

No. 21 - 7237

ORIGINAL

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IN THE  
SUPREME COURT OF THE UNITED STATES

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FILED  
FEB 24 2022  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

John Dalen,

*Petitioner,*

v.

The State

*Respondent.*

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On Petition for Writ of Certiorari  
to the South Carolina Court of Appeals

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PETITION FOR WRIT OF CERTIORARI

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John D. Dalen  
108 Jessie Road  
Westminster, SC 29693  
Phone #: 864.647.4705  
APPEARING PRO PER

## A. QUESTIONS PRESENTED FOR REVIEW

1. Was Petitioner, John Dalen denied his Constitutionally-protected Common Law right to travel where the State has converted the right to travel into a privilege?
2. Was the Petitioner, John Dalen denied due process of law by the State wherein the State ignored the Common Law principles of a crime and prosecuted the Petitioner under Statutory Rules that circumvent the United States Constitution and the Common Law?
3. Were Petitioner's First Amendment rights violated by the state's trial and criminal conviction for not obtaining a driver's license? The South Carolina state statute requires applicants for a driver's license to produce a Social Security card in order to obtain said license. The federal Social Security statutes do not require anyone to obtain a number unless that person is requesting federal benefits. John Dalen rescinded his Social Security number many years ago and no longer has a Social Security card, making it impossible for him to comply with the state statute without compromising his religious beliefs.

## **B. LIST OF PARTIES**

The parties involved in this case are:

All parties appear in the caption of the case on the cover page.

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1. To determine whether fundamental Constitutionally-protected rights, i.e. the right to travel or the right to trial under the Common Law, can be converted into a privilege by the State, and/or denied to a citizen by the conversion of that right to a privilege.	
2. There are numerous U.S. Supreme Court decisions affirming that a State may not convert a right to a privilege, and the Petitioner has relied on these opinions. Petitioner was prosecuted under Statutory laws which undermined the Petitioner's Common Law rights.	
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## 2. TABLE OF CITED AUTHORITIES

### a. Cases

**Buchanan v. Warley**, 245 US 60 (1917)..... P. 2

“The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution.”

**Boyd v. United States**, 116 US 616 ..... P. 3

“It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon.”

**Byars v. U.S.**, 273 U.S. 28, 32 (1927) ..... P. 3

Constitutional provisions to be liberally construed, and “it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon.”

**Chicago Motor Coach v. Chicago**, 169 NE 22 ..... P. 3

Ligare v. Chicago, 28 NE 934..... Pp.10, 13

Boon v. Clark, 214 SSW 607..... Pp.10, 13

“The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”

**Connolly v. Union Sewer Pipe Co.**, 184 US 540 ..... P. 3

“With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority.”

**Hale v. Henkel**, 201 U.S. 43 (1906) ..... Pp. 3, 5, 9

“We are of the opinion that there’s a clear distinction . . . between an individual and a corporation.... The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State.... He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution.”

**Hurtado v. California**, 110 U.S. 516 ..... P. 5

“The state cannot diminish Rights of the people.”

Due process of law is process of law according to the law of the land, i.e. the U.S. Constitution as exercised within the limits prescribed and interpreted according to the principles of common law.

**Marbury v. Madison**, 5 U.S. 137 ..... P. 5

Constitution is the Supreme Law of the land. Any law in conflict is null and void.

**Miller v. U.S.**, 230 F.2d 486, 489 ..... Pp. 3, 5

“The claim and exercise of a Constitutional Right cannot be converted into a crime.”

**Miranda v. Arizona**, 384 US 436, 491 ..... Pp. 3, 5

“Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them.”

**Murdock v. Pennsylvania, 319 US 105..... P. 5**

The state may not convert a secured liberty into a privilege, and issue a license and fee for it.

**Sherbert v. Verner, 374, U.S. 398 (1963)..... Pp. 3, 5**

*First Amendment* case, U.S. Supreme Ct. overturned South Carolina Supreme Court. The court created the Sherbert Test to determine whether government acts infringe upon religious freedoms. Of note: “compelling interest” and “narrowly tailored” are key requirements for strict scrutiny – to be applied where a law may be infringing on individual freedoms.

**Shuttlesworth v. Birmingham, Alabama, 373 U.S. 262..... P. 5**

“If the state does convert your right into a privilege and issue a license and charge a fee for it, you can ignore the license and fee and engage in the right with impunity.”

**Simmons v. United States, 390 US 389 ..... P. 5**

“We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another.”

**Sherar v. Cullen, 481 F.2d 945 ..... P. 5**

“There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights.”

**Stephenson v. Binford, 287 US 251..... P. 3**

Explains distinction between “Right” to use public roads and “privilege”



**Thompson v. Smith**, 154 SE 579..... P. 5

“The Right of the citizen to travel...is not a mere privilege...but a common Right which he has under the right to life, liberty, and the pursuit of happiness.”

**United States v. Carolene Products Co.**, 304 U.S. 144 (1938)..... P. 5

*Footnote 4*, Strict Scrutiny Standard

**US v. Bishop**, 412 US 346..... P. 5

Regarding criminal elements required to be proven – willfulness is one of the major elements defined as an “evil motive or intent to avoid a known duty...under the law”.

**b. Statutes**

**South Carolina Code of Laws, Title 56, Chapter 1**..... P. 4

Motor Vehicles. See: Sec. 56-1-20

**c. Other Authorities**

**II Am. Jur. (1<sup>st</sup>) Constitutional Law**, Sec. 329, p. 1135..... P. 3

“The right of a citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing

another’s rights, he will be protected, not only in his person, but in his safe conduct.”

**16 Am. Jur. 2d, Sec. 70..... P. 3**

No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution

**16 Am. Jur. 2d, Sec. 177 late 2d, Sec. 256..... P. 5**

“The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land.”

**16 Am. Jur. 2d, Sec. 260..... P. 3**

Right to travel

**25 Am. Jur. (1<sup>st</sup>) Highways, Sec. 260 ..... P. 5**

Requirement that regulations not violate constitutional guarantees

**25 Am. Jur. (1<sup>st</sup>) Highways, Sec. 427, Pg. 717..... P. 5**

Defines terms: Travel and Traveler

**Black’s Law Dictionary, 4<sup>th</sup> Edition..... P. 5**

Definitions of “Motor Vehicle” “Driver” and “License”

**Oxford English Dictionary..... P. 5**

Defines “term of art” as a word or phrase that has a precise, specialized meaning within a particular field or profession.

West’s Encyclopedia of American Law, Ed. 2..... P. 5

Defines “term of art” as a word or phrase that has special  
meaning in a particular context.

**d. United States Constitution**

U. S. Constitution, Article III..... P. 2

“The judicial power shall extend to all cases...”

U. S. Constitution, Article VI..... P. 2

Constitution is the Supreme Law of the Land and judges are  
bound thereby

U. S. Constitution, 1st Amendment..... P. 5

Freedom of Religion

U. S. Constitution, 4<sup>th</sup> Amendment..... Pp. 2, 3, 5

Unreasonable Search and Seizure

U. S. Constitution, 5<sup>th</sup> Amendment..... P. 5

Due Process of Law

U.S. Constitution, 14<sup>th</sup> Amendment..... Pp. 2, 5

Applying 1<sup>st</sup> Amendment Protections to the States

The Petitioner, John Dalen, requests that the Court issue its writ of certiorari review of the judgment of the South Carolina Court of Appeals entered in this case on December 2, 2020.<sup>1</sup> The Opinion Denying Rehearing was entered on January 21, 2021. The Petition for Writ of Certiorari to the South Carolina Supreme Court was denied on December 10, 2021.

#### **D. CITATION TO OPINION BELOW**

John D. Dalen, Appellant v. The State, Appellate Case No. 2018- 000637, Unpublished Opinion No. 2020-UP-323, filed December 2, 2020. The opinion of the highest state court to review the merits appears in Appendix A at page 1.

#### **E. BASIS FOR JURISDICTION**

The date on which the highest state court decided my case was December 2, 2020. A copy of that decision appears in Appendix A at page .

A timely petition for rehearing was thereafter denied on the following date: January 21, 2021, and a copy of the order denying rehearing appears in Appendix A at page .

The South Carolina Supreme Court denied the Appellant's petition for writ of certiorari on December 10, 2021, and the order appears in Appendix A, at page .

The jurisdiction of the Court is invoked under 28 U. S. C. § 1257(a).

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<sup>1</sup> References to the appendix to this petition will be made by the designation "A" followed by the appropriate page number.

## **F. CONSTITUTIONAL PROVISIONS AND LEGAL PRINCIPLES INVOLVED**

The U.S. Constitution Article III provides that the judicial power shall extend to all cases, and the U.S. Constitution Article VI states that the Constitution is the Supreme Law of the Land and judges are bound thereby. The United States Constitution's First Amendment guarantees the right of the people to be free in the exercise of their religious beliefs.

The U.S. Constitution Fourth Amendment protects the people from unreasonable search and seizure. The U.S. Constitution Fifth Amendment provides for due process of law, which is process in accordance with the United States Constitution and the Common Law. And the U.S. Constitution 14<sup>th</sup> Amendment applies these protections to the States.

## **G. STATEMENT OF THE CASE**

### **1. Factual Background**

Petitioner was stopped at a South Carolina State check point and asked to produce a driver's license. Petitioner informed the officer that he had not committed any crime and asked if he was free to go at which point the officer informed the Petitioner that he would be arrested if he did not produce a driver's license. Petitioner was subsequently issued a citation for "driving without a license," and then he was released. (See: *Buchanan v. Warley*, 245 U.S. 60;

*Connolly v. Union Sewer Pipe Co.*, 184 U.S. 540; *Miller v. U.S.*, 230 F.2d 486, 489; *Miranda v. Arizona*, 384 U.S. 436, 491; *16 Am. Jur.*, 2d, Sec. 70; *U.S. Constitution 4<sup>th</sup> Amendment*.) At the trial court, the Petitioner repeatedly asserted his rights, saying he was not a driver, and that the officer in question had falsely arrested him, and the officer had threatened to seize Petitioner's property (a 1989 Chevy van). Petitioner challenged the trial court's jurisdiction and the court, after failing to prove jurisdiction, proceeded to trial anyway which resulted in a criminal conviction for the Petitioner. Also at trial, Petitioner informed the magistrate that the driver's license law required an applicant to produce a Social Security card as part of required identification in order to obtain a driver's license. Petitioner told the magistrate that he had in fact rescinded his Social Security number years ago, and did not have such a card. The Federal law does not require anyone to obtain a Social Security number unless applying for benefits. The Petitioner informed the court that he does not wish to get any benefits from the government and objected to the number on religious grounds, and therefore could not apply for a Social Security card. (See: *Boyd v. United States*, 116 U.S. 616; *Byars v. U.S.*, 273 U.S. 28, 32; *Chicago Motor Coach v. Chicago*, 169 NE 22; *Hale v. Henkel*, 201 U.S. 43; *Sherbert v. Verner*, 374 U.S. 398; *Stephenson v. Binford*, 287 U.S. 251; *II Am. Jur. (1<sup>st</sup>) Constitutional Law*, Sec. 329; *16 Am. Jur.* 2d Sec. 260; and the *U.S. Constitution 4<sup>th</sup> Amendment* .)

On appeal, Petitioner reasserted his rights and informed the court that the U.S. Supreme Court had repeatedly ruled that the State cannot convert a right into a privilege, issue a license and charge a fee for the exercise thereof. (See: *South Carolina Code of Laws*, Title 56, Chapter 1, Motor Vehicles Sec. 56-1-20.) This Motor Vehicles Statute clearly states that it is granting a privilege. Petitioner believes that this statute as well as any other licensing statute can only apply to fictional or corporate entities if it is to be constitutional; and therefore, as it was applied to the Petitioner who is a living, breathing being, and who had no contracts with the State that would show otherwise, this statute is blatantly unconstitutional. The Appellate Court dismissed all of the Petitioner's arguments and affirmed the Trial Court's conviction. Petitioner was thus denied due process of law.

Common Law requires that a criminal conviction must have an injured party and/or involve damage to persons or property. The State, as a fictional creation, cannot be the victim. There was no victim in this case and there was no property damage; therefore there cannot be a crime under Common Law. The Petitioner was merely exercising a Constitutionally-protected right that the State, through its Motor Vehicles Statute, has "converted" into a privilege and attempted to issue a license, charge a fee, and criminalize the exercise of a Constitutionally-protected right for noncompliance with the Statute. Petitioner believes this Statute is blatantly unconstitutional, and he is relying on previous U.S. Supreme Court decisions. These decisions are itemized in the Table of

Contents for this document with a line describing the decision of the court underneath the title of the case, and listed as follows: *Hale v. Henkel*, 201 U.S. 43; *Hurtado v. California*, 110 U.S. 516; *Marbury v. Madison*, 5 U.S. 137; *Miller v. U.S.*, 230 F.2d 486, 489; *Miranda v. Arizona*, 384 U.S. 436, 491; *Murdock v. Pennsylvania*, 319 U.S. 105, *Sherbert v. Verner*, 374 U.S. 398; *Shuttlesworth v. Birmingham, Alabama*, 373 U.S. 262; *Simmons v. United States*, 390 U.S.389; *Sherar v. Cullen*, 481 F.2d 945; *Thompson v. Smith*, 154 SE 579; *United States v. Carolene Products Co.*, 304 U.S. 144, footnote 4; *U.S. v. Bishop*, 412 U.S. 346; *16 Am. Jur. 2d*, Sec. 177 late 2d Sec. 256; *25 Am. Jur. (1st) Highways* Sec. 260; *25 Am. Jur. (1st) Highways*, Sec. 427, pg. 717; *Black's Law Dictionary, 4th Ed.*, Definitions of Motor Vehicle, Driver, and License; U. S. Constitution Articles III, and IV, *U. S. Constitution 1st Amendment, 4th Amendment, 5th Amendment*, and *14th Amendment*.

Petitioner also believes that, under the guise of regulation, and using simulated legal process, the State has used terms of art or words of art and other “legalese” to deceive and prosecute John Dalen and other individuals similarly situated under Statutes that violate every citizen’s inalienable rights that are protected by the United States Constitution. (See: *Black's Law Dictionary, 4th Ed.*, Definitions of Motor Vehicle, Driver, and License; *Oxford English Dictionary*, Defines term of art; *West's Encyclopedia of American Law, Ed. 2*, Defines terms of art; *U. S. Constitution 1st Amendment, 4th Amendment, 5th Amendment*, and *14th Amendment*.) This case represents an opportunity for the



United States Supreme Court to review the practices of the State of South Carolina pertaining to egregious and widespread overstepping of the state's authority in violation of constitutional principles that not only affect South Carolina residents but all residents of these United States.

The United States is currently facing a constitutional crisis wherein local, state and federal governments are overreaching the bounds of the constitution and the courts are sitting on their hands while the Republic is failing. Petitioner believes the Supreme Court could use this case and others like it to right the "ship of state" by providing guidance and reasserting the constitutional limits of government.

## **H. REASONS FOR GRANTING THE WRIT**

The U. S. Supreme Court needs to grant this petition because the State of South Carolina, through its rulemaking and enforcement bodies, has been and continues to be engaged in the usurpation of Constitutionally-protected rights "under color of law." Petitioner also believes that, under the guise of regulation, and using simulated legal process, the State has used terms of art or words of art and other "legalese" to deceive and prosecute John Dalen and other individuals similarly situated under Statutes that violate every citizen's inalienable rights that are protected by the United States Constitution. Petitioner is about to herein present two personal examples of the State's conversion of a right into a privilege, and one wherein the right to a jury trial

was denied to Petitioner on statutory grounds, violating the constitutional rights of the Petitioner under color of law.

The State of South Carolina has enacted a building and professions code which deceptively attempts to deceive citizens into waiving their right to engage in businesses and professions, purporting to require anyone engaged in the businesses and professions to obtain a license and pay a fee; however, hidden in the Statute, the State acknowledges that the people have a right to engage in businesses and professions. The U.S. Supreme Court has confirmed this right in several of their rulings. The Petitioner was charged with failing to procure a license for the activities he was engaged in. He informed the commission that he was engaging in the businesses and professions by right and did not have a license and did not intend to get a license. He also informed the commission that their very own Statute confirms that the commission only has jurisdiction over licensed individuals. The commission held a hearing in Petitioner's absence, and fined him \$500.00. Petitioner refused to participate in their hearing, citing lack of jurisdiction, and informed the commission that he would ignore their fines.

The city government of Clemson, SC, claiming the authority of the State to enact business licensing, ticketed Petitioner for working without a license. He did not participate in their "trial" and was convicted. Petitioner had previously corresponded with the city prosecutor and the Magistrate judges, informing them that their ordinance clearly stated that it was a "privilege tax" and since

he was exercising a constitutionally-protected right he was not subject to the ordinance. The municipal court ignored the constitutional challenges and held a trial over Petitioner's objections. He appealed the conviction and when the city attorney failed to appear for the hearing, the circuit court judge overturned the conviction and dismissed the case. A new city attorney replaced the former and proceeded to re-try the case -- again over Petitioner's objections -- and held a new trial on the same case that had already been dismissed. Petitioner refused to participate in what he considered to be a sham trial and was subsequently convicted and fined \$500.00. Petitioner informed the Municipal Court that any attempt to issue a bench warrant for his arrest or otherwise attempt to collect a fine would result in a Title 42, Section 1983 lawsuit for deprivation of rights under color of law.

Petitioner also attempted to enlist the aid of our state's Attorney General, Alan Wilson but was informed that it was not the job of an attorney general to protect a citizen's rights -- it was his job to protect the State, and that he only issued opinions that were requested by State agents or agencies.

Petitioner also had a case involving the foreclosure of his home wherein his right to a trial by jury was denied on statutory grounds. Petitioner believes this was unconstitutional and took the case to the South Carolina Appeals Court and to the State Supreme Court where Petitioner's arguments were denied. He

then appealed this to the United States Supreme Court where certiorari was denied.

All of the above constitute egregious injuries to the Petitioner and violations of protections under the Constitution and the Common Law which he is supposed to enjoy as a free American. All of the Petitioner's cited cases clearly show violations of the Constitution and the Common Law according to the many Supreme Court decisions relied upon as listed in the Table of Cases in this document. There is no gray area here. This is basic law. Petitioner is exercising inalienable Constitutionally-protected rights. Petitioner is not a creature of the State. Petitioner does not exercise privileges, but rights. The statutes under which Petitioner has been prosecuted are applicable to corporations, or other fictional entities that do in fact engage in privileges. (See: *Hale v. Henkel*, 201 U.S. 43.)

Former Supreme Court Justice Antonin Scalia lamented that the Supreme Court no longer follows Constitutional law, but rules strictly on statutory laws. A government that does not obey its constitution is an illegitimate government. We are seeing this in all levels of government today, including our courts. If our courts no longer will defend our constitution, where are the people to turn?

## I. CONCLUSION

This case is a simple rights vs. privileges case. The statute Petitioner was prosecuted under, the South Carolina Code of Laws Motor Vehicle Statute, clearly states that it is granting a privilege. Numerous United States Supreme Court decisions have affirmed that the right to travel is a fundamental right, Constitutionally-protected, and that States cannot convert these rights to privileges nor make the exercise of a Constitutional right a crime. In light of the case that is the subject of this petition and the other cases that have been just mentioned, it is apparent that the State of South Carolina is engaged in the systematic deprivation of rights under color of law. Therefore the Supreme Court needs to review this case and reaffirm the principle that rights cannot be converted to privileges, and the exercise thereof cannot be made a crime.

The Petitioner requests that the Court grant the petition for writ of certiorari.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Dalen". The signature is written in a cursive style with a large initial "J" and "D".

John Dalen

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John Dalen Pro Per