**Cause No(s). \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**The State of Texas                             §           IN THE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COURT**

**§**

**VS.                                                       §          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   §          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, TEXAS**

**Judicial Notice**

## Pursuant under 201(d) of the Texas and Federal Rules of Evidence

## MANDATORY

Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.

#### MOTION TO CHALLENGE

#### SUBJECT MATTER JURISDUCTION

1. No legitimate information has been filed into evidence associated with the above cause.

If an offense cannot be accurately and clearly described without an allegation that the accused is not within an exception contained in the statutes, an indictment which does not contain such allegation is defective.  *United States v. Cook*, 84 U.S. (17 Wall.) 168, 174 (1872).

1. Article 5, Section 12(b) of the Texas Constitution states that the court does not have jurisdiction until the information is filed into court.

Texas Constitution - Article 5, Section 12(b)

“… The presentment of an indictment or information to a court invests the court with jurisdiction of the cause.

1. The prosecution has the burden of proof to show that the court has subject matter jurisdiction.

"A man must assign a good reason for coming (to the court).  If the fact is denied, upon which he grounds his right to come (into the court), he must prove it.  He, therefore, is the actor in the proof, and, consequently, **he has no right, where the point is contested, to throw the onus probandi on the defendant**."  Maxfield's *Lessee v. Levy*, 4 U.S. 330.  [Emphasis added]

1. The Accused demands this court to take Judicial Notice that it does not have subject matter jurisdiction.

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost. *Rankin v. Howard*, (1980) 633 F.2d 844, cert. den. *Zeller v. Rankin*, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326.

A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. *Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938).

When a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites he may be held civilly liable for abuse of process even though his act involved a decision made in good faith, that he had jurisdiction.  *Little v. U.S. Fidelity & Guaranty Co*., 217 Miss. 576, 64 So. 2d 697.

"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." *Ableman v. Booth*, 21 Howard 506 (1859).

"We (judges) have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.  The one or the other would be treason to the Constitution."  *Cohen v. Virginia*, (1821), 6 Wheat. 264 and *U.S. v. Will*, 499 U.S. 200.

Whereas, the Accused states that this court lacks subject matter jurisdiction and demands that this case be dismissed.

Respectfully,

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