

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BILL WALKER,

Plaintiff,

vs.

MEMBERS OF CONGRESS OF THE  
UNITED STATES, et al.,

Defendants

CASE NO. C04-1977RSM

MOTION B:

MOTION TO FIND DEFENDANTS IN VIOLATION OF 5 U.S.C. 7311 (1)(2), TO REFER FOR PROSECUTION, TO EXECUTE CIVIL PENALTIES AGAINST DEFENDANTS AS PRESCRIBED BY STATUTE.

NOTE ON MOTION CALENDAR: NOVEMBER 5, 2004

ORAL ARGUMENTS REQUESTED

Motion is respectfully made to this court to find defendants in violation of 5 U.S.C. 7311 (1)(2) and its associated criminal statute 18 U.S.C. 1918 and to refer this violation to the Attorney General of the United States for prosecution. Motion is further requested the court execute civil penalties against the defendants as prescribed by 5 U.S.C. 7311.

As 5 U.S.C. 7311 is associated with a criminal penalty 18 U.S.C. 1918, for violation of 5 U.S.C. 7311, the defendants have no immunity under Article I, §6 Clause 1, commonly referred to as the Speech and Debate Clause as acts of felony as specifically exempt from such immunity.

Defendants knowingly violated 5 U.S.C. 7311 in that they (1) advocated in a public court document through their legal representative which defendants individually instructed to so advo-

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1 cate that they did not have to obey the Constitution of the United States<sup>1</sup> and (2) failed to execute  
2 a convention call when demanded by the Constitution of the United States thus establishing an  
3 act to overthrow the constitutional form of government by unconstitutional means.<sup>2</sup> The court  
4 document Walker v United States, C00-2125C (2001) directly and exclusively dealt with the  
5 convention clause of Article V of the United States Constitution. In this suit, defendants advo-  
6 cated they did not have to obey the Constitution nor its clauses. Further, the convention clause  
7 stipulates that the defendants must call a convention to propose amendments upon two-thirds ap-  
8 plication of the states. The Congressional Record, a public record, clearly demonstrates the states  
9 have applied in sufficient numbers to not only meet but well exceed this constitutional standard.<sup>3</sup>  
10 The convention call is described as “peremptory” and thus is a ministerial duty on the defen-  
11 dants.<sup>4</sup> Despite public court rulings made after the states had satisfied the numeric count re-  
12 quirement of Article V,<sup>5</sup> defendants have refused to call a convention to propose amendments. In  
13 all regards, defendants have publicly advocated as well as committed actual acts intended to  
14 overthrow of our constitutional form of government by unconstitutional means.

15 It is axiomatic our constitutional form of government is what the Founders created in the  
16 original Constitution. Article V is a part of that constitutional form of government along with  
17 such amendments as have been added to the Constitution by means prescribed in Article V. Our  
18 constitutional form of government does not consist of permitting *any veto by any member of the*  
19 *government towards any of the clauses of the Constitution*. Part of the constitutional form of  
20 government is that the convention clause is peremptory. With this presumption in mind having  
21 preserved the right of the people to alter or abolish, the Founders designed the remainder of the  
22 Constitution. Our constitutional form of government is thus based on this presumption. If a

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24 <sup>1</sup> See Brief, fn. 44.

25 <sup>2</sup> See Brief, fn. 37, 39.

<sup>3</sup> See Evidence Appendix, p. 6.

<sup>4</sup> See Brief, p. 14, Motion A, generally.

<sup>5</sup> See Evidence Appendix, p. 4.

1 member of the government, such as the defendants alter that presumption, and do this act pub-  
2 licly, they overthrow the form of government by unconstitutional means and thus violate 5  
3 U.S.C. 7311. These facts prove the defendants guilty.

4 It is indisputable public record Congress asserted it does not have to obey the Constitu-  
5 tion. Thus Congress' attorney advocating in a public federal trial that their clients did not have to  
6 obey the Constitution, a position which each member of Congress individually requested that  
7 attorney advocate and defend, is prima facie proof of Congress' guilt as violating federal laws  
8 where such an assertion is all the law requires for conviction. 5 U.S.C. 7311 places the highest  
9 standard of loyalty on the members of the government itself. The law does not even require ac-  
10 tion on the part of the government employee, merely that it be proved he *advocated* the "over-  
11 throw of our constitutional form of government." But beyond advocacy by the defendants, they  
12 have refused to act on the applications to call a convention when the courts have made clear they  
13 must do so. Such action demonstrates knowledge and intent. Hence, defendants knew they were  
14 violating federal law and the Constitution and have demonstrated no remorse at doing so nor any  
15 inclination to correct their grievous unconstitutional act.

16 The Supreme Court has described the matter succinctly:

17 "Since *there is no constitutionally protected right to overthrow a government*  
18 *by force, violence, or illegal or unconstitutional means*, no constitutional right is  
19 infringed by an oath to abide by the constructional system in the future." *Cole v.*  
20 *Richardson*, 405 U.S. 676 (1972). (emphasis added).

21 Defendants swore an oath of faithfully execute the duties of their office. By refusing to  
22 call a convention, a required duty of office, they have violated that oath of office. They have  
23 each individually sworn in an affidavit that their actions would not or will not violate 5 U.S.C.  
24 7311. By not faithfully executing their duties of office, they have violated that oath of office as  
25 well as the sworn affidavit. Such act violates 5 U.S.C. 7311. For these reasons motion is made to  
refer violations of 5 U.S.C. 7311(1)(2) by the defendants to the Attorney General of the United  
States for prosecution. Proposed order attached.

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Dated this 4<sup>th</sup> day of November, 2004

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S/Bill Walker, pro se  
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1 PROPOSED ORDER TO REFER VIOLATIONS OF 5 U.S.C. 7311 (1) (2)  
2 BY DEFENDANTS TO ATTORNEY GENERAL OF THE UNITED STATES

3 Having reviewed all evidence in this matter, this court determines there is sufficient evi-  
4 dence to suggest the defendants in this matter may have violated 5 U.S.C. 7311 (1)(2) and its  
5 associated statutes by publicly advocating the overthrow of our constitutional form of  
6 government by unconstitutional means. Further, defendants have refused to obey a clause of the  
7 Constitution of the United States, the convention clause of Article V in an attempt to establish  
8 veto power over this clause where no such discretion on the part of the defendants was ever  
9 intended in the Constitution. All acts in question are a matter of public record and thus fall under  
10 the terms of 5 U.S.C. 7311 (1)(2).

11 This court further determines as criminal violations are associated with such actions de-  
12 fendants lack immunity from such civil and criminal penalties prescribed by law.

13 This court therefore refers this matter to the United States Attorney General for prosecu-  
14 tion of criminal violations of 5 U.S.C. 7311 (1)(2) by defendants as prescribed by 18 U.S.C.  
15 1918 and further orders that all defendants shall be immediately removed from office as pre-  
16 scribed by 5 U.S.C. 7311. Replacement of these defendants by new officers shall take place im-  
17 mediately under the terms prescribed by the United States Constitution. The court further orders  
18 that defendants shall, before leaving office, issue a convention call in satisfaction of the Writ of  
19 Mandamus issued by this court. Refusal or any attempt at delay shall be viewed by this court as a  
20 contempt of court. It is so ordered.

21 Presented by:

22 Bill Walker, pro se  
23 PO Box 698  
24 Auburn, WA 98071-0698

Dated this day of , 2004

25 UNITED STATES DISTRICT JUDGE

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