

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Name of Plaintiff,

Plaintiff

00-AA-1111

-against-

WRIT OF ERROR

Name of defendants, et al.,

Defendants

THE COURT OF RECORD COMES NOW to review the facts, record, and process resulting in the rulings dated April 1, 2015, attached:

The record shows that this court of record held a hearing on April 1, 2015, contrary to the rules of common law, proceeding according to the principles of the method and procedure adopted by the court of chancery for the purpose of changing jurisdictions¹ from [common] law² to equity which proceeds under the rules of chancery; citing 28 USC 1914 & 1915 (statutes repugnant to the constitution) as its authority that extorts filthy-lucre which perverts judgment³ under threat to unlawfully dismiss plaintiffs action thereby denying plaintiff's unalienable right of due process,⁴ by dismissing a court of record. Or pay the extortion fee for a jurisdiction that produces the same results dismissing plaintiff's court of record and denies plaintiff's unalienable right of due process.

¹ **EQUITY JURISDICTION** "In a general sense, the jurisdiction belonging to a court of equity, but more particularly the aggregate of those cases, controversies, and occasions which form proper subjects for the exercise of the powers of a chancery court." See *Wadham Oil Co. v. Tracy*, 141 Wis. 150, 123 N.W. 785, 787, 18 Ann.Cas. 779; *Venner v. Great Northern R. Co.*, C.C.N.Y., 153 F. 408, 413, 414. "Equity jurisdiction, in its ordinary acceptation, as distinguished on the one side from the general power to decide matters at all, and on the other from the jurisdiction "at law" or "common-law jurisdiction," is the power to hear certain kinds and classes of civil causes according to the principles of the method and procedure adopted by the court of chancery, and to decide them in accordance with the doctrines and rules of equity jurisprudence," *Norback v. Board of Directors of Church Extension Soc.*, 84 Utah 506, 37 P.2d 339.

² **COMMON-LAW JURISDICTION.** "Jurisdiction of a court to try and decide such cases as were cognizable by the courts of law under the English common law; the jurisdiction of those courts which exercise their judicial powers according to the course of the common law." *U. S. v. Power*, 27 Fed.Cas. 607.

³ **1 Sam 8:3**

⁴ "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.

Furthermore even under the court of equity's own rules, that said court ignores 28 USC has no force because it lacks regulations.⁵

Magistrate Loretta A Preska, acting under the color of law as judge, at a hearing contrary to common law with neither the plaintiff or the defendants present.

The record shows (ORDER DIRECTING PAYMENT, 2 pages dated April 1, 2015 with IFP Application, 2 pages, attached; see Exhibit A) that the magistrate, on her own authority, conducted a hearing in accordance with the rules of chancery and not law thereby trespassing on the case.⁶ The magistrate conducted her own court, without notice or concurrence of the parties, and without due process, the magistrate presuming to be the owner of the courtroom. Not satisfied with the lawful rules of court, she became a loose cannon and imposed rules of another jurisdiction foreign to this court.

The position and pursuit of the plaintiff is not frivolous and is hereby rebutted. Generally, "frivolous" is relevantly defined as: "A claim or defense is frivolous if a proponent can present no rational argument based upon the evidence or law in support of that claim or defense.

Contrary to Magistrate Loretta A Preska's presumption plaintiff does not seek to proceed in forma pauperis which proceeds according to the rules of chancery nor will plaintiff accept an exchange of filthy-lucre for prejudicial justice in a court of chancery. Plaintiff has opened a "court of record", see action at law, which proceeds under the rules of common law without cost.

"The U.S. Supreme Court has ruled that a natural man or woman is entitled to relief for free access to its judicial tribunals and public offices in every State in the Union (2 Black 620, see also Crandell v. Nevada, 6 Wall 35). Plaintiff should not be charged fees, or costs for the lawful

⁵ **STATUTE WITHOUT REGULATIONS HAVE NO FORCE** *"Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself tags to their respective geographical areas. Once promulgated these regulations called for by the statute itself have the force of law, and violation thereof incur criminal prosecutions, just as if all the details had been incorporated into the Congressional language. The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other" - U.S. v. Mersky, 361 U.S. 431 (1960)*

⁶ **Trespass on the case.** *"The form of action, at common law, adapted to the recovery of damages for some injury resulting to a party from the wrongful act of another, unaccompanied by direct or immediate force, or which is the indirect or secondary consequence of defendant's act. Commonly called, by abbreviation, "Case."* Munal v. Brown, C.C.Colo., 70 F. 968; Nolan v. Railroad Co., 70 Conn. 159, 39 A. 115, 43 L.R.A. 305; New York Life Ins. Co. v. Clay County, 221 Iowa 966, 267 N.W. 79, 80.

and constitutional right to petition this court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictions and subjects of the State and should not be applied to the Plaintiff who is a natural individual and entitled to relief” - Hale v. Henkel; 201 U.S. 43. Plaintiff is neither a fiction nor a subject,⁷ as is an elected or appointed official owing allegiance to the sovereign people of the fifty united States. Plaintiff is one of the People of New York subject to no laws except those prescribed by nature.⁸

- *“Rights indirectly denied - "Constitutional 'rights' would be of little value if they could be indirectly denied." - Gomillion v. Lightfoot, 364 U.S. 155 (1966), cited also in Smith v. Allwright, 321 U.S. 649.644.*
- *“There can be no sanction or penalty imposed upon one because of his exercise of Constitution rights.” - Sherar vs. Cullen 481 F 2D 946, (1973).*
- *"No state shall convert a liberty into a license, and charge a fee therefore." Murdock v. Pennsylvania, 319 U.S. 105.*
- *"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity." [Shuttlesworth v. City of Birmingham, Alabama, 373 U.S. 262]*

American Jurisprudence (Constitutional Law) §326; Free Justice and Open Courts; Remedy for All Injuries.- *In most of the state Constitutions there are provisions, varying slightly in terms, which stipulate that justice shall be administered to all without delay or denial, without sale or prejudice, and that the courts shall always be open to all alike. These provisions are based largely upon the Magna Charta, chap. 40, which provides; “We will sell to no man. We will not deny to any man either justice or right.” The chief purpose of the Magna Charta provision was to prohibit the King from selling justice by imposing fees on litigants through his courts and to deal a death blow to the attendant venal and disgraceful practices of a corrupt judiciary in demanding oppressive gratuities for giving or withholding decisions in pending causes. It has been appropriately said that in a free government the doors of litigation are already wide open and must constantly remain so. The extent of the constitutional provision has been regarded as broader than the original confines of Magna Charta, and such constitutional*

⁷ **SUBJECT Constitutional Law** - One that owes allegiance to a sovereign and is governed by his laws.

⁸ "There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent." Cruden v. Neale, 2 N.C. 338 (1796) 2 S.E.

provision has been held to prohibit the selling of justice not merely by magistrates but by the State itself. Therefor a denial of access into the Peoples courts' of justice for refusing to pay a fee would be a violation of plaintiff's unalienable right of due process protected under V Amendment.

Furthermore plaintiff does not bring this action pro se as is the process under fiction but in pro per. Most legal dictionaries define the term "pro se" as someone who represents them self. Black's Law 4th edition defines it "in person", therefore we used the term "in pro per", in that capacity we accept the term "pro se" not to be confused with one representing their fiction whereby the jurisdictional fraud might be assumed and statutes applied as a subject.

Without proper authority, the magistrate stepped out of her function as a magistrate and, by her actions and statements, figuratively assumed the cloak of a tribunal.⁹

“Henceforth the writ which is called Praeceptum shall not be served on any one for any holding so as to cause a free man to lose his court.” Magna Carta, Article 34

The genius of a court of record is not to be undermined. It is the birthright of every American to settle issues in a court of record, if he so chooses.

Throughout the order, the record shows that the rules of the court were not followed, that the magistrate attempted to function as a tribunal, and that the court was ineffective in furthering the goal of justice for all. These failures to follow the prescribed procedures are sufficiently disruptive to the goal of providing fair justice that the court finds it necessary to issue a writ of error quae coram nobis residant as follows:

THE COURT, HAVING REVIEWED THE FACTS, THE RECORD, AND THE PROCESS BY WHICH THE RULING WAS ISSUED, and finding that the magistrate rendered a ruling by applying rules from jurisdictions foreign to this court without leave of court; and finding that the orderly decorum of the court was replaced by defective impromptu process and usurpation of legislative and court powers without leave of court,

⁹ 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, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426

Magistrate Loretta A Preska has mistaken the filing of an action at law¹⁰ in a court of record under the rules of common law for a complaint in a court “not” of record under the rules of chancery. Magistrate Loretta A Preska is now fully informed of her error.

NOW THEREFORE, THE COURT issues this **WRIT OF ERROR QUAE CORAM NOBIS RESIDENT**, to wit:

The court rescinds all rulings entered April 1, 2015.

Take note: Summons has already issued March 12, 2015, see attached, under the rules of common law as a private individual.¹¹

Henceforth the writ which is called Praeipie shall not be served on any one for any holding so as to cause a free man to lose his court. [Magna Carta, Article 34].

Dated: April 13, 2015; **Your** County, New York

SEAL

Full Name, in pro per;
Sealed and delivered¹²

¹⁰ **AT LAW** Blacks 4th This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity

¹¹ **INDIVIDUAL** As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; State v. Bell Telephone Co., 36 Ohio St. 310, 38 Am.Rep. 583.

¹² **SEAL** (Blacks 4th) A particular sign, made to attest in the most formal manner, the execution of an instrument. Merlin defines a seal to be a plate of metal with a flat surface, on which is engraved the arms of a prince or nation, or private individual, or other device, with which an impression may be made on paper or parchment in order to authenticate them. The impression thus made is also called a "seal." SEALED AND DELIVERED. These words, followed by the signatures of the witnesses, constitute the usual formula for the attestation of conveyances.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[REDACTED]

Plaintiff,

-against-

JOHN KOSKINEN, ET AL.,

Defendants.

[REDACTED] (LAP)

ORDER DIRECTING PAYMENT OF FEE OR
IFP APPLICATION

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff brings this action *pro se*. Within thirty days of the date of this order, Plaintiff must either pay the \$400.00 in fees that are required to file a civil action in this court or submit a fully completed and signed request to proceed *in forma pauperis*, that is, without prepayment of fees (an “IFP application”).

To proceed with a civil action in this Court, a plaintiff must either pay \$400.00 in fees – a \$350.00 filing fee plus a \$50.00 administrative fee – or, to request authorization to proceed without prepayment of fees, submit a signed IFP application. *See* 28 U.S.C. §§ 1914, 1915.

Plaintiff submitted the complaint without the filing fees or an IFP application. Within thirty days of the date of this order, Plaintiff must either pay the \$400.00 in fees or submit the attached IFP application. If Plaintiff submits the IFP application, it should be labeled with docket number 15-CV-2188 (LAP). If the Court grants the IFP application, Plaintiff will be permitted to proceed without prepayment of fees. *See* 28 U.S.C. § 1915(a)(1).

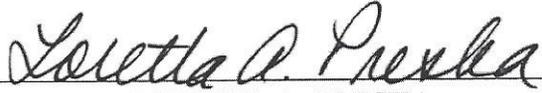
The Clerk of Court is directed to assign this matter to my docket and mail a copy of this order to Plaintiff and note service on the docket. No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the

Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: April 1, 2015
New York, New York


LORETTA A. PRESKA
Chief United States District Judge