

KANSAS SUPREME COURT

FILED
SEP 03 2024
DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

Shirley Jean Oyer for and on behalf of)
Benjamin Judd Gerber.) Petition for redress of grievances
Plaintiff/Defendant) within the First Amendment of the
) Constitution for the United States
Vs)
STATE OF KANSAS) Case No. 23CR03978
Defendant/Plaintiff)

24-128135 -- S

WRIT OF HABEAS CORPUS
BY AFFIDAVIT OF PROOF OF
Benjamin Judd Gerber

STATE OF KANSAS
JOHNSON COUNTY KANSAS

I, Shirley Jean Oyer am an American and a member of We the People... sovereign body politic of the United States of America, acting for and on behalf of Benjamin Judd Gerber with "power of attorney".

PREAMBLE

(for the Constitution for the United States of America)

We the People of the United States in Order to form a more perfect Union establish Justice, insure domestic Tranquility, provide for the Common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

All authority and jurisdiction throughout the entire union of the United States of America trickles down from the Constitution create by We the People...sovereign body politic of the United States of America.

No one or agency of government can have authority or jurisdiction over its creator, We the People...sovereign body politic of the United States of America.

Sovereignty rests with the People:

Chisholm v. State of Georgia In the Supreme Court case of **Chisholm v. Georgia**, the justices rejected Georgia's claim of sovereignty and concluded that the people, not state governments, are sovereign.

The Supreme Court gets its authority from the Constitution of the United States of America

All others' courts, federal, state, city, and municipal gain their jurisdiction from the above. All agencies of government, federal, state, city, and municipalities also gain jurisdiction from the above.

Kansas Bill of Rights, Sec 2 Political Power; privileges:

All political power is inherent in the people, and all free governments are founded on their authority and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

There is no jurisdiction gained over a member of "We the people...sovereign body politic of the United States of America" unless they have injured another. There has to be a signed complaint from an injured party for any court or agency to obtain jurisdiction over a member of "We the people...sovereign body politic of the United States of America".

Comes now, Shirley Jean Oyer for and on behalf of Benjamin Judd Gerber, a member of We the People...sovereign body politic of the United States of America to lawfully challenge the conduct of unknown Police Officer, 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.

To be a member of "We the People...sovereign body politic of the United States of America" one must be born in one of the Union states and have 1 parent born in one of the Union states.

I, Shirley Jean Oyer, was born 7-15-41 in the Union State of Missouri, Certificate of Live Birth Number 124-41-039225, Mother Eleanor Emma Reinagel Hoshaw, born in St Louis, Missouri and Father, John Jacob Hoshaw, born in Kansas City, Missouri. Both parents were born in a Union State as stated on passport # 5496066051.

I, Benjamin Judd Gerber, was born 10-07-1976 in the Union State of Kansas, Certificate of Live Birth Number 115-76-027026. Mother, Judith Lorain Lanningham, born in Jackson County Missouri and Father, Arnold William Gerber II, born in Kansas City Kansas. Both parents are born in a Union State as shown by my application for Passport NO. 421815151 issued by the State Department of the United States of America.

FACTS OF THE CASE

1. On the morning of December 12, 2023 Benjamin Judd Gerber was parked around 91st & Metcalfe, Overland Park, Kansas. He had telephoned me for a ride but before this could happen, a police officer wearing a gun and displaying a badge from a police department took him out of his truck. No police report has been introduced in this case, I was told by the Overland Park Police that I could not have a copy and that one would have to be subpoenaed by an attorney. Benjamin Judd Gerber expressed to me that this police officer was laughing and making fun of him and trying to get him to say things that he would not say. This police officer then threatened him into blowing into a tube saying that if he didn't do as asked, blood would be taken. At this point, Benjamin Judd Gerber's 4th and 5th Amendments of the United States Constitution and the Kansas Bill of rights Sec. 10 rights against self-incrimination have been violated. Benjamin Judd Gerber was then kidnapped and had his property stolen (truck was towed)
2. Benjamin Judd Gerber then expressed to me that he remembered being taken somewhere for processing and being transported to Johnson County Detention Center. Apparently Benjamin Judd Gerber thought that wherever he was taken for processing didn't have a holding cell. This happened around 1:00 am. My, Shirley Jean Oyer's, memory of that morning is a little bit fuzzy. Later Benjamin Judd Gerber was sent by the Johnson County Detention Center to the hospital on a medical emergency.
3. This officer was acting without authority to remove Benjamin Judd Gerber from his truck as this police officer had no complaint signed by an injured party, he had no warrant supported by a complaint signed by an injured party and he had no indictment from a grand jury supported by a complaint signed by an injured party.

From this point forward everything is "Fruit of the Poisonous Tree".

4. I, Shirley Jean Oyer, who holds "limited power of attorney" for conducting legal affairs for and on behalf of Benjamin Judd Gerber, presented an "Amicus Curiae Brief" to be filed in his case. The clerk said that she would have to get the Judge's permission to file this document. Later the clerk sent an email saying that the judge did not give her permission to file. This conduct established "Obstruction of Justice" 18 U.S.C 1503. Because the Judge refused to file the "Amicus Curiae Brief" establishes a violation of the 5th Amendment Right to "due process of law" by the suppression of evidence.
5. Benjamin Judd Gerber requested a trial by jury and was denied. This was a violation of Kansas Bill of Rights, Sec. 5, Trial by jury. The right of trial by jury shall be inviolate, and establishes a violation of the 6th Amendment Right to trial by jury in a criminal case.

6. Benjamin Judd Gerber was once again threatened (in front of two witnesses, Benjamin Jedd Gerber's mother and Shirley Jean Oyer) to accept and sign a plea agreement or face 41 months in prison.

14th AMENDMENT

SEC 1. Citizenship; privileges or immunities; due process clause. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the Unites States and of the Sate wherein they reside.

Benjamin Judd Gerber was not born in the United States or naturalized in the United States and subject to the jurisdiction thereof and is not a citizen of the United States. He was born in the independent country of Kansas.

No American can be born in the United States or the United States of America, as these are titles of an organization ordained and established by, We the People...sovereign body politic of the United States. This organization is made up of 50 independent countries for specific purposes.

See **Title 28 U.S. Code § 297** - Assignment of judges to courts of the freely associated compact states

(a)

The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit, district, magistrate, or territorial judge of a court of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

(b)

The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection.

CONCLUSION

If the above is not refuted, it will stand as truth.

The unknown Police Officer, Judge Christina Dunn Gyllenborg or District Attorney Jameson O'Connor need to present a complaint signed by an injured party within 30 days or this cause of action should be dismissed in its entirety. Benjamin Judd Gerber should

be released immediately and all bails, fines, towing fees and other expenses for unlawful incarceration should be returned to Plaintiff/Defendant.



By: Shirley Jean Oyer, by and on behalf of
Benjamin Judd Gerber
Members of "We the People...sovereign
body politic of the United States of America
UCC 1-308

[REDACTED]
Kansas City, Mo. 64108
[REDACTED]

commonlawcourtofrecords@gmail.com

Attachments submitted as evidence:

Copy of Power of Attorney
Copy of "Affidavit of state of the union citizenship Status",
filed in Johnson County Kansas with Birth Certificate
Copy of application for Passport #421815151
Copy of Passport #421815151

CERTIFICATE OF SERVICE

I, Shirley Jean Oyer, certify by my signature above that on September 9, 2024 a copy of the foregoing has been delivered by certified mail to Judge Christina Dunn Gyllenborg at the Johnson County Courthouse, 150 W Santa Fe St., Olathe, Kansas 66061, Jameson O'Connor, Assistant district Attorney at 150 w Santa Fe St., Olathe Kansas 66061, to unknown Police Officer through Sheriff Calvin Hayden through Undersheriff Daryl Reece at darylreece@jocogov.org. and to Evan M. O'Brien, Assistant Public Defender at evobrien@sbids.org.

Special Power of Attorney

I, benjamin-judd: gerber, residing at [redacted] St., Shawnee, Kansas 66216, hereby appoint shirley-jean: oyer of [redacted], Kansas City, Missouri 64108, as my attorney-in-fact ("Agent") to exercise the powers and discretions described below...

The Power of Attorney is revoked and shall not be effective if I am incapacitated.

However, the preceding sentence shall not have the effect of revoking any powers of attorney that are directly related to my health care that previously have been signed by me.

My Agent shall have full power and authority to act on my behalf but only to the extent permitted by this Special Power of Attorney. My Agent's powers shall include the power to:

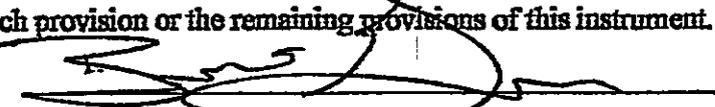
1. Institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests or distresses, involving me in any way.

I hereby grant to my Agent the full right, power, and authority to do every act, deed, and thing necessary or advisable to be done regarding the above powers, as fully as I could do if personally present and acting.

My Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, my Agent shall be liable for a willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney. A Successor Agent shall not be liable for the acts of a prior Agent.

No person who relies in good faith on the authority of my Agent under this instrument shall incur any liability to me, my estate or my personal representative. I authorize my Agent to indemnify and hold harmless any third party who accepts and acts under this document.

If any part of any provision of this instrument shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provision or the remaining provisions of this instrument.

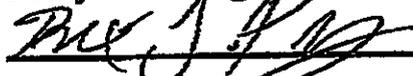

Benjamin-judd: gerber, Kansan, state of the union citizen

STATE OF Kansas

COUNTY OF Johnson

BEFORE ME, appeared benjamin-judd: gerber, a Kansan, known to me, and who swore/affirmed the foregoing statements are true and correct, on the 13th day of MAR, 2024.

Notary Public - Signature



Notary Public - Printed Name

REX T. PAGE

My commission expires: 08/16/2027

REX T. PAGE
Notary Public-State of Kansas
My Appl. Expires 08/16/27

JD CD KS BK:202403 PG:003544
20240320-0003544 3/20/2024
Pages: 4 F: \$16.00 12:38 PM
Register of Deeds T20240009482

Affidavit of state of the union citizenship Status

Date of Document March 11, 2024

Grantor benjamin-judd gerber

Grantee benjamin-judd gerber

Instrument Type Miscellaneous

c/o [REDACTED] t.

Shawnee, Kansas [66216]

Affidavit of Facts

by benjamin-judd: gerber

In support of

state of the Union citizenship status

I, benjamin-judd: gerber, a man born upon the land within the boundaries of one of the several states of the union,

Affidavit of Facts

1. I, benjamin-judd: gerber being of sound mind am a Kansan as evidenced by the attached certified Birth Certificate, file number 10571, issued by Kansas state which is proof of this fact. I was born within the boundaries of Kansas state, one of the states of the union on [REDACTED]
2. I am a Kansas, state citizen, and I have never been a UNITED STATES citizen.
3. I have never worked or lived on any land owned or leased by the UNITED STATES.
4. I, benjamin-judd: gerber, hereby testify that my parents and grandparents were state citizens and have never been UNITED STATES citizens.

Date: 13 Feb 2024

benjamin-judd: gerber, Kansan, state of the union citizen

BEFORE ME, Rex T. Page, a Notary Public in and for STATE OF Kansas, appeared, benjamin-judd: gerber, known and made known to me

and affirmed the truth of the facts herein stated, and placed his signature on this document on the 13 day of FEB, Anno Domini Two thousand and twenty four (2024).

Rex T. Page
Notary Public STATE OF Kansas

My commission expires 08/16/2027

REX T. PAGE
Notary Public-State of Kansas
My Appt. Expires 08/16/27



State of Kansas

Johnson County

)
) SS

I, the Register of Deeds, of Johnson County, Kansas do hereby certify that the within and foregoing is a true, complete, and correct copy as recorded in Volume 202103 at Page 003544 total number of pages 4, as the same remains of record. Witness my hand and official seal this 20 day of March, A.D. 20 24
Amy Meeker-Berg by Stephan Handberg
Register of Deeds

10571

OCT 26 1978
KANSAS STATE DEPARTMENT OF HEALTH
Division of Vital Statistics
447-1

(Do Not Write In This Box) ✓
115-76-027026

CERTIFICATE OF LIVE BIRTH

| | | | | | | |
|---|---|---|------------------------|--|--|--|
| LOCAL FILE NUMBER | | MIDDLE | | LAST | DATE OF BIRTH (MONTH, DAY, YEAR) | HOUR |
| 1. CHILD—NAME | | Benjamin Judd | | Gerber | | 1:50 A |
| 2. SEX | THIS BIRTH—SINGLE, TWIN, TRIPLE, ETC. (SPECIFY) | IF NOT SINGLE BIRTH—SOME FIRST, SECOND, THIRD, ETC. (SPECIFY) | | COUNTY OF BIRTH | | |
| Male | single | | | Wyandotte | | |
| CITY, TOWN, OR LOCATION OF BIRTH | | INSIDE CITY LIMITS (SPECIFY YES OR NO) | HOSPITAL—NAME | | | |
| 3. Kansas City, Kansas | | yes | Bethany Medical Center | | | |
| MOTHER—Maiden Name | | FIRST | MIDDLE | LAST | AGE (AT TIME OF THIS BIRTH) | STATE OF BIRTH (IF NOT IN U.S.A., NAME COUNTRY) |
| 4. Judith Lorraine | | Judith | Lorraine | Lanningham | 24 | Kansas |
| RESIDENCE—STATE | COUNTY | CITY, TOWN, OR LOCATION | | INSIDE CITY LIMITS (SPECIFY YES OR NO) | STREET AND NUMBER | |
| 5. Kansas | 6. Wyandotte | 7. Kansas City | | yes | | |
| FATHER—NAME | | FIRST | MIDDLE | LAST | AGE (AT TIME OF THIS BIRTH) | STATE OF BIRTH (IF NOT IN U.S.A., NAME COUNTRY) |
| 8. Arnold William | | Arnold | William | Gerber | 25 | Kansas |
| PARENT'S VERIFICATION: I hereby certify that the information in items 1 thru 9 and 12 thru 17 is correct to the best of my knowledge. | | | | | | DATE SIGNED: |
| 9. SIGNATURE: <i>Judith L. Lanningham</i> | | | | | | |
| MOTHER'S MAILING ADDRESS: (Street or R. F. D. No., City or Town, State, Zip No.) | | | | | | |
| 10. Kansas City, Kansas 66111 | | | | | | |
| I CERTIFY THAT THE ABOVE NAMED CHILD WAS BORN ALIVE AT THE PLACE AND TIME AND ON THE DATE STATED ABOVE. | | | | DATE SIGNED | ATTENDANT—M.D., D.O., MIDWIFE, OTHER (SPECIFY) | |
| 11. SIGNATURE: <i>C. T. Stubblefield</i> | | | | | 12. M.D. | |
| CERTIFIER—NAME | | | | MAILING ADDRESS | | STREET OR R. F. D. NO., CITY OR TOWN, STATE, ZIP |
| 13. C. T. Stubblefield MD | | | | 14. 155 South 18 Kansas City, Kansas 66102 | | |
| REGISTRAR—SIGNATURE | | | | | | DATE RECEIVED BY LOCAL REGISTRAR |
| 15. <i>George T. Anonemon</i> | | | | | | |

STATE SEAL COLOR WILL FADE WHEN RUBBED

This is a true and correct copy of the official record on file in the Office of Vital Statistics, Topeka, Kansas, certified on the date stamped below.

2024 Mar 14 AM 11:38



Kay Haug,
State Registrar
Office of Vital Statistics
Department of Health & Environment

N2419693

It is in violation of KSA 65-2422d(g) to prepare or issue any certificate which purports to be an original, certified copy or abstract or copy of a certificate, except as authorized in the Uniform Vital Statistics Act or rules and regulations adopted under this act.

CERTIFIED COPIES WILL BE PRODUCED ON WATERMARKED MULTI-COLOR SECURITY PAPER.

Aug 2015

Name of Applicant (Last, First, & Middle) Gerber Benjamin Judd Date of Birth (mm/dd/yyyy) [REDACTED]

10. Parental Information Mother/Father/Parent - First & Middle Name (at Parent's Birth) Arnold William II Gerber Last Name (at Parent's Birth)

Date of Birth (mm/dd/yyyy) [REDACTED] Place of Birth (City & State if in the U.S. or City & Country as it is presently known) Kansas City Kansas Gender [X] M U.S. Citizen? Yes No [X] No

Mother/Father/Parent - First & Middle Name (at Parent's Birth) Judith Lorain Lanningham Last Name (at Parent's Birth)

Date of Birth (mm/dd/yyyy) [REDACTED] Place of Birth (City & State if in the U.S. or City & Country as it is presently known) Jackson County Missouri Gender [X] F U.S. Citizen? Yes No [X] No

11. Have you ever been married? Yes No If yes, complete the remaining items in #11. Full Name of Current Spouse or Most Recent Spouse (Last, First & Middle) Lewis Sarah Christine Date of Birth (mm/dd/yyyy) [REDACTED] Place of Birth Ponca City Oklahoma

U.S. Citizen? Yes No [X] No Date of Marriage (mm/dd/yyyy) 7/9/2002 Have you ever been widowed or divorced? Yes No [X] No Widow/Divorce Date (mm/dd/yyyy) 8/7/2014

12. Additional Contact Phone Number [REDACTED] 13. Occupation (if age 16 or older) Retired 14. Employer or School (if applicable)

Home [X] Cell Work [REDACTED] 18. Travel Plans (If no travel plans, please write "none") NONE 19. Permanent Address (Complete if P.O. Box is listed under Mailing Address or if residence is different from Mailing Address. Do not list a P.O. Box.)

Street/RFD # or URB [REDACTED] Apartment/Unit City Shawnee State KS Zip Code 66216

20. Your Emergency Contact (Provide the information of a person not traveling with you to be contacted in the event of an emergency.) Name Judy Anderson Address: Street/RFD # or P.O. Box [REDACTED] Apartment/Unit

City Shawnee State KS Zip Code 66216 Relationship Mother

21. Have you ever applied for or been issued a U.S. Passport Book or Passport Card? Yes No If yes, complete the remaining items in #21.

Name as printed on your most recent passport book Gerber Benjamin Judd Most recent passport book number 421815151 Most recent passport book issue date (mm/dd/yyyy) 14 Mar 2007

Status of your most recent passport book: Submitting with application Stolen Lost [X] In my possession (if expired)

Name as printed on your most recent passport card Gerber Benjamin Judd Most recent passport card number [REDACTED] Most recent passport card issue date (mm/dd/yyyy)

Status of your most recent passport card: Submitting with application Stolen Lost [X] In my possession (if expired)

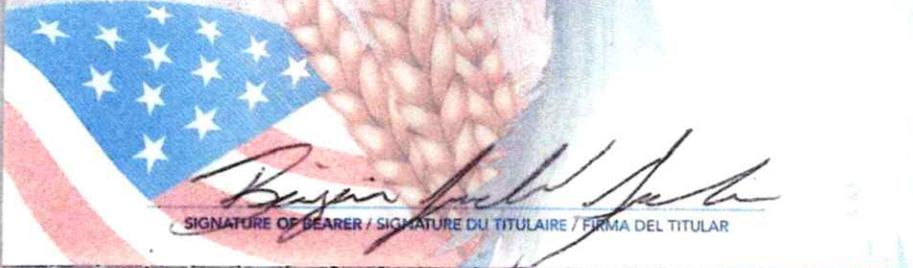
PLEASE DO NOT WRITE BELOW THIS LINE - FOR ISSUING OFFICE ONLY

Name as it appears on citizenship evidence Birth Certificate SR CR City Filed: Issued: Sole Parent Nat. / Citiz. Cert. USCIS USDC Date/Place Acquired: A# Report of Birth Filed/Place: Passport C/R S/R See #21 #DOI: Other: Attached:

[REDACTED] DS 11 A 03 2022 2

We the People

*Of the United States,
in Order to form a more perfect Union,
establish Justice, insure domestic Tranquility,
provide for the common defence,
promote the general Welfare, and secure
the Blessings of Liberty to ourselves and
our Posterity, do ordain and establish this
Constitution for the United States of America.*



SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR

| | | |
|---|---|--|
| PASSPORT PASSEPORT PASAPORTE | UNITED STATES OF AMERICA | |
| Type / Type / Tipo | Code / Code / Código | Passport No. / No. du Passeport / No. de Pasaporte |
| P | USA | 421815151 |
| Given Name / Apellido | Family Name / Nombres | |
| [REDACTED] | JUDD | |
| | Nationality / Nacionalidad | |
| | UNITED STATES OF AMERICA | |
| | Date of Birth / Date de naissance / Fecha de nacimiento | |
| | Date of Issuance / Date de naissance / Lugar de nacimiento | |
| | Sex / Sexe / Sexo | M |
| | Authority / Autorité / Autoridad | United States Department of State |
| | Date of Expiration / Date d'expiration / Fecha de caducidad | |
| | Remarks / Remarques / Anotaciones | |
| | | USA |
| BENJAMIN JUDD | | |
| 421815151 | | |