes for entry into the United States), from the possession of Petitioner (the subject Diplomatic Passports having been given back to Petitioner by United States immigration officials when authority to enter was granted) at the time of Petitioner's arrest.

21. In the presence of Petitioner, in a room within the New York arriving airport, Petitioner observed FBI agents and others whose identity is unknown to Petitioner, reviewing official Diplomatic documents and the contents of Petitioner's Diplomatic (briefcase) Pouch. The Diplomatic Pouch was clearly marked Diplomatic Pouch. Petitioner observed parties reviewing contents of Petitioner's Diplomatic Pouch and Diplomatic Passports and examining the Somali Government documents under seal certifying Petitioner's official investiture by Somalia President Haji Mohammed Haile Hashi.

22. The most obvious substantive verification of Petitioner's diplomatic status was contained within the pages of the Diplomatic Passports. Petitioner's Somali Diplomatic Passports contained a United States Government Consulate issued "Identification Card" issued pursuant to 22 CFR 53.2(G) identifying Petitioner as a United States Citizen traveling under a foreign issued Diplomatic Passports. This identification card was placed in the Diplomatic Passports and signed in the name of "Ambassador Leo E. Wanta". The combination of the Diplomatic Passports and the identification card legally facilitated the entrance of Petitioner into the United States. This entrance "Identification Card" was issued by the United States Consulate in Switzerland. Petitioner is a United States citizen that requested admittance into the United States not based on a United States passport but based on Diplomatic passports of a foreign nation and a duly registered "Foreign Agent". (Emphasis added).

23. Partially out of context of the sequential order of events Petitioner brings the Court's attention to Exhibits D and E attached hereto and incorporated herein by reference. Exhibit E and F are offered by Petitioner as confirmation of the existence of the original Somalia Diplomatic Passports and that the same, along with the Diplomatic Pouch were seized by investigative authorities. It is proper for the Petitioner to presume that the subject and mentioned official documents were first in the custody of the United States Court system and both secondly and presently in the custody of a representative or agency under the control of the State of Wisconsin (USA).

Exhibit D is a copy of a transcript of a hearing held on February 3, 1995 in the State of Wisconsin Dane County Circuit Court in the matter of State of Wisconsin v. Leo E. Wanta under Case No. 92-CF-683. The Court's attention is specifically directed to page 26 of Exhibit D beginning on line 14 and continuing thru page 28 line 4. This referenced portion of Exhibit D contains an admission by Mr. Haag (State of Wisconsin prosecutor) and Mr. Chavez (an attorney purportedly having authority to represent the Petitioner) of the existence of the Diplomatic (briefcase) Pouch and the originals of the Somalia Diplomatic Passports and other relevant official documents and that the same were at least reviewed and seen by Mr. Chavez as part of evidence documents being held by the State of Wisconsin (USA).

Exhibit E is a copy of a transcript of the proceedings before the United States District Court in the Eastern District of New York held on November 17, 1993 in the case of United States of America, v. Leo Emil Wanta under case number 93 M 2072. This Court's attention is directed to page 5 of Exhibit E line 12 thru line 17. Clearly the Somalia Diplomatic Passports and Diplomatic Pouch items are in the

possession of some agency, branch, court and/or other entity under State of Wisconsin jurisdiction.

24. There are no additional transcripts of proceedings for the case referenced in Exhibit E. The United States District Court case docket entries reflect that the pending case, without further hearing or appearance of the Petitioner, is dismissed on the motion of the United States Government.

25. Following dismissal of the case set forth in Exhibit E, Petitioner is advised that he will not be released and is being held on the verbal request of law enforcement officials from the State of Wisconsin (USA). Between November 17 and the middle of December 1993 Petitioner is held by local police authorities in the State of New York (USA) without receiving any documents and/or served with any arrest warrants concerning any pending charges by the State of Wisconsin (USA). Petitioner continually claimed Diplomatic Immunity to New York detention facility personnel and asserted there was no jurisdiction to hold him. Petitioner had no paperwork, documents or personal identification (since all was seized at the time of his arrest). The seizure of documents and other items at the time of Petitioner's arrest left Petitioner without even minimal evidence of documentation to prove his name. New York detention facility personnel advised Petitioner that he would have to wait until transfer to the State of Wisconsin (USA) to raise his objections to jurisdiction based on Diplomatic Immunity.

On or about December 13, 1993 Petitioner is taken from the jail holding facility in the State of New York (USA) and turned over to county law enforcement officers from the State of Wisconsin (USA) and immediately air transported from the State of New York (USA) to the State of Wisconsin (USA). Between November 17, 1993 and December 13, 1993 Petitioner is not brought before any Court, presented with any warrants for extradition to the State of Wisconsin or allowed consultation with a private attorney.

26. Attached hereto and incorporated herein by this reference is Exhibit F that is a copy of the transcript of the initial appearance of Petitioner before the State of Wisconsin Dane County Circuit Court in the case of State of Wisconsin, -vs- Leo E. Wanta under Case No. 92-CF-683. Pertinent to the Petition before this Court is page 7 line 3 thru line 8 of Exhibit F. Clearly the attorney representing the State of Wisconsin (USA) is aware that Petitioner claimed legal residence in Toronto, Canada and is clearly aware of the "suggestion" of Diplomatic Immunity. The prosecutor questions verification of diplomatic status in the referenced lines of the transcript. Petitioner on best information and belief assumes from the various statements contained Exhibits D and F that the Diplomatic Passports, Diplomatic Pouch and other Diplomatic papers obviously in the possession of the New York Federal District Court (See references to Exhibit E) were transported to the State of Wisconsin by State of Wisconsin law enforcement officers when Petitioner was transported from New York to Wisconsin. It would not be mere speculation that all of the official Diplomatic items were in the possession of the State of Wisconsin at the time of Petitioner's first appearance before a judicial officer in the State of Wisconsin (USA).

27. The Courts further attention is directed to page 10 of Exhibit F specifically line 7 thru line 9 where the Petitioner questions competent jurisdiction and further on page 10 of Exhibit F line 16 thru line 18 where Petitioner makes reference to the Diplomatic Passports and other official records taken into possession by the FBI as part of the seizure of Petitioner's Diplomatic (briefcase) Pouch at the time of Petitioner's arrest in New York on November 17, 1993.

28. Apparently representations by Petitioner to the State of Wisconsin county court as to the court's lack of jurisdiction, Petitioner's Diplomatic Immunity and other representations by the Petitioner set the framework for the State of Wisconsin questioning the "competency" of Petitioner to assist in his

legal defense. This reference to "competency" is at the initial appearance of the Petitioner on December 14, 1993 on page 19 of Exhibit F line 12 thru line 25. For the entirety of the year 1994 and part of the year 1995 there are several court hearings on the issue of competency. Petitioner continually asserts he is competent and the evaluating physicians from the institutions where he was confined concluded that Petitioner was totally competent. The examining physicians not only determined that Petitioner was competent they further determined that Petitioner was not suffering from a mental condition of "delusion". Petitioner submits that of substantive importance to the present Petition before this Court is the claim by the Dane County Circuit Court and the State of Wisconsin that Petitioner's continual, repetitious, assertive and ongoing claim regarding Petitioner's Ambassadorship Diplomatic status and the lack of State of Wisconsin jurisdiction over the Petitioner was evidence to the court and the State of Wisconsin that Petitioner suffered from "Delusion".

29. At virtually every court hearing, at the trial of Petitioner and at all post-trial proceedings Petitioner continually raised the issue of his continuing Diplomatic Immunity and as a result the Petitioner continually asserted the lack of any competent jurisdiction by the State of Wisconsin (USA) over the Petitioner. During one appearance before the presiding county court judge the judge commented in summary "that the Petitioner could not be an Ambassador from Somalia because Petitioner was not black".

30. Exhibit G attached hereto and incorporated herein by reference is a court filing presented to the trial court of Petitioner setting forth the issue of the Diplomatic Immunity and the Diplomatic status of Petitioner with the Country of Somalia. The trial court denied the prayer for relief requested in the Exhibit H motion. The county court did not find that Petitioner was not an Ambassador to Canada from Somalia.

Attached hereto marked as Exhibit H is a "Partial Decision On Motions By Defendant" issued by the Dane County Circuit Court in Case No. 92CF0683 that is the case number in the criminal action against Petitioner by the State of Wisconsin (USA). For the purpose of the matter before this Court the relevant portions concerning "Diplomatic Immunity" are contained on pages 1, 2 and 3. It is obvious that the ruling of the county court is based on county court judge observations on the credibility of the "evidence". The county court judge makes certain references, as example, that the Diplomatic passports are only copies and appear to be generic since no name can be read on the copies. The county court further references certain other official documents such as official papers of the Somalia Government. The county court judge questions the authenticity and validity of the official Somalia Government since these documents are also copies. It is noted that Exhibit H is dated January 15, 1998. Petitioner makes this noted comment (and will restate in a subsequent section set forth herein) because Petitioner is of the opinion that the county court should have been knowledgeable of the location of the originals because they had been acknowledged as being viewed by the Prosecutor and the purported attorney for the Petitioner during the February 3, 1995 hearing before the same judge (See Exhibit D).

Petitioner would respectfully redirect this Court's attention to Exhibit D attached to this filing. Exhibit D is a transcript of a hearing held in February of 1995 before the same county judge issuing the January 15, 1998 opinion (Exhibit H). Clearly by reading the sections of Exhibit D referenced hereinabove it is clear that the county court presiding judge, the prosecutor and the State of Wisconsin jointly and severally were or should have been fully aware that the originals of the official documents, that the county court stated were illegible or unauthenticated photo copies, (including the original Diplomatic Passports) were in the possession of an arm of the State of Wisconsin (USA). The pertinent hereinabove referenced sections of Exhibit D clearly exemplify this conclusion by Petitioner.



Petitioner would further respectfully redirect this Court's attention to paragraph 22., set forth herein. The Diplomatic Passports of Petitioner contained the "Identification Card" signed in the name of Ambassador Leo E. Wanta for travel to the United States by Petitioner, and were issued by the United States Consulate in Switzerland. The originals reflect this "Identification Card", the stamp of the date of official entry into the United States by Petitioner. The permission to enter without confiscating the Diplomatic Passports is an acknowledgement by Immigration and Customs clearing authorities as to the validity of the "documents" presented in granting permission to a United States citizen offering foreign Diplomatic Passports as entry documents. The evidence of the authenticity and validity of the Diplomatic Passports was contained within the original documents that the county court and representatives of the State of Wisconsin knew to be in their possession and not in the possession of Petitioner.

31. Neither the Somalia Democratic Republic nor Petitioner has ever waived the right to assert and expect "Diplomatic Immunity" for Petitioner (either in this jurisdiction or any other jurisdiction).

32. The United States Government, the State of Wisconsin (USA) the courts and judicial branches of either the United States of America or any State of the Union have no power or legal authority to approve, question or disapprove the official appointment of a representative of any foreign Nation to any other foreign nation. International law does not require a foreign Nation to register, notify or acknowledge to the United States of America the appointment of a Diplomatic representative to another foreign Nation unless of course the appointment is to the United States of America and even concerning the appointment of a Diplomat to the United States the same can not be objected to by the United States although the Diplomat may be received with restrictions.

33. At or about the time of Petitioner's investiture as a Diplomatic representative of the Country of Somalia in June of 1993, the political stability of the Country of Somalia went into turmoil. The last internationally recognized Government of Somalia has remained in exile as a result of the failure of "Operation Restore Hope" endorsed by the United States of America and sanctioned at the time by United Nations resolutions. International community acknowledged terrorists have continually caused civil disorder, violations of "Human Rights" and continual attempt to seize control of Somalia through barbaric acts of torture and internationally recognized violations of international adopted criminal laws. This Court is presumably aware of the most recent Hollywood production entitled "Blackhawk Down" that exemplifies the deterioration of the Somali situation and continues through the current time. Attempts by militant clan groups to obtain control of the Somalia Government during the last many years have not resulted in internationally recognized leadership. Current United Nations resolutions are focused on orchestrating a democratically elected leadership of Somalia between the year 2000 and the year 2003. During the past many years the Somalia Government in exile has maintained control of official Somalia Government seals (registered with the United Nations) and maintained control of the primary asset of the Government of Somalia being the 167 metric tons of gold bullion belonging to the Somalia Government Central Bank on deposit at the UBS Bank in Switzerland referenced in paragraph 13 herein.

Most recently the "International Community" coalition directed toward terrorists has obviously been focused in the Middle East with referenced to terrorists group support and concern for terrorists group affiliations in Somalia. Petitioner is of the opinion that the present international "climate" is conducive to Petitioner aggressively coming forward and attempting to publicly participate in the stabilization of the Government of Somalia through refocused efforts of exiled leaders. Part of this objective would be initiated by gaining support of the International Community based on the obvious

economic contribution that can be afforded to the Country of Somalia through the benefits derived from the 167 metric tons of gold bullion on deposit as referenced herein. During the past years this Somali gold bullion asset has not been available to the terrorists to use. Terrorist group use would have been to the detriment of the people of Somalia. It is anticipated that the International Community will endorse the use of said asset for the purpose of stabilizing the strife of the people of Somalia rather than for benefit of internationally condemned crimes of terrorism. Petitioner is further of the opinion that prior to this time if Petitioner had taken such an aggressive act, that in the absence of the present international political climate, Petitioner would have been subjected to risk of life and personal safety. Obviously Petitioner's death would have given the non-sanctioned terrorist supported groups, attempting to illegally control the Government of Somalia, an avenue to take control of the country's primary financial asset.

Petitioner does not proffer to this Court that he has the entirety of the answers for the Somalia political and economic climate. On the other hand it does not seem presumptuous of Petitioner to represent to this Court the reasonable and plausible proposition that with the "freezing" of assets by the International Community to assure that improperly directed assets are not improperly used by terrorists organizations that the international community would support the positive and progressive use of the 167 metric tons of gold bullion for the benefit of the development of the Country of Somalia and not for a continuation of the strife and torture inflicted upon the agricultural farmers and common people of Somalia.

Petitioner would reiterate the statements set forth in paragraph 32., above and further ask this Court to recognize that the reasons for the actions and beliefs in regard to the political situation and operation of the business affairs herein represented by Petitioner are not questions or positions subject to review by the United States of America and/or the State of Wisconsin (USA). The opinions, decision and representations made herein are subject to the sole and exclusive discretion of the Government in exile representatives of the Country of Somalia.

34. The issue of Petitioner's mental competence mentioned hereinabove not only occurred prior to the county court trial of Petitioner but also continued as an ongoing attack on the claimed lack of competency of the Petitioner by the State of Wisconsin after the trial. Petitioner continually denied that Petitioner was incompetent and medical examiners concurred with the personal opinion of Petitioner. Post trial accusations concerning questions of Petitioner's competency repeatedly focused on Petitioner's claim of Diplomatic Immunity and multiple and repetitive assertions that the Petitioner adamantly objected to the county court improperly and illegally claiming personal jurisdiction over the Petitioner. One jurist in the United States District Court made mention that the Diplomatic relationship with the Country of Somalia was "Bizarre".

Petitioner suggests to this Court that the United Nations would be the most viable source for possessing the most credible information concerning Diplomatic representation for foreign nations particularly United Nations member country's. Somalia has been a member "State" of the United Nations since September 20, 1960. Exhibit I attached hereto and incorporated herein by this reference should negate and assertion by the State of Wisconsin or other third parties that Petitioner's claims are "Bizarre" and proffered by a person that is incompetent and suffering from "Delusions of Grandeur".

### III. REASONS WHY THE WRIT OR OTHER INJUNCTIVE

#### RELIEVE SOUGHT BY PETITIONER SHOULD BE ISSUED

35. Excess of jurisdiction is a conventional formula for the availability of Mandamus. Any order is subject to challenge by Writ of Mandamus if the order imposes irreparable harm and can be shown to be so clearly wrong as to constitute a usurpative act by the judge.

36. Diplomatic Immunity negates "in persona" jurisdiction over the Petitioner in the "first instance". The "first instance" satisfaction of the provisions of 22 USC 254(d) and Article 40 of the Vienna Convention occurred at or prior to the time of Petitioner's clearance through immigration/customs authorities at the Port of Entry in the State of New York (USA). The Petitioner departed for Paris, France from Toronto, Ontario, Canada with a return ticket clearly demonstrating intent to return to Toronto following formal Diplomatic Investiture ceremonies. It is undisputed that Petitioner had been residing in Toronto, Ontario, Canada for a lengthy period of time and in advance of departing for Paris, France had begun establishing procedures for Petitioner's Diplomatic Post. It is further undisputed that Petitioner had been working with local counsel in Canada to continue facilitating the purchase of Diplomatic housing arrangements for Petitioner's return and said legal counsel fully expected Petitioner to return to Canada forthwith upon completion of official investiture and other official business in Europe.

37. Petitioner was involuntarily brought back to the United States at the request of the State of Wisconsin (USA). Petitioner was not in possession of a United States passport. Petitioner was in possession of Diplomatic Passports issued by the Country of Somalia. Petitioner required United States Consulate documented approval signed by the Petitioner for entrance into and passage through the United States en route to Canada. The United States Consulate in Switzerland issued the necessary documented approval in the Diplomatic Passports of Petitioner providing substantiation of the requirements of Article 40 of the Vienna Convention; setting forth a "suggestion" of Diplomatic Immunity status as required by 22 USC 254(d) and a prima facie verification of the validity of the Diplomatic Passports. It seems only reasonable to presume that the United States Consulate in Switzerland would have conducted more than a surface examination of the authenticity of foreign held Diplomatic Passports by a white United States of America citizen by "American Birthright" (06/11/40) being issued by a predominantly black foreign nation. It would also only seem reasonable that the United States Consulate, that issued documented approval in the Diplomatic Passports, in the possession and in the name of, a United States citizen, would be fully aware of 8 USC 1185(b) and the provisions of 22 CFR 53 particularly 53.3 and either (doubtfully) ignored such statutory provisions or was aware of exceptions having been granted to Petitioner by appropriate United States Government officials to enable Petitioner to have been able to accept the position of Ambassador from a foreign nation to a third nation. Therefore, the provisions of 22 CFR 53.2(g), 22 CFR 53.2(h) and 22 CFR 50.1(d) are clearly satisfied through the issuance of entry approval documents and the declaration of citizenship on the customs declaration form presented by Petitioner to immigration/customs authorities when entering the United States of America on November 17, 1993.

Petitioner told agents of the Federal Bureau of Investigation at the time of his arrest upon entering the United States on November 17, 1993 that Petitioner was the Ambassador from Somalia to Canada. The arresting FBI agents seized the Diplomatic Passports of Petitioner and searched Petitioner's Diplomatic pouch. At the first appearance of Petitioner in the United States District Court for the Eastern District of New York the Diplomatic Passports and presumably the Diplomatic papers were available for the Court to review. When Petitioner had his first appearance in the county court located in the State of Wisconsin on December 14, 1993, Petitioner clearly challenges jurisdiction and identifies Diplomatic documents that were taken from Petitioner by the FBI at the time he entered the United States of America. On multiple instances and at virtually every county court appearance before

any judicial officer in the State of Wisconsin Petitioner challenged the jurisdiction over Petitioner by the county court. On February 3, 1995 a hearing held before in the State of Wisconsin, Dane County Court, there is a clear recognition before the presiding judge that the originals of Petitioner's Diplomatic Passports and other official Diplomatic papers are in the possession of an agency or representative of the State of Wisconsin. In the ruling issued on February 15, 1998 by the same judge that presided over the February 3, 1995 hearing (where the originals were acknowledged to be in the possession of the State of Wisconsin) the judge based in part his denial of Diplomatic Immunity on the lack of credible evidence including illegible copies of generic no name passports. In addition the same judge, in contravention of the presumption of authenticity and validity of Petitioner's Diplomatic Passports, (created by the United States Consulate for Switzerland and also the immigration/customs authorities at the Port of Entry in New York City (USA)) came to the conclusion that the Diplomatic Immunity status of Petitioner was unfounded and not credibly documented. The county courts response to the Motion of the Petitioner before the county court that resulted in the February 15, 1998 ruling should have been an order to the prosecutors from the State of Wisconsin to "show cause" why the case should not be dismissed based on lack of jurisdiction as a result of Diplomatic Immunity.

38. The burden of proving jurisdiction over the Petitioner shifted to the Government at the time the Petitioner was arrested by FBI agents in New York State (USA) on November 17, 1993. The burden increased when Petitioner's Diplomatic Passports were reviewed by a United States District Court Judge and presumably became an influence on the case against the Petitioner being dismissed on the motion of the Assistant United States Attorney. Petitioner did not stop questioning jurisdiction. At the initial appearance and virtually every step of the county court proceedings the Petitioner made an attempt to challenge any jurisdiction over Petitioner by the county court in the State of Wisconsin (USA). Clearly the presiding judge that set bond for the Petitioner and was aware of the international travels of the Petitioner, would have had some recollection of the fact that the originals of papers and documents he questioned, were in the possession of an agent or representative of the State of Wisconsin. If the judge had a failure of memory it would seem probable that the State of Wisconsin prosecutors had a burden of advising the court that the originals were known to be held by authorities in the State of Wisconsin (USA).

39. At many and various stages through the course of Petitioner's exposure to the judicial environment there were sufficient "suggestions", factual basis and evidence readily available to law enforcement officers, officers of the court, prosecutors and judicial officers to conclude that Petitioner had met the burden under 22 USC 254(d) and that the conditions of his diplomatic travel to the United States of America allowed Petitioner protection under Article 40 of the Vienna Convention.

40. The State of Wisconsin, Dane County Court, was without jurisdiction and there is reasonable probability to believe that had the State of Wisconsin ever assumed the burden of proving jurisdiction over the Petitioner by a preponderance of the evidence that the State of Wisconsin would have failed to meet such burden. On or before November 17, 1993 Petitioner himself and through the "suggestion" of acts conducted and fulfilled by agents and/or representatives of the United States Government have caused or created on going substantial compliance with the statutory provisions of 22 USC 254(d) and Article 40 of the Vienna Convention. Substantial compliance with 22 USC 254(d) and Article 40 of the Vienna Convention negate any jurisdiction over the Defendant either by the United States of America and/or the State of Wisconsin (USA).

The matter of jurisdiction over the Petitioner was raised and substantiated in the "first instance" upon Petitioner's entry into the United States of America. Thereafter, all efforts and representations by the Petitioner to agents or representatives of any "jurisdictional" authority in the United States of America

are evidence of an ongoing and continual substantiation that Petitioner is in compliance with 22 USC 254(d) and Article 40 of the Vienna and as a result place the issue of failure to substantiate jurisdiction over a Diplomat entitled to Diplomatic Immunity properly before this Court.

The documented lack of personal jurisdiction over the Petitioner from at or about the time of Petitioner's entrance into the United States voids and/or makes voidable all subsequent assertion of valid jurisdiction over the Petitioner by the State of Wisconsin. Petitioner is entitled to immediate relief through the issuance by this Court of the requested Writ of Mandamus and the other relief necessary to protect the rights to be afforded to the Petitioner both under International law and the laws of the United States of America. The immediate relief not only pertains to jurisdiction over the person but further pertains to the immediate return of all Diplomatic Passports and other Diplomatic papers and items referenced in paragraph 2., of this document. Neither the United States Government nor the State of Wisconsin (USA) had the right to seize and take permanent possession of the Diplomatically protected items since the same are protected under the rights and privileges of Diplomats under both International law and the laws of the United States of America.

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