NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WILKES COUNTY

10 IfS 706153-4

STATE OF NORTH CAROLINA,

vs.

ORDER

AMANDA LEA ROSE.

Respondent.

THIS MATTER came on for hearing during the September 12, 2011 mixed criminal and civil session of Superior Court of Wilkes County on respondent Amanda Lea Rose's "challenge" to the "territorial" and "in personam" jurisdiction of the State to issue citations and exact penalties for two alleged violations by the respondent of N.C.G.S § 20-135.2A(a).[1]

The respondent was present appearing pro se. The State was represented by Assistant District Attorney Fred Bauer. A hearing was conducted, during which the State presented evidence, and both the State and the respondent were afforded opportunity to be heard in argument. In open court, the court announced its decision that the "challenge" was denied, and directed the District Attorney to present a proposed order with findings of fact and conclusions of law, reserving, however, the court's authority to prepare its own order. On September 22, 2011, the District Attorney presented a proposed order, to which the respondent objected. The court advised that it would prepare the order.

I. Nature and status of proceedings. This matter arises out of the issuance of two citations to the respondent by a North Carolina Highway Patrol Trooper, for violation of N.C.G.S

[1] "Except as otherwise provided in G.S. 20-137.1, each occupant of a motor vehicle manufactured with seat belts shall have a seatbelt properly fastened about his or her body at all times when the vehicle is in forward motion on a street or highway in this State." Violation of this provision is an infraction for which the penalty is $25.50 and certain costs. N.C.G.S § 20-135.2A(e).

§ 20-135.2A. The respondent appeared in District Court pursuant to the citations and asserted a similar "challenge," which was denied, after which the respondent was adjudicated responsible and assessed a monetary penalty and certain costs. The respondent appealed such disposition to this court.

II. Nature of the "challenge." The respondent "challenges" the "territorial" and "in personam" jurisdiction of the State of North Carolina (and presumably, its courts, and the authority of the officer who cited her). She appears to contend that jurisdiction does not exist because she is a citizen of the only "real" State of North Carolina,[2] which she says was formed by the North Carolina Constitution of 1776, but which was thereafter unlawfully "overthrown" by action of the United States Congress in enacting and imposing through coercion the terms for readmission to the Union after North Carolina had seceded. She chastises this and other courts for not giving the premise a "meaningful" hearing. The premise, however, is a false one with no basis in historical fact, and lacking any semblance of legal merit. The contention that the State of North Carolina under the authority of which the citations were issued and this court exists is not the lawful state of that name is frivolous to the point of specious, and represents a waste of limited public resources. The court will not dignify the contention beyond the footnote that follows.[3]

---

[2] She refers to that "State" as the "12th state," and to the "State" existing after such "coerced" readmission as the "39th state." However, the State of North Carolina has never lost its "statehood." *See Mial v. Ellington*, 134 N.C. 131, 155, 46 S.E. 961, 969 (1903) ("[W]e may . . . assume that the State of North Carolina has never at any time from its earliest existence lost or forfeited its statehood, its political integrity, nor has the allegiance of its citizens or the officers of the State been changed to any other government, except in so far as the State occupied relations to other governments.").

[3] The State of North Carolina was not "formed" by constitution. Its existence as a state was declared on July 4, 1776, when delegates to the Continental Congress elected by the North Carolina Provincial Congress, following express directions, signed the Declaration of Independence, which provided, inter alia, that:

> these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances,

The respondent argues that the State has the burden of showing beyond a reasonable doubt that jurisdiction exists, citing *State v. Batdorf*, 293 N.C. 486, 238 S.E.2d 497 (1977). In that case, in which the defendant disputed whether the alleged crime was committed in North Carolina, the Supreme Court placed the burden of proving jurisdiction in a criminal prosecution on the State, overruling prior authority. *Id.* at 494, 238 S.E.2d at 502-03. However, the issue there was one truly of "territorial" jurisdiction, and the rule adopted in *Batdorf* applies only where the facts supporting the State's allegations of territorial jurisdiction are in dispute; it has no application where (as here) the challenge is to the *theory* of jurisdiction. *See State v. Darroch*, 305 N.C. 196, 212, 297 S.E.2d 856, 866 (1982). In the latter case, jurisdiction is a question of law. *Id.* The undisputed facts in this case are set out in the following section.

---

establish Commerce, and to do all other Acts and Things which Independent States may of right do.

See State v. Thomas, 236 N.C. 454, 457, 73 S.E.2d 283, 285 (1952) ("When the representatives of the freemen of North Carolina met in convention at Halifax in 1776 to frame a constitution for the *newly born state* . . . ." (emphasis added)).

On December 18, 1776, the North Carolina Constitution of 1776 was adopted, not by vote of the people but of the delegates to the convention. That constitution contains no reference at all to the territory comprising the State. It did provide for three branches of government and separation of powers whereby the legislative authority was delegated to a legislature consisting of a Senate and a House of Commons, which had the authority to appoint of judges of the "Supreme Court of Law and Equity" and "Admiralty." This constitution, with substantial amendments in 1835 and for the purpose of secession in 1861, served until 1868, when a new Constitution of 1868 was adopted, this time by popular vote (but not a fully franchised vote--women were excluded). As a result (and compliance with other conditions), North Carolina was readmitted to the United States on June 25, 1868. The third and present North Carolina Constitution was ratified by popular vote on November 3, 1970, and took effect on July 1, 1971. None of these constitutions "formed" the state.

At its core, the respondent's "challenge" is that she can ignore the seatbelt law because it exists by action of a legislature of a bogus state, and because she chooses to recognize as the only "true" State of North Carolina that which "existed" under the Constitution of 1776, the "12th" state, not the "39th" state. (Apparently lost on her is the irony that she was using a public highway built by the state that she claims has no legitimacy.) Her choice has no legal effect, and does not affect the existence of the state. She is subject to the state's laws, regardless of that choice. Absent some immunity not shown here, even a legitimate alien is subject to those laws.

III. Undisputed facts.

1. On October 21, 2010, North Carolina Highway Patrol Trooper S. A. Shouse observed the respondent driving on a public highway in Wilkes County without a seatbelt properly fastened about her body in violation of N.C.G.S § 20-135.2A(a).

2. Trooper Shouse issued a citation to the respondent for such violation, pursuant to and in compliance with N.C.G.S § 15A-302(d).

3. When the respondent began to drive away after receipt of the citation without fastening the seatbelt properly about her person, Trooper Shouse stopped her and issued a second citation to her, again alleging violation of N.C.G.S § 20-135.2A(a), and in compliance with N.C.G.S § 15A-302(d).

IV. Conclusions of law.

1. Wilkes County is a political subdivision of the State of North Carolina.

2. The statute which the respondent is alleged to have violated is constitutional and a valid application of the State of North Carolina's police power. *See State v. Swain*, 92 N.C.App. 240, 243, 374 S.E.2d 173, 174 (1988).

3. The court has jurisdiction over the person of the respondent and the subject matter. N.C.G.S § 15A-1115.

4. Venue is proper in Wilkes County. N.C.G.S § 15A-131(b).

5. The respondent's "challenge" to jurisdiction has no merit.[4]

[4] It is, in fact, frivolous and an abuse of the liberty provided by the North Carolina Constitution, e.g., Article I, § 18, and laws of the very state that she contends does not lawfully exist. The General Assembly has provided means to sanction such waste of the state's limited judicial resources in civil matters, e.g., N.C.G.S §§ 1A-1, Rule 11, 6-21.5, and should consider similar means in criminal and infraction matters.

NOW, THEREFORE, IT IS ORDERED that the respondent's "challenge" is denied.

This 29th day of September 2011.

Lindsay R. Davis, Jr.
Superior Court Judge