

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-085

Judge:

Complainant:

ORDER

February 8, 2023

The Complainant alleged a superior court judge improperly heard a criminal case in which the court lacked jurisdiction.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Michael J. Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 8, 2023.

Comp
2022-085

)	CASE NO:
)	
)	JUDGE
	Defendant)	
against)	
)	
)	
)	
	Counter Plaintiff)	
)	

**ANSWER TO
THE COMPLAINT**

I, one of the people² of ARIZONA, hereinafter counter-plaintiff accepts the oaths³, and bonds of all the officers of this court, and moves this Honorable Court to quash for

¹ It is an **Oxymoron** to use People where it should read Citizen i.e., "The Citizens of the State of ARIZONA ". The state has no authority to act on behalf of the people, only a jury can so act, under the Pretense of law - Fourteenth Amendment Section 1. - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges ...

² **PEOPLE**. People are supreme, not the state. The state cannot diminish rights of the people. [*Hertado v. California*, 100 US 516]; Preamble to the US and Arkansas Constitutions - We the people ... do ordain and establish this Constitution...; ...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, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [*Lansing v. Smith*, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.] * **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. * **STATE OF ARKANSAS CONSTITUTION**: We, the People of the State of ARIZONA, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

Both constitutions (and the constitution of any real republic) the operative word is "establish." The People existed in their own individual sovereignty before the constitution was enabled. When the People "establish" a constitution, there is nothing in the word "establish" that signifies that they have yielded any of their sovereignty to the agency they have created. To interpret otherwise would convert the republic into a democracy (Republic vs. Democracy;).

³ **Oaths: Article VI**: "This Constitution, and the laws 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 or laws of any State to the contrary notwithstanding... All executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

lack of authority⁴ of personam jurisdiction⁵ given that this courts' jurisdiction is barred⁶ because this is a ⁷ court, and not a court of record⁸.

JUDICIAL COGNIZANCE

1. Counter plaintiff moves the court to take "*Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence*". [Black's Law 4th edition, 1961]

DOCTRINE OF ESTOPPEL

STARE DECISIS⁹ ET NON QUIETA MOVERE¹⁰

2. This court "must" adhere to authority, "*The doctrine of stare decisis is but an application of the doctrine of estoppel.*" [Brown v. Rosenbaum, 175 Misc. 295, 23 N.Y.S.2d 161, 171;].
3. "*Jurisdiction must be documented, shown, and proven, to lawfully exist before a cause may lawfully proceed in the courts*" [Stuck v. Medical Examiners, 94 Ca2d 751.211 P2s 389; Maine v. Thiboutot, 100 S. Ct. 250; Stanard v. Olesen, 74 S. Ct.768; Hagans v. Lavine, 415 U.S. 528; McNutt v. G.M., 56 S. Ct. 789,80 L. Ed. 1135; Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272; Basso v. U.P.L., 495 F 2d. 906; Thomson v. Gaskiel, 62 S. Ct. 673, 83 L. Ed. 111; and Albrecht v U.S., 273 U.S. 1.]

STATUTES ARE NOT LAW

⁴ **AUTHORITY.** [Black's Law 4th edition, 1891] Permission. [People v. Howard, 31 Cal.App. 358, 160 P. 697, 701]. Control over, jurisdiction. [State v. Home Brewing Co. of Indian-apolis, 182 Ind. 75, 105 N.E. 909, 916].

⁵ **JURISDICTION.** [Bouvier's Law, 1856 Edition] A power constitutionally conferred upon a judge or magistrate, to take cognizance of, and decide causes according to law, and to carry his sentence into execution. [6 Pet. 591; 9John. 239].

⁶ **BARRED.** Obstructed by a bar; subject to hindrance or obstruction by a bar or barrier which, if interposed, will prevent legal redress or recovery; as, when it is said that a claim or cause of action is "barred by the statute of limitations." Wilson v. Knox County, 132 Mo. 387, 34 S.W. 45, 477.

⁷ **NISI PRIUS.** (Bouvier's Law, 1856 Edition) Where courts bearing this name exist in the United States, they are instituted by statutory provision.

⁸ **COURT OF RECORD** proceeds 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, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

⁹ **STARE DECISIS.** [Black's Law 4th edition, 1961] To abide by, or adhere to, decided cases. Policy of courts to stand by precedent and not to disturb settled point. Neff v. George, 364 Ill. 306, 4 N.E.2d 338, 390, 391.

¹⁰ **STARE DECISIS ET NON QUIETA MOVERE.** To adhere to precedents, and not to unsettle things which are established. [87 Pa. 286; Ballard County v. Kentucky County Debt Commission, 290 Ky. 770, 162 S.W.2d 771, 773.]

4. This court relies on statutes, which is not law, that seeks to control¹¹ the behavior of the people¹³ of ARIZONA, who are under common law, not statutes, and who ordained and established¹⁴ the law.
5. *"All codes, rules, and regulations are for government authorities only, not human/Creators in accordance with God's laws. All codes, rules, and regulations are unconstitutional and lacking due process..." [Rodriques v. Ray Donovan]*
6. *"The common law is the real law, the Supreme Law of the land, the code, rules, regulations, policy and statutes are not the law", [Self v. Rhay, 61 Wn (2d) 261]*
7. *"All laws, rules and practices which are repugnant to the Constitution are null and void" [Marbury v. Madison, 5th US (2 Cranch) 137, 180]*

JURISDICTION MUST BE PROVEN - NOT DECIDED

8. *"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]*
9. *"No sanction can be imposed absent proof of jurisdiction" [Stanard v. Olesen, 74 S. Ct.768]*
10. *"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." [Lantanav. Hopper, 102 F2d 188; Chicagov. New York, 37 F Supp 150].*
11. *"Once challenged, jurisdiction cannot be 'assumed', it must be proved to exist." [Stuck v. Medical Examiners, 94 Ca2d 751.211 P2s 389; Maine v. Thiboutot, 100 S. Ct. 250]*
12. *"No sanction can be imposed absent proof of jurisdiction" [Stanard v. Olesen, 74 S. Ct.768]*

¹¹ **Rom 9:21** Hath not the potter power over the clay,

¹² 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.] A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. (*Fortesc.c.8. 2Inst.186*) His judges are the mirror by which the king's image is reflected. [*1 Blackstone's Commentaries, 270, Chapter 7, Section 379.*]

¹³ **PEOPLE.** People are supreme, not the state. The state cannot diminish rights of the people. [*Hertado v. California*, 100 US 516]; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...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, 2 DALL (1793) pp471-472]; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [*Lansing v. Smith*, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

¹⁴ **US Constitution** - We the people ... do ordain and establish this Constitution for the United States of America.

AND COURTS HAVE NO JURISDICTION OVER THE PEOPLE

13. *"Service of an appearance ticket¹⁵ does not confer personal jurisdiction upon a criminal court. Only Congress can make an act a crime, affix punishment to it, and declare court that shall have jurisdiction."* **[U.S. v. Beckford, 966 F.Supp. 1415 (1997)]**
14. *"Appearance ticket is not accusatory instrument and its filing does not confer jurisdiction over defendant."* **[People v. Gabbay]**
15. *"Service of an appearance ticket on an accused does not confer personal or subject matter jurisdiction upon a criminal court."* **[People v. Giusti]**
16. *"Trial court acts without jurisdiction when it acts without inherent or common law authority, ..."* **[State v. Rodriguez]**
17. *"Criminal law magistrates have no power of their own and are unable to enforce any ruling."* **[Davis v. State]**
18. This court does not have jurisdiction or common law authority.
19. *"..., 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]**

WITHOUT AN INJURED PARTY NO COURT HAS AUTHORITY

20. The US Constitution under Article 1 Section 8 Clause 17 grants court's Jurisdiction under Common Law¹⁶ or Admiralty or Military tribunal venue.
21. Common law is preserved under the Courts, and other courts of record, as defined in our US and State Constitutions.
22. Legislators are authorized under the Constitution, ordained by the people, to write statutes and codes, enforced as law, to control bureaucrats, municipalities, government agencies,

¹⁵ "Appearance ticket is not accusatory instrument and its filing does not confer jurisdiction over defendant." **[People v. Gabbay, 670 N.Y.S.2d 962, 175 Misc.2d 421 678 N.Y.S.2d 26,92 N.Y.2d 879, 700 N.E.2d 564 (1997)]**

* "Service of an appearance ticket on an accused does not confer personal or subject matter jurisdiction upon a criminal court." **[People v. Giusti, 673 N.Y.S.2d 824, 176 Misc.2d 377 (1998)]**

¹⁶ "Trial court acts without jurisdiction when it acts without inherent or common law authority, ..." **[State v. Rodriguez, 725 A.2d 635, 125 Md.App 428, cert den 731 A.2d 971,354 Md. 573 (1999)]**

elected officials, interstate commerce, but not people, who's rights are unalienable¹⁷ and cannot be legislated.

23. *"Sovereignty itself [the people] 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." ... "For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."* [Yick Wo v. Hopkins, 118 US 356, 370]

24. Let the record show this court can only be an Court¹⁸, acting under color of law¹⁹, alleging jurisdiction over a people, fraudulently applying statutes as laws upon the people.

25. Counter-plaintiff has not pleaded, and therefore has not yielded jurisdiction to this court, nor can this court force its jurisdiction upon the people without their consent²⁰.

26. There exists no sworn affidavit by an injured party, as is required in a common law court, therefore the counter-plaintiff demands this court dismiss all charges for lack of personam jurisdiction.

CASE CANNOT PROCEED ONE STEP FURTHER & MUST BE DISMISSED

27. "When challenged, jurisdiction must be documented, shown, and proven, to lawfully exist before a cause may lawfully proceed in the courts. [Hagans v. Lavine, 415 U.S. 528] Other

¹⁷ **UNALIENABLE** [Bouvier's Law, 1856 Edition] Inalienable; incapable of being aliened, that is, sold and transferred; The state of a thing or right which cannot be sold; Things which are not in commerce, as public roads, are in their nature unalienable. Some things are unalienable, in consequence of particular provisions in the law forbidding their sale or transfer, as pensions granted by the government. The natural rights of life and liberty are unalienable.

¹⁸ **ADMIRALTY**. A court which has a very extensive jurisdiction of maritime causes, civil and criminal, controversies arising out of acts done upon or relating to the sea, and questions of prize. It is properly the successor of the consular courts, which were emphatically the courts of merchants and sea-going persons, established in the principal maritime cities on the revival of commerce after the fall of the Western Empire, to supply the want of tribunals that might decide causes arising out of maritime commerce. Also, the system of jurisprudence relating to and growing out of the jurisdiction and practice of the admiralty courts.

¹⁹ **COLOR OF LAW**. [Black's Law 4th edition, 1891] — 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)

²⁰ **Declaration of Independence** - We hold these truths to be self-evident ... Governments are instituted among Men, deriving their just powers from the consent of the governed.

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**