

USPS Tracking RA 486 363 306 US

In The Common Law Court of Record Of
We the people of the United States of America
Tribunal, shirley jean oyer, Presiding

IN THE DISTRICT COURT OF JOHNSON COUNTY KANSAS

STATE OF KANSAS) Christina Dunn Gyllenborg, Judge
) Jameson O’Conner, Asst. District Attorney
 Plaintiff,)
)
 v.) Case no. 23CR03978
 benjamin judd gerber)
 Defendant)

“Judgment of Acquittal”

Comes Now, shirley jean oyer, sovereign, Tribunal, with a power of attorney (Exhibit 1) to lawfully challenge the conduct of Judge Christina Dunn Gyllenborg and District Attorney Jameson O’Connor for extorting a plea deal without jurisdiction or authority of law, utilizing “fiction of law” as the authority relied upon. To establish “personal and subject matter jurisdiction” for the court to exercise its authority a “Complaint” signed by an “injured party” must be present. The common practice of “fraud on the court”, by naming the “STATE OF KANSAS” as Plaintiff, establishes this “Fraud” is present as established by Maxim of God’s Law “Part fraud is all fraud.”

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- On the Record, For the Record:

18 U.S.C. 2076 – CLERK IS TO FILE: Whoever, being a clerk of a court of the United States willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both.

“Police Report Missing”

The issue in controversy is the “Police Report” establishing the police were acting within their authority of law. During the hearing O’Connor claimed it was the Overland Park Police that arrested the defendant. Tribunal visited the Overland Park Police Department and requested a copy of the “Police Report” related to the arrest, none was available and Tribunal was informed she would have to subpoena the “Police Report”. **“What does not appear on the record is considered nonexistent.”**

“Plea Deal”

The Defendant, benjamin judd gerber, from the beginning had requested a trial by jury. However, he was denied this request through threats, intimidation and coercion. In front of two witnesses a fraudulent “contract” was created claiming the Defendant waives all his rights by agreeing to the terms of the “Plea Deal”. For a Judge to allow a District Attorney to deny due process of law required by the 5th Amendment and “extort” a “plea deal” under threats, duress and coercion is “Organized Crime” prohibited by R.I.C.O. 18 U.S.C. 1951 (a)(b)(1) and (2). Every criminal prosecution must begin with a “Complaint” establishing jurisdiction over the individual named and crime alleged in the “Complaint”, to proceed without “Complaint” establishes “Lack of Jurisdiction”

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“Findings of Facts”

On December 12, 2023 benjamin-judd:gerber was in his truck parked off of 91st Street, west of Metcalfe Ave., in Overland Park, Kansas waiting for a ride. The Overland Park Police arrived and took him from his truck, assaulted, kidnapped him and deposited him at the Johnson County Detention Center. Shortly thereafter, the Johnson County Detention Center had to take benjamin judd gerber to the hospital for a medical emergency.

The police had no signed complaint from an injured party and therefore no authority to detain a union state citizen, a member of “We the People – sovereign body politic” By arrest and seizure of private property (towing Defendant’s truck) the Overland Park Police Department, acted without authority of law in “Conspiracy against rights” 18 U.S.C. 241 “Deprivation of rights under color of law” 18 U.S.C. 242

By this court allowing a fraudulent “Plaintiff” (STATE OF KANSAS) to prosecute without “Complaint” of an “Injured Party” based upon evidence (fruit-of-a-poisonous-tree) is clear violation of the 5th Amendment Right to “due process of law”. By the lack of personal and subject matter jurisdiction this court is venturing into Treason” 18 U.S.C. 238, as established by Supreme Court precedence as follows:

“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.” U.S. v Will, 449 U.S. 200, 216, 101 S.Ct. 471, 66L. Ed. 2d, 392, 406 (1980); COHENS v. VIRGINIA 19 U.S. 264, 404,5L. Ed. 257, 6 Wheat, 264 (1821).

Benjamin judd gerber was born in the state of Kansas on October 7, 1976 as shown by the attached “Affidavit of state of the union citizenship Status” document (Exhibit 2) that

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has been filed and certified in Johnson County, Kansas. This document states that Benjamin judd gerber is a state citizen and has never been a UNITED STATES citizen. It also states that Benjamin judd gerber has never worked or lived on any land owned or leased by the UNITED STATES. Benjamin judd gerber also testified that his parents and grandparents were state citizens and have never been UNITED STATES citizens.

Benjamin judd gerber filed for a United States passport and on his application he states that he is not a UNITED STATES citizen. "Affidavit of state of the union citizenship Status" has also been sent to the United States State Department to be made part of his permanent record.

"SOVEREIGNTY"

To be "sovereign" one must be born in a state, to a parent born in a state of the United States of America. benjamin judd gerber was born in Kansas City, Kansas, to his Mother Judith lorain lanningham, born in Missouri and his Father arnold william gerber II born in Kansas. The proof is before this Common Law Court of Record. "Sovereigns" are of the "Body Politic" of "We, the people" entitled to all rights, privileges ad immunities of all other "sovereigns" of the United States of America. "Sovereignty" is established by law as follows:

Constitution of the United States of America

The government of the United States of America, as established by "We the people of the United states" is a "constitutional Republic Nation of Laws", Out "Declaration of Independence" says "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are life liberty and the pursuit of happiness.----That to secure these

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rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.: This principle was incorporated into the Constitution of the United States as follows:

Article IV, Section 4

Section 4. Republican form of government guaranteed. – The United States shall guarantee to every state in this Union a republican form of government,...

Note: republican is an adjective describing a “Republic”.

Republican Government. One in which the powers of sovereign are vested in the people, either directly, or through representatives chosen by the people, to whom those powers are specifically delegated. [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Black’s Law Dictionary, 5th Edition, page 626]

Black’s Law Dictionary, 5th Edition, p. 388; Bond v. U.S. SCOTTUS recognizes personal sovereignty, June 16, 2011.

“No provision of the Constitution is designed to be without effect” “Anything that is in conflict is null and void of law.” “Clearly, for a secondary law to come in conflict with the supreme law is illogical, and certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bare no power to enforce, it would bare no obligation to obey, for unconstitutionality would date from enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, no Citizens are bound to obey it. It operates as a near nullity or a fiction of law.” “All codes, rules and regulations are for government authorities only, not human/creators in accordance with God’s laws. All codes, rules and

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regulations are unconstitutional and lacking due process..." [Rodrigues v. Ray Donavan (U.S. Department of Labor} 796 F. 2d 1344, 1348 (1985)] and again "All laws, rules and practices which are repugnant to the Constitution are null and void." [Marbury v. Madison, 5th U.S. (2 Cranch) 137, 174,176, (1803)]

District Attorneys, working in concert with corrupt "Judges" have created a system that allows criminal prosecution without an "injured party". "Standing" is the authority to invoke the Court's jurisdiction and allow a "Sovereign" to obtain remedy for violations of his rights to person and property. This has become an institution of "Mob Rule" (lawyers, judges and law enforcement) can incarcerate the people without due process of law required by the 5th Amendment. The use of the STATE OF KANSAS as "Plaintiff" is clear "Fraud on the Court" because the District Attorney lacks authority of "Standing" because he is not acting upon the authority of one of the people. This is only allowed in the case of "murder" all other cases require a complaint signed under penalty of perjury required by Rule 3 of the Federal Rules of Criminal Procedure, to invoke a Court's jurisdiction.

The State of Kansas is a "corporate entity" that cannot speak, write, appear or contract to be represented by an "Attorney". No "STATE" can produce a "Complaint" to establish "personal and subject matter jurisdiction" for any court. The "STATE" cannot testify to a "Grand Jury" to establish grounds to issue an "Indictment".. No "STATE" can be named "Plaintiff" of a "Criminal Case", the "Injured Party" must be the named "Plaintiff". The common practice of naming a "STATE" as "Plaintiff", is deemed unconstitutional in this Common Law, Court of Record because the "Defendant" is denied his Right to be confronted with the witnesses against him, secured by the 6th Amendment to all "Sovereigns" of the United States of America. The "STATE" cannot appear in any Court or be subject to "cross examination" thus denying "due process of law" required by the 5th

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Amendment. Only an "injured party" can be named as "Plaintiff" in any criminal case, to prosecute any "Sovereign" in the United States of America.

"Challenge to Jurisdiction"

It is common knowledge, the "Plaintiff" is required to establish the "Jurisdiction" of any Court to proceed in the United States of America. Christina Dunn Gyllenberg must publicly produce the "Complaint" signed by the "injured party" that gave her authority to prosecute and gives the Court "personal and subject matter jurisdiction" Only a signed "Complaint" can give "personal jurisdiction" over the person named and "subject matter jurisdiction" over the crimes alleged in the "Complaint". By this court allowing a fraudulent "Plaintiff" (STATE OF KANSAS) to prosecute without "Complaint" of an "Injured Party" based upon evidence (fruit-of-a-poisonous-tree) is clear violation of the 5th Amendment Right to "due process of law". By the lack of personal and subject matter jurisdiction this court is venturing into Treason" 18 U.S.C. 238, as established by Supreme Court precedence as follows:

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Failure to a holder, of a "Public Office", to exercise his "legal duty" establishes neglect, negligence by breach of duty, gross negligence and in this cause criminal negligence creating liability personal liability, remedial liability and penal liability. Based upon these a "sovereign" has the power to issue a "Bill of Attainder" to remove those within government who refuse to enforce our law or the rights, privileges and immunities

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secured by law to all “sovereigns”. This right is secured by the 10th Amendment as follows:

Amendment X

“The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

“Within the common law of a “Court of Record” the “Tribunal” has the following authority”

(1) “A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it.” [Jones v. Jones 188 Mo.App.220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 224 N.Y. 406, 155 N.E. 688] [Black’s Law Dictionary 4th Ed., 425, 426] “Judges are magistrates.” {N.Y. Cri. Law Sec. 30: N.Y. Code – Section 30]

(2) “Proceeding according to the course of common law.” [Jones v. Jones 188 Mo.App.220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 224 N.Y. 406, 155 N.E. 688] [Black’s Law Dictionary 4th Ed., 425, 426]

(3) “Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony.” [3 Bl. Comm. 24;3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga. 24 F. 481; Ex parte Thistleton, 52 Cal 255; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231] [Black’s Law Dictionary 4th Ed., 425, 426]

(4) “Has power to fine and imprison for contempt.” [3 Bl. Comm. 24;3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga. 24 F. 481; Ex parte Thistleton, 52 Cal 255; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231] [Black’s Law Dictionary 4th Ed., 425, 426]

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(5) “Generally possess a seal” [3 Bl. Comm. 24;3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga. 24 F. 481; Ex parte Thistleton, 52 Cal 255; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231] [Black’s Law Dictionary 4th Ed., 425, 426]

“Order”

In this Common Law, Court of Record it is hereby “Ordered” that Judge Christina Dunn Gyllenborg establish “personal and subject matter jurisdiction” within three days of the “filing of this “Judgment of Acquittal” or dismiss this case in its entirety as “fraud on the court”.

It is so “Ordered” on this 3rd day of May, of the ear of our Lord, 2024.

Tribunal shirley jean oyer now adjourns this Comon Law, Court of Record of We the people of the United States of America

In God we Trust

shirley jean oyer, sovereign, Tribunal

Without prejudice UCC 1-308

2918 Mercier St.

Kansas City, Missouri 64108

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816/223-1600

CERTIFICATE OF SERVICE

I, shirley jean oyer, certify by my signature above that a copy of the foregoing has been delivered by mail to the Clerk of the Court and emailed this May 3, 2024 to Evan M. O’Brien, Assistant Public Defender at evobrien@sbids.org and Jameson O’Conner, Assistant District Attorney at 150 W Santa Fe St., Olathe, Kansas 66061.

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