
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

Mark O. Hatfield US Courthouse, 1000 SW 3rd Avenue, Room 740, Portland, OR 97204-2802

Unified United States Common Law Grand Jury;¹

Sureties of the Peace²

5 P.O. Box 59, Valhalla, NY 10595; Fax: (888) 891-8977;

Proceeding as Next Friend under Rule 17, 28 USCA³

USA

Plaintiffs

- Against -

Bundy et al

Defendants

Jurisdiction: Court of Record, under
the rules of Common Law⁴

Case no. 3:16-cr-00051-BR
Magistrate Anna J. Brown

**MEMORANDUM OF LAW
IN SUPPORT OF JURISDICTION**

AUTHORITY

- 10 The unalienable right of the sovereign People to self-governance was ordained by God,
established in the Declaration of Independence and ordained by We the People who are
the authority of all law. *"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 rights,
15 Governments are instituted among Men, deriving their just powers from the consent of*

¹ **The UUSCLGJ** is comprised of fifty Grand Jurys each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of 1000's of People in the name of We the People to suppress through our Courts of Justice subverts both foreign and domestic acting under color of law within our governments.; States were unified by re-constituting all 3133 United States counties

² **SURETIES OF THE PEACE:** If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government we will immediately grant full justice therein. - Magna Carta Paragraph 52.

³ **Next Friend:** "A next friend is a person who represents someone who is unable to tend to his or her own interest." Federal Rules of Civil Procedures, Rule 17, 28 USCA; Haines v. Kerner, 404 U.S. 519 (1972)

⁴ **"A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". 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, 244 N.Y. 406, 155 N.E. 688, 689.

the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.” Any
20 servant who resists these truths “Wars against the Governor of the Universe and Wars against We the People”.

“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all
25 government exists and acts And the law is the definition and limitation of power...”
Yick Wo v. Hopkins, 118 US 356, 370.

We the Sovereign People of the United States of America on March 4th 1789 birthed a Nation “in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure
30 the blessings of liberty to ourselves and our posterity ordained and established this Constitution for the United States of America.” Preamble.

We the People ordained through Article III Section 1, thereby creating one Supreme Court with vested judicial powers and also ordained Congress with the power to ordain and establish inferior courts with the same vested judicial powers.

35 **28 U.S. Code § 132** - Creation and composition of district courts (a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district. (b) Each district court shall consist of the district judge or judges for the district in regular active service. Justices or judges designated or assigned shall be competent to sit as judges of the
40 court. (c) Except as otherwise provided by law, or rule, or order of court, the judicial power of a district court with respect to any action, suit or proceeding may be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

In Article VI clause 2, We the People established that judges may hold their office only
45 during “good behavior which we defined in Article VI clause 2, thereby “binding” their behavior by the “supreme law of the land”. “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the

land; and the judges in every state shall be bound thereby, anything in the Constitution
50 or laws of any State to the contrary notwithstanding.” Failure of good behavior⁵ by a
judge requires his removal from office.

CONGRESS IS A CREATURE⁶ OF THE LAW WITH CLIPPED AUTHORITY⁷

55 In the unauthorized creation by the 41st Congress who acted without constitutional
authority, an act of fraud, conspiracy and subversion against the United States of
America. Only People can ordain and establish Laws⁸ and governments⁹. Only People
are endowed by the Creator with certain unalienable rights, governments are not!
Consequently in congruence with Marbury v Madison all latter construction upon the
Organic Act of 1871 is as null and void as is the Act.

60 Said Act attempted to supplant our Republican Form of Government that our servants
were entrusted to guarantee criminally creating a foreign venue¹⁰ (Sovereign State)
proceeding under fiction of law¹¹. Any court resting upon said Act is a de facto court¹².

⁵ **FAILURE OF GOOD BEHAVIOR:** “Enumerated in statute as ground for removal of a civil service employee means behavior contrary to recognized standards of propriety and morality, misconduct or wrong conduct.” State ex rel. Ashbaugh v. Bahr, 68 Ohio App. 308, 40 N.E.2d 677, 680, 682.

⁶ **ENS LEGIS. L. Lat.** [Blacks 4th] A creature of the law; an artificial being, as contrasted with a natural person.

⁷ **CLIPPED SOVEREIGNTY:** In the relations of the several states of the United States to other nations, the states have what is termed a clipped sovereignty. Anderson v. N. V. Transandine Handelmaatschappij, Sup., 28 N.Y.S.2d 547, 552.

⁸ **PREAMBLE:** “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.”

⁹ **GOVERNMENT:** “Republican Government; one in which the powers of sovereignty are vested in the people and are exercised by the people” 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, Fifth Edition, p. 626

¹⁰ **VENUE:** "Venue" does not refer to jurisdiction at all. Arganbright v. Good, 46 Cal.App.2d Super. 877, 116 P.2d 186. "Jurisdiction" of the court means the inherent power to decide a case, whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case. Southern Sand & Gravel Co. v. Massaponax Sand & Gravel Corporation, 145 Va. 317, 133 S.E. 812, 813. Stanton Trust and Savings Bank v. Johnson, 104 Mont. 235, 65 P.2d 1188, 1189. In the common-law practice, that part of the declaration in an action which designates the county in which the action is to be tried. Sweet. Also, the county (or geographical division) in which an action or prosecution is brought for trial, and which is to furnish the panel of jurors. Armstrong v. Emmet, 41 S.W. 87, 16 Tex.Civ.App. 242; Paige v. Sinclair, 130 N.E. 177, 178, 237 Mass. 482; Commonwealth v. Reilly, 324 Pa. 558, 188 A. 574, 579; Heckler Co. v. Incorporated Village of Napoleon, 56 Ohio App. 110, 10 N.E.2d 32, 35. It relates only to place where or territory within which either party may require case to be tried. Cushing v. Doudistal, 278 Ky. 779, 129 S.W.2d 527, 528, 530. It has relation to convenience of litigants and may be waived or laid by consent of parties. Iselin v. La Coste, C.C.A.La., 147 F. 2d 791, 795.

¹¹ **FICTION OF LAW:** Something known to be false is assumed to be true. Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621. that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land. [Hoke vs. Henderson, 15, N.C.15, 25 AM Dec 677]. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. Best, Ev. 419.

¹² **DE FACTO GOVERNMENT:** One that maintains itself by a display of force against the will of the rightful legal government and is successful, at least temporarily, in overturning the institutions of the rightful legal government by setting up its own in lieu thereof. Wortham v. Walker, 133 Tex. 255, 128 S.W.2d 1138, 1145.

65 Any judge acting under such fiction of law denies due process¹³ and is acting in excess of their judicial authority¹⁴, in collusion, under color of law¹⁵, thereby losing judicial immunity¹⁶. Therefore, any judicial reliance upon said act is injudicious.

COURTS THAT RESIST THE CONSTITUTION

70 *"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."* 5 Downs v. Bidwell, 182 U.S. 244 (1901).

75 **A LAW REPUGNANT TO THE CONSTITUTION IS VOID** *"If then the courts are to regard the constitution; and the constitution is superior to any ordinary act of the legislature; the constitution, and not such ordinary act, must govern the case to which they both apply. Those then who resist the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law. This doctrine would subvert the very foundation of all written constitutions. It would declare that an act, which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare, that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure... Thus, the particular phraseology of the constitution of the United States confirms and strengthens*

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¹³ **DUE COURSE OF LAW**, this phrase is synonymous with "due process of law" or "law of the land" and means law in its regular course of administration through courts of justice. - Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

¹⁴ **EXCESS OF JUDICIAL AUTHORITY**: Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. [Cannon v. Commission on Judicial Qualifications, (1975) 14 Cal. 3d 678, 694]; Society's commitment to institutional justice requires that judges be solicitous of the rights of persons who come before the court. [Geiler v. Commission on Judicial Qualifications, (1973) 10 Cal.3d 270, 286];

¹⁵ **COLOR OF LAW**: The appearance or semblance, without the substance, of legal right. [State v. Brechler, 185 Wis. 599, 202 N.W. 144, 148] Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state, is action taken under "color of state law." (Atkins v. Lanning, 415 F. Supp. 186, 188)

¹⁶ **JUDICIAL IMMUNITY**: "... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument." ... "In declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank". ... "All law (rules and practices) which are repugnant to the Constitution are VOID". ... Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional. Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803); There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign. Cooper v. O'Conner, 99 F.2d 133

85 *the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument.” - Marbury v. Madison, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803.*

WHEN AN OATH, BECOMES EQUALLY A CRIME *"It is in these words: 'I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States.' Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government? if it is closed upon him and cannot be inspected by him. If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime." - Marbury v. Madison, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803.*

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them" - Miranda v. Arizona, 384 U.S. 436, 491

100 *"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).*

105 *“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, 449 U.S. 200.*

“... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.” - Hoke vs. Henderson,15, N.C.15,25 AM Dec 677.

110 **WE THE PEOPLE ARE SOVEREIGN**

Plaintiffs are free and independent sovereign People with the unalienable right of due process and with no contract with any administrative (foreign) court and thereby owing the State nothing and under no obligation that would require the plaintiffs to seek leave from any servant who has no jurisdiction or authority over the plaintiffs. We are not
115 “subjects of the state” but the “masters thereof”:

120 *“It is the public policy of this state that public agencies exist to aid in the conduct of the people's business.... The people of this state do not yield their sovereignty to the agencies which serve them. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves...” CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.*

125 *“The very meaning of 'sovereignty' is that the decree of the sovereign makes law.” American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.*

130 *“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts And the law is the definition and limitation of power...” Yick Wo v. Hopkins, 118 US 356, 370.*

135 *"Under federal Law, which is applicable to all states, the U.S. Supreme Court stated that "if a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification and all persons concerned in executing such judgments or sentences are considered, in law, as trespassers." Basso v. UPL, 495 F. 2d 906; Brook v. Yawkey, 200 F. 2d 633; Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).*

140 **COURTS OF RECORD**

PROCEED ACCORDING TO THE COURSE OF COMMON LAW

145 *“Courts of Record and Courts not of Record the former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded". 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24*

F. 481; Ex parte Thistleton, 52 Cal 225; 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.

150 "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". 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.
155 Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

“Decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate
160 or supreme court) can second guess the judgment of a court of record. The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." Ex parte Watkins, 3 Pet., at 202-203. cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

165 A court of record is a superior court. A court not of record is an inferior court. Inferior courts are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to
170 statutory law is not a court of record, it is an inferior court.

“The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record. Note, however, that
175 a ‘superior court’ is the name of a particular court. But when a court acts by virtue of a special statute conferring jurisdiction in a certain class of cases, it is a court of inferior or limited jurisdiction for the time being, no matter what its ordinary status may be.

Unalienable Rights are the spirit of Common Law, the Law of our Creator and not man. All Law is to be understood in light of our Unalienable Rights. Any law repugnant to that spirit is by nature's Creator "Null and Void". The Declaration of Independence, being the foundation of American Law upon which was framed the Law of the Land a/k/a the Constitution for the United States of America [Article VI] and its Cap-Stone Bill of Rights, which is the Crown of our Law, are all Common Law documents that were constructed upon Common Law Principles. To deny Common Law is to deny these documents.

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. Declaration of Independence.

Amendment VII - *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.*

Synopsis of Rule of Law: The Supreme Court has the implied power from the United States Constitution to review acts of Congress and to declare them void if they are found to be repugnant to the Constitution." **Marbury v. Madison: 5 US 137 (1803)**; All cases which have cited Marbury v. Madison case, to the Supreme Court has never been over turned. **See Shephard's Citation of Marbury v. Madison.**

"... This brings us to the second inquiry; which is, (2) If he has a right, and that right has been violated, do the laws of his country afford him a remedy? [5 U.S. §137, 163] The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain, the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court.

In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. 'In all other cases,' he says, 'it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.' And afterwards, page

109 of the same volume, he says, 'I am next to consider such injuries as are cognizable by the courts of common law. And herein I shall for the present only remark, that all possible injuries whatsoever, that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals, are, for that very reason, within the cognizance of the common law courts of justice; for it is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress.'

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right. If this obloquy is to be cast on the jurisprudence of our country, it must arise from the peculiar character of the case. It behoves us then to inquire whether there be in its composition any ingredient which shall exempt from legal investigation, or exclude the injured party from legal redress. In pursuing this inquiry the first question which presents itself, is, whether this can be arranged [5 U.S. 137, 164] with that class of cases which come under the description of *damnum absque injuria* - a loss without an injury. ... If any statement, within any law, which is passed is unconstitutional, the whole law is unconstitutional." **Marbury v. Madison: 5 US 137 (1803).**

"... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land." Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677.

"Where [common law] rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them" *Miranda v. Arizona*, 384 U.S. 436, 491.

The Court of Appeals' rule would neither preserve nor enhance the traditional functioning of the grand jury that the "common law" of the Fifth Amendment demands. *United States v Williams*.

"If a federal town be necessary for the residence of congress and the public officers, it ought to be a small one, and the government of it fixed on republican and common law principles, carefully enumerated and established by the constitution. it is true, the states, when they shall cede places, may stipulate that the laws and government of

congress in them shall always be formed on such principles.” Anti Federalist No 41-43 (Part II).

245 “The 41st paragraph of the NYS Constitution provides that the trial by jury remain
inviolable forever; that no acts of attainder shall be passed by the legislature of this State
for crimes other than those committed before the termination of the present war. And
that the legislature shall at no time hereafter institute any new courts but such as shall
250 proceed according to the course of the common law, no legislation, in conflict with the
Common Law, is of any validity.” Anti Federalist No 45.

“The common law is sometimes called, by way of eminence, *lex terrae*, as in the statute
of Magna Carta, chap. 29, where certainly the common law is principally intended by
those words, *aut per legem terrae*; as appears by the exposition thereof in several
subsequent statutes; ... This common law, or “law of the land,” the king was sworn to
255 maintain. This fact is recognized by a statute made at Westminster, in 1346, by Edward
III., which commences in this manner:” Trial by Jury by Lysander Spooner.


"The law requires proof of jurisdiction to appear on the record of the administrative
agency and all administrative proceedings" *Hagans v. Lavine*, 415 U.S. 528.

CONCLUSION: All Article III courts are courts of record and are to proceed under the
260 rules of common law. Common law is nature’s law ordained by God. Constitutions are
an unalienable right ordained by sovereign People. Legislators are bound by the chains
of the Constitution and have no authority to create governments or write laws outside
those bonds. If no jurisdiction appears on the proceedings, it must be a court of record.
Any judge resting in fiction of law that proceeds under the color of law loses all
265 immunity. Decisions of such an inferior court are subject to collateral attack. In other
words, in a superior court one may sue an inferior court directly, rather than resort to
appeal to an appellate court.

Date:

SEAL

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Grand Jury Foreman