No. COA12-28

FILED

TWENTY-THIRD DISTRICT

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NORTH CAROLINA COURT OF APPEALS

WILKES COUNTY, C.S.C.

****

STATE OF NORTH CAROLINA, BY PSJ.
Plaintiff)
)
v.)
)
Amanda Lea Rose,)
Respondent)
)

From Wilkes County
No. 10 IFS 706153-4

****

RECORD ON APPEAL

****

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CLERK COURT OF APPEALS
OF NORTH CAROLINA

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STATEMENT OF ORGANIZATION OF TRIAL COURT

Amanda Lea Rose, maintaining her Special Appearance, appeals from the 4 October 2011 Order of Lindsay R. Davis, SUPERIOR COURT JUDGE, rendered by US Mail on 6 October 2011, after the 12 September 2011 CRIMINAL SESSION OF SUPERIOR COURT, COUNTY OF WILKES, Lindsay R. Davis, Judge presiding. Amanda Lea Rose filed and hand-delivered written notice of interlocutory appeal on 7 October 2011.

The record on appeal was filed in the Court of Appeals on January 6 2012 and was docketed on January 12 2012.

NORTH CAROLINA UNIFORM CITATION-DEFENDANT'S COPY

STATE OF NORTH CAROLINA WILKES County District Court **Citation No.** 18482E9

TO THE DEFENDANT NAMED BELOW: You have been charged with the misdemeanor(s) or infraction(s) specified below. Read this citation carefully.

YOUR COURT DATE AND LOCATION

Court Day Of Week	Date	Time	Court Location	Courtroom
THURSDAY	01/06/2011	09:00 AM	WILKESBORO	0003

THE STATE OF NORTH CAROLINA VS.

Name Of Defendant	Address	City	State	Zip
ROSE, AMANDA LEA	9097 CONCORD CHURCH RD	LEWISVILLE	NC	27023

Drivers License No.	State	Source	CDL	Class	Race	Gender	Date Of Birth	Age	Social Security No.
24314307	NC	DL	NO	C	WHITE	FEMALE	04/19/1981	29	XXX-XX-1467

WHAT YOU ARE CHARGED WITH

The officer named below has probable cause to believe that on or about THURSDAY , the 21 day of OCTOBER , 2010 at 10:38 AM in the county named above you did unlawfully and willfully OPERATE A MOTOR VEHICLE ON A STREET OR HIGHWAY IN FORWARD MOTION WITHOUT HAVING THE PROVIDED SEAT BELT PROPERLY FASTENED ABOUT THE DEFENDANT'S BODY WHILE THE DEFENDANT WAS THE DRIVER OF THE MOTOR VEHICLE. (G.S. 20-135.2A)

and on or about _____, the _____ day of _____ at _____ in the county named above you did unlawfully and willfully _____

YOUR VEHICLE

Vehicle License No.	State	Trailer Type	CMV	Vehicle Type	Make	Year	Haz. Mat
YXV5938	NC		NO	VAN	CHEVROLET	2001	NO

OTHER INFORMATION

Area	Visibility	Traffic	Accident	Speed	On Highway No./Street
	CLEAR	LIGHT	NO	A 30	NC 16

Property Damage	SHP Code	In Vicinity/City Of	At/Near Intersection
Personal Injury	2	WILKESBORO	US 421

CHARGING OFFICER INFORMATION

Date	Signature Of Officer	No.	Law Enforcement Agency	Troop/Squad	District/Zone
10/21/2	TRP. S A SHOUSE	1342	STATE HIGHWAY PATROL	F	2

IMPORTANT NOTICE

You must do one of the following:

- **appear** in District Court on the court date, time, and location shown above. **OR**
- dispose of this case by **waiving your trial, pleading** guilty/responsible and **paying** the total amount shown below **before the court date shown above,** as explained in the Waiver Instructions below.

If you wish to contest the charge(s) or appear before a judge, you must appear in court on the court date shown above. If you fail to dispose of your case by waiver prior to the court date shown above, or if you fail to appear on your court date,

- criminal process may be issued against you and **you may be arrested** for your failure to appear,
- **your drivers license may be revoked, and**
- **additional fees** may be assessed **along with** all other costs identified below.

WAIVER INSTRUCTIONS

If you wish to dispose of this case by waiving your trial, pleading guilty/responsible and paying the total amount shown below, **you must do the following** before the close of business on the last business day before the court date shown above:

1. **Date and sign this Citation in the space provided below.**
2. **Return this Citation by mail or in person to the Clerk of Superior Court,** WILKES County Courthouse, 500 COURTHOUSE DR STE 1115, WILKESBORO NC 28697-2929, or to any magistrate of the county shown above.

Payment must be by certified check, cashier's check, or money order marked payable to the "Clerk of Superior Court" or, if made in person, in cash. Online credit card option - www.payNCticket.org PERSONAL CHECKS WILL NOT BE ACCEPTED. Do not mail cash.

WAIVER OF TRIAL/HEARING - PLEA OF GUILTY/RESPONSIBLE - CONSENT TO ENTRY OF JUDGMENT

I acknowledge that I have been charged with the offense/infraction noted herein by the charging officer. I understand that I am presumed by law to be Not Guilty/Not Responsible until proven Guilty/Responsible beyond a reasonable doubt. Nevertheless, I do hereby waive my constitutional rights to a trial/hearing in open court, to confront the witness(es) against me, and to representation by an attorney. I hereby plead Guilty/Responsible to this offense/infraction and tender to the court the sums listed below as payment of the fine/penalty and costs in this case.

I request that the court accept my waiver of trial/hearing, plea of Guilty/Responsible and tender of fine/penalty and costs, and that a verdict/finding of Guilty/Responsible be entered. This request is made with the full understanding that a verdict/finding of Guilty/Responsible will be entered against my record, that if this is a motor vehicle offense, the North Carolina Division of Motor Vehicles (or the licensing authority of any other State which issued my license to drive) will be notified of the verdict/finding, that it will have the same legal effect for all purposes as a verdict/finding of Guilty/Responsible after a trial/hearing, and that it may result in the assessment of points on my driving record or the suspension or revocation of my drivers license.

Note: The fine specified below is a standard amount set by the Chief District Court Judges of North Carolina pursuant to G.S. 7A-148. The court costs specified below are set by the North Carolina General Assembly, apply to all cases disposed in district court, and are subject to change without notice.

Amount Of Fine/Penalty	Court Costs	Total	Date	Signature Of Defendant
		$ 122.00		

NORTH CAROLINA UNIFORM CITATION-DEFENDANT'S COPY

STATE OF NORTH CAROLINA WILKES County District Court **Citation No.** 18482ES

TO THE DEFENDANT NAMED BELOW: You have been charged with the misdemeanor(s) or infraction(s) specified below. Read this citation carefully.

YOUR COURT DATE AND LOCATION

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THE STATE OF NORTH CAROLINA VS.

Name Of Defendant	Address	City	State	Zip
ROSE, AMANDA LEA	9097 CONCORD CHURCH RD	LEWISVILLE	NC	27023

Drivers License No.	State	Source	CDL	Class	Race	Gender	Date Of Birth	Age	Social Security No.
24314307	NC	DL	NO	C	WHITE	FEMALE	04/19/1981	29	XXX-XX-1467

WHAT YOU ARE CHARGED WITH

The officer named below has probable cause to believe that on or about THURSDAY, the 21 day of OCTOBER, 2010 at 10:28 AM in the county named above you did unlawfully and willfully OPERATE A MOTOR VEHICLE ON A STREET OR HIGHWAY IN FORWARD MOTION WITHOUT HAVING THE PROVIDED SEAT BELT PROPERLY FASTENED ABOUT THE DEFENDANT'S BODY WHILE THE DEFENDANT WAS THE DRIVER OF THE MOTOR VEHICLE. (G.S. 20-135.2A)

and on or about _____, the _____ day of _____, _____ at _____ in the county named above you did unlawfully and willfully _____

YOUR VEHICLE

Vehicle License No.	State	Trk Type	CMV	Vehicle Type	Make	Year	Haz. Mat.
YXV3928	NC		NO	VAN	CHEVROLET	2001	NO

OTHER INFORMATION

Area	Weather	Visibility	Traffic	Accident	Speed	On Highway No./Street
OPEN COUNTRY	CLEAR	CLEAR	LIGHT	NO	A 35	US 421

Injury or Serious Injury	SHP Case	In Vicinity/City Of	At/Near Intersection
Passenger(s) Under 16	2	WILKESBORO	NC 16/18

CHARGING OFFICER INFORMATION

Date	Signature Of Officer	No.	Law Enforcement Agency	Troop/Squad	District/Zone
10/21/2010	TRP. S A SHOUSE	1342	STATE HIGHWAY PATROL	F	2

IMPORTANT NOTICE

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- dispose of this case by **waiving your trial, pleading** guilty/responsible and **paying** the total amount shown below **before the court date shown above**, as explained in the Waiver Instructions below.

If you wish to contest the charge(s) or appear before a judge, you must appear in court on the court date shown above. If you fail to dispose of your case by waiver prior to the court date shown above, or if you fail to appear on your court date,

- criminal process may be issued against you and **you may be arrested** for your failure to appear,
- **your drivers license may be revoked, and**
- **additional fees may be assessed along with** all other costs identified below.

WAIVER INSTRUCTIONS

If you wish to dispose of this case by waiving your trial, pleading guilty/responsible and paying the total amount shown below, **you must do the following** before the close of business on the last business day before the court date shown above:

1. **Date and sign this Citation in the space provided below.**
2. **Return this Citation by mail or in person to the Clerk of Superior Court,** WILKES County Courthouse, 500 COURTHOUSE DR STE 1115, WILKESBORO NC 28697-2929, or to any magistrate of the county shown above.

Payment must be by certified check, cashier's check, or money order marked payable to the "Clerk of Superior Court" or, if made in person, in cash. Online credit card option - www.payNCticket.org PERSONAL CHECKS WILL NOT BE ACCEPTED. Do not mail cash.

WAIVER OF TRIAL/HEARING - PLEA OF GUILTY/RESPONSIBLE - CONSENT TO ENTRY OF JUDGMENT

I acknowledge that I have been charged with the offense/infraction noted herein by the charging officer. I understand that I am presumed by law to be Not Guilty/Not Responsible until proven Guilty/Responsible beyond a reasonable doubt. Nevertheless, I do hereby waive my constitutional rights to a trial/hearing in open court, to confront the witness(es) against me, and to representation by an attorney. I hereby plead Guilty/Responsible to this offense/infraction and tender to the court the sums listed below as payment of the fine/penalty and costs in this case.

I request that the court accept my waiver of trial/hearing, plea of Guilty/Responsible and tender of fine/penalty and costs, and that a verdict/finding of Guilty/Responsible be entered. This request is made with the full understanding that a verdict/finding of Guilty/Responsible will be entered against my record, that if this is a motor vehicle offense, the North Carolina Division of Motor Vehicles (or the licensing authority of any other State which issued my license to drive) will be notified of the verdict/finding, that it will have the same legal effect for all purposes as a verdict/finding of Guilty/Responsible after a trial/hearing, and that it may result in the assessment of points on my driving record or the suspension or revocation of my drivers license.

Note: The fine specified below is a standard amount set by the Chief District Court Judges of North Carolina pursuant to G.S. 7A-148. The court costs specified below are set by the North Carolina General Assembly, apply to all cases disposed in district court, and are subject to change without notice.

Amount Of Fine/Penalty	Court Costs	Total	Date	Signature Of Defendant
	$ 106.50	$ 132.00		

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
COUNTY OF WILKES FILE NOS: 10 IFS 706153 AND 10 IFS 706154

BY RST
2011 Sept 13
AM 9:02

NOTICE OF VOID JUDGMENT

STATE OF NORTH CAROLINA,
Plaintiff,
vs.
Amanda Lea Rose
Respondent, on Special Appearance

The above captioned "court" has proceeded in this matter without establishing jurisdiction beyond a reasonable doubt; therefore the resulting judgment is rendered void under Rule 60(b)(4) of the Federal Rules of Civil Procedure.

> It is an undisputed fact that **once jurisdiction is challenged it must be proven** (James Brown v. Richard Keene; 33 U.S. 112, 115 (1834); Hagans v. Lavine, 415 U.S. 533 etc. etc.) **by the party asserting the jurisdiction** (McNutt v GMAC, 298 U.S. 178).
>
> Once jurisdiction is challenged, the burden of proof is on the state to prove that the State Courts have jurisdiction, beyond a reasonable doubt, overruling prior decisions. State vs. Batdorf 238 SE 2d 497 North Carolina Supreme Court (1977)

Pursuant to NCGS 15A-952(d), jurisdiction can be challenged at any time. As a matter of law, jurisdictional challenges must be addressed before the court can proceed in any action where jurisdiction is challenged. The STATE OF NORTH CAROLINA bears the burden of proof beyond reasonable doubt to demonstrate jurisdiction according to the North Carolina Supreme Court, and by its own laws must prove beyond a reasonable doubt before proceeding.

It is a well known maxim of law that Jurisdiction is not discretionary by a Judge and must be proven by the State Prosecution before the court can move forward.

Since personal jurisdiction remains unproven by the prosecution, the Respondent named above has filed appeal to the Superior Court in the county of Wilkes.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the NOTICE OF CHALLENGE OF JURISDICTION & THE MEMORANDUM OF LAW IN SUPPORT upon the parties listed below by Hand delivery.

This 12th day of September, 2011

Amanda Lea Rose

Amanda Lea Rose, Respondent

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
COUNTY OF WILKES FILE NOS: 10 IFS 706153 AND 10 IFS 706154

NOTICE OF PRE ARRAIGNMENT SPECIAL APPEARANCE

TO CHALLENGE JURISDICTION
NCGS 15A-952(d)

STATE OF NORTH CAROLINA,
Plaintiff,
vs.
Amanda Lea Rose,
Respondent

I, Amanda Lea Rose, a Citizen of, domiciled in and an inhabitant of the Lawful State of North Carolina organized on December 18, 1776, put into abeyance by purported "Acts of Congress" on July 1, 1868 and re-established December 1, 1997 do hereby make Notice of Special Appearance into the above captioned "court" for the exclusive purpose of challenging personal jurisdiction and lawful standing of said "court" in relation to Amanda Lea Rose. Amanda Lea Rose adamantly claims that she is not a resident of the STATE OF NORTH CAROLINA purportedly created by the Reconstruction Acts of the 39th Congress.

> It is an undisputed fact that **once jurisdiction is challenged it must be proven** (James Brown v. Richard Keene; 33 U.S. 112, 115 (1834); Hagans v. Lavine, 415 U.S. 533 etc. etc.) **by the party asserting the jurisdiction** (McNutt v GMAC, 298 U.S. 178).
>
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prior decisions. *State v. Batdorf*, 238 SE 2d 497 North Carolina Supreme Court.

Amanda Lea Rose claims that two States named "The State of North Carolina" have purportedly entered the American Union. One entered on November 21, 1789 as an original party to the United States Constitution. The other purportedly entered the Union on June 25, 1868 as a "new State".

Amanda Lea Rose challenges the lawfulness of said "new State" and claims that all Congressional Reconstruction Acts purporting to annul the original State through conquest, subjugate its Citizenry, create a "new State" and "admit" said new State into the American Union in times of declared national peace, without the consent of the free people and without the free people being represented during the passage of said Congressional Acts is repugnant to and in violation of the Fifth Article of Amendment of the Constitution of the United States of America;

"No person shall... be deprived of life liberty or property without due process of law."

Congress, through the Reconstruction Act of March 2, 1867 deprived the Freeman of North Carolina of the property of the entire State soil to govern.

The purported "State" prosecuting this action does not meet the lawful requirements, which would give it legal standing as a State of freemen whose government, and laws originate from the consent of the governed.

Also, Amanda Lea Rose does not meet the minimum contact requirements necessary to be brought within the jurisdiction of said "State."

The "State" prosecuting this action, if it were lawful would also be in violation of the fundamental principle of protection and allegiance reciprocity.

There can only be one lawful jurisdiction calling itself the State (Republic) of North Carolina;

"No new state shall be formed or erected **within the jurisdiction** of another State." United States Constitution Article 4 Section 3 clause 1. {emphasis added}

The United States Supreme Court states;

> Progress generally begins in skepticism about accepted truths. Intellectual freedom means the right to re-examine much that has been long taken for granted. A free man must be a reasoning man, and he must dare to doubt what a legislative or electoral majority may most passionately assert. The danger that citizens will think wrongly is serious, but less dangerous than atrophy from not thinking at all. Our Constitution relies on our electorate's complete ideological freedom to nourish independent and responsible intelligence and preserve our democracy from that submissiveness, timidity and herd-mindedness of the masses which would foster a tyranny of mediocrity. The priceless heritage of our society is the unrestricted constitutional right of each member to think as he will. Thought control is a copyright of totalitarianism, and we have no claim to it. It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error. We could justify any censorship only when the censors are better shielded against error than the censored. *COMMUNICATIONS ASSN. v. DOUDS, 339 U.S. 382 (1950)*

REMEDY

Amanda Lea Rose requires remedy to this action in the following manner;

1. That the purported "State" prosecuting this action provide proof beyond reasonable doubt of the lawfulness of the due process of the Reconstruction Acts of Congress that created it, to include the Constitutional authority for said Acts and show how the resulting "State" is a State of the consent of the posterity of the people who compacted together under the United States Constitution. If the purported "State" can prove it's jurisdiction beyond doubt over the soil of the State of North Carolina and the free people inhabiting it, then Amanda Lea Rose will obey all laws of said state. Amanda Lea Rose demands that the prosecutions proof be in writing and provided at least 30 days prior to arraignment in order to allow rebuttal.
2. Or, if this is not possible or the "State" prosecuting this action simply refuses to put on the record its foundational and originating authority, and the foundation of its purported authority over the Freeman inhabitants of North Carolina organized under the Lawful Constitution of December 18, 1776, then Amanda Lea Rose demands this action cease, Rule 12(b)(2).
3. Or, if officers or agents of said purported "state" continue in bad faith in any way attempt to coerce or intimidate Amanda Lea Rose to abandon her rights to participate in lawful provable government and continue to terrorize her in violations of the laws, then Amanda Lea Rose will use all means necessary to seek remedy in law.

4. Or, the Prosecution remove this action to Federal Court for the reason that this is a controversy between THE STATE OF NORTH CAROLINA purportedly created on June 25, 1868 by the United States Congress through the Act of March 2, 1867 and the subsequent Acts of March 23,1867 and July 19, 1867, against the free will and consent of the posterity of the Freeman of North Carolina and a Citizen of North Carolina who recognizes the Constitution of North Carolina of December 18, 1776 as still being valid, lawful and binding.

Respectfully submitted,

Amanda Lea Rose

STATE OF NORTH CAROLINA	**IN THE GENERAL COURT OF JUSTICE**
	SUPERIOR COURT DIVISION
WILKES COUNTY	**FILE NOS. 10 IFS 706153 AND 10 IFS 706154**
STATE OF NORTH CAROLINA, **Plaintiff**	**MEMORANDUM OF LAW**
v.	
AMANDA LEA ROSE, **Respondent**	

MEMORANDUM OF LAW IN SUPPORT OF CHALLENGE TO JURISDICTION

THE STATE OF NORTH CAROLINA, which purportedly entered the American Union on June 25, 1868 does not have a clear, lawful, unbroken and constitutional chain of custody and title over of the soil of North Carolina. In law there has to be a clear and unbroken chain of custody on the title of the soil of North Carolina.

Respondent claims that two States named "The State of North Carolina" have purportedly entered the American Union. One entered as the 12th State on November 21, 1789 as an original party to the United States Constitution. The other purportedly entered as the 39th State of the Union by congressional action, over the President's veto, on June 25, 1868. The common held belief is that the 12th State was *re-admitted* to the Union by the Reconstruction Acts. Nothing could be further from the truth. The 39th State that entered the Union was a new State with a new body politic created solely by Congress.

Respondent claims that the 39th state that entered the American Union on June 25, 1868 titled "The State of North Carolina" and composed of national citizens, is a clear and unambiguous, unlawful break in the chain of custody of the title over the soil of North Carolina. The 39th State was put into place by multiple Constitutional violations including but not limited

to Bills of Attainder in the form of Bills of pains and penalties, multiple violations of due process, violating Article 4 § 4 by not guaranteeing a republican form of government to the body politics of the posterity as mentioned in the Preamble, violating Article 3 § 3 by claiming the right to conquer States in times of peace, violating Article 4 § 3 cl.1 by creating a new State within the jurisdiction of the original State without the consent of the original body politic and coercing the Amending of the United States Constitution of the United States through the Reconstruction Acts.

STATEMENT OF FACTS

Respondent Rose, a Citizen of North-Carolina organized under its Constitution of December 18, 1776, was stopped on by Trooper S.A Shouse on a highway constructed upon the soil of the property of North Carolina on Thursday, October 21, 2010. Trooper Shouse was working as an officer for the State of North Carolina created by Congressional Reconstruction and organized under the Constitution of 1971 as amended from the Reconstruction Constitution of 1868. Trooper Shouse issued a North Carolina Uniform Citation to Respondent giving important notice that Respondent must appear in District Court and criminal process may be issued against Respondent and she may be arrested if she failed to appear at District Court. The Citation was for "operating a motor vehicle on a street or highway in forward motion without having the provided seat belt properly fastened about the defendant's body while the defendant was the driver of the motor vehicle.(G.S. 20-135.2 (A)). Respondent has substantial legal evidence disputing Trooper Shouse's claim that respondent is subject to the laws of the purported State created by Congressional Reconstruction.

UNDISPUTED FACTS

The undisputed facts concerning the change of title to the soil of North Carolina are as follows:

1. The title to the soil of North Carolina was originally held by the Crown of England.

2. Because of the Crown's abuses to the subjects inhabiting the colony of North Carolina as well as the other colonies, the freeman inhabitants gathered in Mecklenburg County to declare their right to be a free independent, self governing people setting forth the principal that a government which habitually abuses the law and denies remedy to the people loses its right to govern and any attempt to govern while denying justice and due process is but usurpation; as stated in the document as follows;

"**Resolved**: That whosoever directly or indirectly abets or in any way form or manner, countenances the invasion of our rights, as attempted by the Parliament of Great Britain, is an enemy to his country, to America, and the rights of man.

Resolved: That we, the citizens of Mecklenburg County, do hereby dissolve the political bonds which have connected us with the mother country, and absolve ourselves from all allegiance to the British crown, abjuring all political connection with a nation that has wantonly trampled on our rights and liberties and inhumanly shed the innocent blood of Americans at Lexington.

Resolved: That we do hereby declare ourselves a free and independent people, that we are and of right to be, a sovereign and self-governing people under the power of God and the general Congress; to the maintenance of which independence we solemnly pledge to each other our mutual cooperation, our lives, our fortunes, and our most sacred honor."

The above actions created a new political body rightfully attempting to govern the soil of North Carolina.

3. This new body politic organized themselves under a Constitution titled *"The Constitution, or form of Government, agreed to and resolved upon, by the Representatives of the freemen of the State of North Carolina, elected and chosen for that particular purpose, in Congress assembled, at Halifax, the eighteenth day of December, in the year of our Lord one thousand seven hundred and seventy-six"* This was the first

government of this new body politic of North Carolina recognized by 12 other colonies/states over the soil of NC.

4. The Declaration of Independence was written as an indictment against the King of his abuses and usurpations, which violated the universal reciprocal relationship between a government and a people. This was the assertion of change of title from the Crown to the new body politic composed of the freeman.

5. This new body politic, by definition and of right, seceded from England by issuing the Declaration of Independence. This led to organizing a Union of Sovereign states in the form of the Articles of Confederation.

6. The first form of government under which the several colonies/states organized themselves into a Union was done under the Articles of Confederation. This Union created the first government which styled itself as *"the government of the United States of America"*. This government deemed itself a perpetual Union. The term "perpetual" occurs 5 times in the Articles of Confederation, and it's in the title of the document.

7. Upon completion of the war, the Treaty of Paris was signed, whereby in Article 1, the Crown of Great Britain acknowledged North Carolina to be one of the *"free, sovereign and independent States."* **The title to the property of North Carolina was lawfully transferred from the Crown of England to the freeman of North Carolina organized under the Constitution of December 18, 1776.** This lawfully established the rightful body politic to be the freeman of North Carolina.

8. The Treaty of Paris **did not** transfer the title to the soil of North Carolina to the Government organized under the Articles of Confederation titled "The United States of America."

9. The government of the United States of America organized under the Articles of Confederation was found to be inadequate. A new

Constitution was proposed and they chose to change their form of government under the Constitution of the United States of America.

10. North Carolina did not choose to be a part of this new government/body politic and was not forced or coerced one way or the other. **The title to the property of North Carolina lawfully remained with the freeman/body politic of North Carolina.**

11. North Carolina ratified the United States Constitution on November 21, 1789 and entered into a new voluntarily Union under the United States Constitution.

12. The term "perpetual Union" was left out of the new Constitution. None of the several states were forced or coerced to stay in or leave the Union. They could choose of their own/body politic and free will.

13. On Feb. 28, 1861 North Carolina voted against secession and remained in the Union. At this time, S.C., Mississippi; Florida, Georgia, Louisiana and Texas had seceded under the Presidency of James Buchanan. It is important to note here that the President did not wage war on these seceded states.

14. On March 4, 1861 Abraham Lincoln, in his inaugural address declared that he would "hold, occupy, and possess the property and places belonging to the government, and collect the duties and impost." The seceded Southern States considered these words a declaration of war because the only way Lincoln could hold and occupy the forts in the South and collect the duties was by force. Abraham Lincoln sent reinforcement troops to Fort Sumter. South Carolina chose a preemptive strike on Fort Sumter on April 12, 1861 not allowing the reinforcement troops to land at Fort Sumter; therefore they could only watch the bombardment of the fort.

15. On April 15, 1861 the Secretary of War notified governor Ellis of North Carolina that the Federal Government expected North Carolina to

furnish 2 regiments of troops to make war of the seceded states. In Governor Ellis's refusal he closed with these words *"I can be no party to this wicked violation of the laws of the country, and to this war upon the liberties of a free people. You can get no troops from North Carolina."*

16. A convention was held in Raleigh on May 20, 1861 and an ordinance of secession was signed and on May 27, 1861 North Carolina became a member of the Confederate States of America.

17. The war was not between slave states and free states. Four slave states remained in the Union the entirety of the war, Delaware, Maryland, Kentucky, and Missouri.

18. In July of 1861 both Houses of Congress pass Resolutions clearly stating the Object of the War:

"Resolved, That the present deplorable civil war has been forced upon the country by disunionists of the Southern States now in revolt against the constitutional government and in arms around the capital; That in this national emergency Congress, banishing all feeling or passion or resentment, will recollect only its duty to the whole country; That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purposes of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made pursuant thereof, and to preserve the Union, with all the dignity, equality, and rights of the several states unimpaired; That as soon as these objects are accomplished the war ought to cease." (Congressional Globe – Friday, July 26, 1861)

Please note; the congressionally stated object for the war was divided into two parts, (1) what the war was <u>not</u> for and (2) what the war was for. Congress tells us that the United States Army is not authorized to conquer, subjugate, overthrow or interfere with the rights of the seceded states or to overthrow or interfere with the institution of slavery in the seceded states. The United States military was to be used for the purpose of *"defending and maintaining the*

supremacy of the Constitution and all laws made pursuant to it and to preserve the Union with all the dignity, equality, and rights of the several states unimpaired".

19. In April/May 1865 after the surrender of the two largest confederate armies under Lee and Johnson, the war ends.

20. Peace is declared by Presidential Proclamations on April 2, 1866 (14 STAT 811-813) and August 20, 1866 (14 STAT 814).

21. North Carolina is recognized as a lawful State back in the Union. In December 1865 the eleven previous Confederate States are considered back in the Union as lawful states with lawful governments as evidenced by their participation in the amending of the National Constitution abolishing slavery. (Dates the Southern States ratified the 13th Amendment-Virginia, February 9, 1865; Louisiana, February 17, 1865; Tennessee, April 7, 1865; Arkansas, April 14, 1865; South Carolina, November 18, 1865; Alabama, December 2, 1865; North Carolina, December 4, 1865; Georgia, December 6, 1865; THE AMENDMENT WAS RATIFIED ON DECEMBER 6, 1865

22. The 14th Amendment is proposed by the 39th Congress June 13, 1866. Congress sends the proposed 14th Amendment to all governments it recognizes as having lawful authority to pass or reject said Amendment. **The body politic and Government of North Carolina organized under the Constitution of Dec. 18, 1776 is again recognized by Congress** as having such authority. It is rejected by all Southern States except Tennessee. (**Ratified** by Tennessee July 19, 1866).

23. Congress passed the Reconstruction Acts based upon the principal that the Southern states were conquered territory. The Reconstruction Acts annulled and abolished the existing states, their body politics and governments of the 10 states which did not ratify the proposed 14th Amendment, imposed martial law on them in times of peace, ordered them to create a new constitution that was not composed of the freeman of NC, refused to allow them representation in Congress until such time as said

states had (1) ratified the 14th Amendment (2) The 14th Amendment was made part of the Federal Constitution.

Andrew Johnson's veto of the 3rd Reconstruction Act of July 19, 1867 states in part;

"Another ground on which these reconstruction acts are attempted to be sustained is this: That these ten States are conquered territory; that the constitutional relation in which they stood as States toward the Federal Government prior to the rebellion has given place to a new relation; that their territory is a conquered country and their citizens a conquered people, and that in this new relation Congress can govern them by military power."

"A title by conquest stands on clear ground; it is a <u>new title</u> acquired by war."*

"There is not a foot of the land in any one of these ten States which the United States holds by conquest,"

"We have not conquered these places, but have simply "repossessed" them"

"From first to last, during the rebellion and since, **the title*** of each of these States to the lands and public buildings owned by them has never been disturbed."
* emphasis added

24. On June 25, 1868 Congress purportedly admitted its newly created state of North Carolina into the American Union over the President's veto.

25. On June 30, 1868 General Canby of the US Army issued general orders #120 which states in part "to facilitate the organization of the new state Government, the following appointments are made: to be governor of NC, W.W. Holden, Government elect, *vice* Jonathan Worth removed...to take effect July 1, 1868 on the meeting of the General Assembly of North Carolina.

26. **<u>On July 1, 1868 Governor Jonathan Worth surrenders the Government of North Carolina</u>** organized under the Constitution of Dec. 1776 under what he deemed military duress and not of the consent of the governed. This was done in declared times of peace, Governor Jonathan Worth of North Carolina, in a letter addressed to Governor W.W. Holden of

North Carolina, surrenders the State of North Carolina. The letter states in part:

"...Yesterday morning I was verbally notified by Chief Justice Pearson that in obedience to a telegram from Genl Canby, he would today at 10 A.M. administer to you the oaths required preliminary to your entering upon the discharge of the duties of Civil Governor of the State; and that there upon you would demand possession of my Office...I intimated to the Judge my opinion that such proceeding was premature even under the Reconstruction legislation of Congress and that I should probably decline to surrender the Office to you....I do not recognize the validity of the late election, under which you and those cooperating with you claim to be invested with the Civil Government of the State. You have no evidence of your election, save the certificate of a Major General of the United States Army. I regard all of you as, in effect, appointees of the Military power of the United States, and not as deriving your powers from the consent of those you claim to govern. Knowing, however, that you are backed by Military force here, which I could not resist if I would, I do not deem it necessary to offer a futile opposition but vacate the office without the ceremony of actual eviction, offering no further opposition than this, my protest. I would submit to actual expulsion in order to bring before the Supreme Court of the United States the question as to the Constitutionality of the legislation under which you claim to be the rightful Governor of the State, if the past action of that tribunal furnished any hope of a speedy trial. I surrender the office to you under what I deem Military duress, without stopping as the occasion would well justify. To comment upon the singular coincidence that the present State Government is surrendered, as without legality, to him whose own official sanction, but three years ago, declared it valid."

27. The constitutionality of the Reconstruction Acts went before the US Supreme Court in *Mississippi v. Johnson*, 4 Wallace, 475. The court dismissed on the technical ground that the court had *"no jurisdiction of a bill to enjoin the President in the performance of his official duties..."*

28. The constitutionality of the Reconstruction Acts went to the Supreme Court a 2nd time in the case of *Georgia v. Stanton*, 6 Wallace, 50. The court found an equally good technical reason for declining jurisdiction by

holding that the case concerned purely political matters, instead of personal and property rights. held that "A bill to restrain the defendants, who represent the executive authority of the government, from carrying into execution certain Acts of Congress, inasmuch as such execution would *annul and totally abolish the existing State Government of Georgia, is not within the jurisdiction of this court.'*

29. The constitutionality of Reconstruction goes before the Supreme Court a third time, in *Ex Parte McCardle,* 6 Wallace, 318. The US Supreme Court assumed jurisdiction on the constitutionality of the Reconstruction Acts and were argued before the Supreme Court.

Before the Supreme Court could enter a judgment the Radical Republicans, in control of Congress, rushed thru a bill repealing the appellate jurisdiction of the Supreme Court under the Act of 1867 (which McCardle used, as authority for the court to assume jurisdiction) prohibiting the Supreme Court from preceding on any appeal already before it. The arguments in the McCardle case had been finished while the bill was still pending. The court waited until the bill was passed and then postponed further consideration of the matter until the next term. In McCardle, Chief Justice Chase stated, *"This court cannot proceed to pronounce judgment...for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction then in exercising firmly that which the constitution and the laws confer."* In the biggest battle between Congress and the Supreme Court in this nation's history, for the first and only time Congress removed the court's jurisdiction to hear a case.

30. ***US v. Kline* 1872,** Supreme Court ruling held that Congress may not limit Supreme Court's jurisdiction to control the results of a particular case.

31. The last attempt to obtain a definite ruling on the constitutionality of the Reconstruction Acts was made in the case of *Ex Parte Yerger*, 8 Wallace 85. The Supreme Court assumed jurisdiction and this action was immediately answered by the introduction of a bill in the Senate

explicitly prohibiting the Supreme Court from considering any case which involved the validly of the Reconstruction Acts, followed by another prohibiting the judicial review of any act of Congress. A compromise was reached outside of court whereby Yerger, on being turned over to the civil authorities, withdrew his petition. The proposed Acts of Congress were therefore never enacted.

I.

UNCONSTITUTIONAL ACT CREATES NOTHING

In Norton v. Shelby County, 6 S.Ct. 1121 the court agrees – *"An unconstitutional act is not a law. It confers no rights. It imposes no duties. It affords no protection. It creates no office. It is in legal contemplation as inoperative as though it had never been passed. Therefore an unconstitutional act purporting to create an office gives no validity to the acts of a person acting under color of its authority."*

In this present matter, the State body politic bringing forth this action, was in fact created by an unconstitutional act and without due process of law. This change in North Carolina's Government from that of 12th State to the 39th State was not done Constitutionally or by an act of the freeman/body politic of North Carolina. In the purported North Carolina Constitution of the 39th State in Art. I Sec. 2, it states, *"All political power is vested in and derived from the people, all government of right originates from the people, is founded upon their will only and is instituted solely for the good of the whole"*.

Congress' duty is to guarantee a Republican form of government to the body politic of North Carolina. This duty necessitates that a specific people (Body Politic) are the object of what is being guaranteed – in this case a Republican form of government. Congress' duty was to the freeman of North Carolina, not to the Catawba Indians, Chinese citizens, Canadian citizens, National citizens, etc.

There is a fundamental change between 1788 and 1867 upon who the Federal Government believes the "people" are. In 1788 the people were the individual free citizens of any individual state. These were the people who could alter their form of Government through convention, as we saw in changing Government from the Articles of Confederation to the

Constitution. In the time frame of 1861 to 1867 we see that Congress changes who the people of the several States are.

President Lincoln and the United States Congress falsely followed the principal that "the people" were no longer the citizens of the several States but instead national citizens. A Nationalized people are in contravention and opposed to citizenship in the individual States. President Lincoln and Congress claimed that the people of any one individual State had no authority to alter or to abolish their Form of Government any longer, that the authority to alter or abolish their Form of Government came solely from permission from the United States Congress.

Hamilton, in Federalist 78 cautions us to remember that *"constitution is as a fundamental law"* and that the representatives cannot substitute their "will" for the "will" of the people.

In The American Annual Cyclopedia and Register of Important Events of the Year 1867 Vol VII, p.206, Entered according to Act of Congress, in the year 1868, by D. Appleton & Company there is a quote from Thaddeus Stevens, Representative of Pennsylvania, regarding who "the people" are, he says,

> "Though the President is Commander-in-Chief, Congress is his commander; and God willing, he shall obey. He and his minions shall learn that this is not a Government of kings and satraps, but a Government of the people, and that **Congress is the people**." (Emphasis added)

This is in direct conflict to and an overthrow of the founding principle of this government. The representatives of the people are not the people, and cannot substitute their will for the will of the people.

We see here from The Federalist Papers that adhering to the Constitution was the intent of the founding fathers. It is clear that they would not consider a legislative act that was contrary to the Constitution as valid. When Congress begins to substitute their will for the will of the people, we no longer have a government of the people, by the people. We have a government of the government, by the government – a dictatorship - which is somewhat addressed from Mr Eldridge, Representative of Wisconsin, regarding Reconstruction – *"...There never was a more abominable doctrine, or one more fatal to this Government, than that which asserts its right and*

power to hold the late insurgent States as conquered territory, and the people as conquered subjects."

Respondent asks the question to the STATE OF NORTH CAROLINA prosecuting this case, where does Congress get that authority?

The following Articles of the United States Constitution were violated through the forced creation of the 39th State of North Carolina:

Article I § 9 cl. 3 states, *"No bill of attainder or ex post facto law shall be passed."* Black's Law Dictionary defines Bill of Attainder as "*Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial."* United States v. Brown, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett, 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. *"An act is a bill of attainder when the punishment is death and a "bill of pains and penalties" when the punishment is less severe; both kinds of punishment fall within the scope of the constitutional prohibition."* The United States Congress took the position that the people of North Carolina had committed treason in purportedly rebelling against the United States Government through the act of secession (which we defined in our Undisputed Facts, where Respondent clearly shows previous times of secession by definition). The United States Congress provided the people of North Carolina with no due process of law in claiming that the people had committed treason.

Art. III § 3 cl. 1 of the United States Constitution states *"Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid, and Comfort..."*

Two wars took place between 1861 and 1868, both having diametrically opposed objects. The Civil War was to preserve the Union and rights associated. Reconstruction was to destroy the Union, create a Nation through subjugation and destroying the rights of the several States and their citizens. All of this was done without Constitutional authority.

Abraham Lincoln committed a crime when he baited the South to fire on Fort Sumter, conveniently leaving out the details to the American people, that he was reinforcing Fort Sumter. This led the people of the northern States to believe that South Carolina started the war with no apparent reason.

The Federal Government and the several States within the United States cannot wage war on another, nor provoke violence. Abraham Lincoln clearly never recognized the Southern States as leaving the Union and yet by the country's own Constitution, the only way to wage lawful war is on a foreign nation. This relates to the present case in that Respondent is a citizen of the de-jure State of North Carolina.

Art. III § 3 cl. 2 of the United States Constitution states *"...no attainder of Treason shall work corruption of blood or forfeiture except during the life of the person attained."*

This relates to the present case in that Respondent is being punished now with the loss of the 12th State with the usurpations being passed down from his forefathers.

Art. IV § 3states, *"New States may be admitted by Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State..."* This applies to the present case in that this present case against Respondent was *"erected within the Jurisdiction of another State"* which clearly violates this article of the United States Constitution. The present 39th State should be able to clearly answer the following questions? (1) Did the people of the dejure North Carolina consent to Martial Law in order to affect a change in its Constitution and annul its original jurisdiction and consent to creating a new jurisdiction? (2) And even if they did, they would first have had to amend the United States Constitution – was that done? (3) Which begs the question, where did the original jurisdiction of the 12th state of the American Union go, in order for the new state (39th) enter the American Union?

In Military Order 120, it clearly states, *"In order to facilitate to authority of the new Government, the following appointments were made..."*

Article V states, *"The Congress...shall propose amendments to the Constitution...(and) shall be valid to all intents and purposes as part of the Constitution...;*

Provided...that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate." This relates to the present case in that the de-jure North Carolina was not allowed to send Representatives until they passed, ratified, and amended the Constitution with the 14th Amendment. These representatives from North Carolina were William A. Graham and John Pool and they were denied seats in Congress.

Amendment V states, *"No person...shall be deprived of life, liberty, or property, without due process of law; nor private property be taken for public use without just compensation."*

The people/body politic of North Carolina were denied due process when Lincoln waged war. The people/body politic of North Carolina violated no laws by seceding from the Union, or by defending themselves against the Federal Government. The Federal Government violated International Law by not using all methods available to avoid war. The United States Government waged an unjust war; therefore denying themselves the rights associated with conquest. This applies to the present case in that Respondent is being denied her right to participate in provable, lawful government by those actors that demand she be subjugated, that she be compliant with, and agree to the loss of her rights associated with being a citizen of the 12th State of the American Union. She is being denied this without due process of law. This is, in fact, corruption of blood. Respondent is denied due process due to the purported crimes of his forefathers.

The binding law cited in the United States Senate justifying the conquest of North Carolina was clearly stated on February 23, 1866 by Senator Fessenden. He states;

> *"If we have been in a state of war, the question arises – and it is a very simple one ...is there any dispute as to what are the consequences of war? What are the consequences of successful war? Where one nation conquers another, overcomes it without qualifications, without terms, without limits, and after a bitter contest succeeds in crushing its enemy, occupying its enemy's territory, destroying its post, what are the consequences? The Senator is perfectly familiar with the writers on International law. Let him read the chapter in the book under my hand upon "Acquisitions by War." Is there anything more certain then that the conquer has a right, if he chooses, to change*

the form of government, that he has a right to punish, that he has a right to take entire control of the nation and the people, ...with only the limitation that he shall not abuse them and conduct them in a manner contrary to humanity, in the ordinary acceptation of the term?"

Senator Johnson replied, "*What is the book?*"

Senator Fessenden replied, "*Vattel, which is perfectly familiar to the Senator as it is to everybody else who is master of the subject. I can take up the book and read passages to show precisely what I have stated, in the strongest possible terms. I did not think it necessary to hunt up a dozen authors, because the law is the same in all. There is no dispute about it. That principal, then, is settled.*"

Senator Fessenden goes on to state his abstract and absurd reasoning justifying the principals of conquest in light of the fact that Congress expressly stated that the War was not for any purpose of conquest or subjugation by stating;

"we are told that we did not wage a war of conquest. Certainly we did not. Congress said precisely what it meant at the time it stated that this war was not waged for any purpose of subjugation. It was not commenced with any such idea, but if it follows that subjugation must come in order to accomplish what we desire to accomplish and what we must accomplish, it is not our fault. If subjugation becomes necessary, although that was not the idea with which the war was commenced, who can complain?" The Congressional Globe, First Session of the 39th Congress, p.988 .

History clearly shows us that Senator Fessenden's position is the position ultimately accepted and exercised by Congress. Senator Fessenden's argument is based upon the Object of the War not being for any purpose of conquest or subjugation. He conveniently leaves out what the Object of the War was for. The Object of the War was to preserve the Union with all the dignity, equality, and rights of the several States unimpaired. **Respondent strongly suggests that it is impossible to preserve the rights of a State in an unimpaired condition through the principal of conquest and subjugation.**

Also, **preserving a Union of several States** comprised exclusively of State citizens **cannot be preserved in an unimpaired condition through the Nationalization of citizenship** as was done through the Reconstruction Acts. Simply stated, the Union was destroyed by the Reconstruction Acts. It was not preserved in an unimpaired condition. America went into the war a Union, subject to local State control and through the Reconstruction Acts ended the war a Nation subject to National control.

Senator Fessenden's position is based upon the assumption that Washington's war upon the Southern States was, in accordance with International law, a just war. If Congress and the President had used Vattel as a source, prior to invading the Southern State, it would have been proven quickly that the United States was prosecuting an unjust war in violation of The Law of Nations Book III- OF WAR, Chapter III – Of the Just Causes of war §'s 24 – 32, 35, 38 and 39.

The Law of Nations Book III- OF WAR, Chapter XII – Of Acquisitions By War, and Particularly of Conquests §'s 202 states, *"The whole right of conqueror is derived from justifiable self-defense which comprehends the support and prosecution of his rights."* § 203 entitled *"Whether we are to set at liberty a people whom the enemy has unjustly conquered."*, states *"...with regard to a people who the enemy had unjustly oppressed. For a people thus spoiled of their liberty, never renounced the hope of recovering it."*

Senator Fessenden clearly admits that Congress waged war against North Carolina. He fails to address the lawfulness and justness of the war that was waged. History shows us that Abraham Lincoln refused to meet with any Representatives from the Confederate States of America to discuss peaceful negotiations for the transfer of United States Military Forts. Lincoln did not recognize the Confederate States of America as a sovereign nation. His position was not based upon the violation of any expressed statutes or laws. President Lincoln's position was that the Southern States ordinances of secession were null and void and that they were still States in the Union in rebellion to lawful authority. President Lincoln made no attempt to pursue any judicial ruling on the lawfulness of his position or the unlawfulness of secession prior to secretly sending troops to Fort Sumter. Lincoln's decision to wage war on Americans exercising their right to alter their form of government to one that its citizens consented to, set precedent overturning the principals this Nation was

founded upon. Lincoln's new foundation for America is based upon the principal that he who is most powerful governs and remedy through due process of law is dead.

This position is shown through several cases (see *N.C. v Ainsworth*, 2006700905CR, *N.C. v Honeycutt*, 991F8737, *Commonwealth of Virginia v. Reid*, CR00-43-01,02) in that the prosecutors in EVERY case in which jurisdiction was challenged based upon the illegitimacy of the creation of the 39th of State of North Carolina, and the lawfulness of coercing the amending of the Constitution, as was done with the 14th amendment, have never entered one word of rebuttal, nor answered any question concerning the lawfulness of their jurisdiction over citizens of the 12th State, concomitant with the Judges allowing continued prosecution without allowing a meaningful hearing. The Judges have continually violated their judicial Canon 1, to the point where Respondent can have no reason for the expectation of a fair trial in any court of the 39th State. The dominant power, the 39th State, demands obedience yet has consistently used the court to deny due process of law by not giving a meaningful hearing on these issues.

Amendment X states, *"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

II

More Sources Claiming Reconstruction Acts Unconstitutional:

On June 13, 1967 United States Representative, Rarick of Louisiana, submitted to the United States Congress Louisiana House Concurrent Resolution urging the United States Congress to declare the 14 Amendment Illegal. He also entered a treatise on the illegality of the 14th Amendment Prepared by a Louisiana Judge Leander H. Perez. The Resolution stated *"Whereas the Reconstruction Acts of Congress unlawfully overthrew their existing governments, removed the lawfully constituted legislatures by military force and replaced them with rump legislatures which carried out military orders and pretended to ratify the 14th Amendment"*

According to the SC Law Quarterly Vol. 11, 1959 in discussing the Political Question nature of the 14th Amendment it states in *Coleman v. Miller* 307 U.S. 433 (1938), the court

discussed the questionable nature of the adoption of the 14th Amendment pointing out the incongruity of the failure to recognize the withdrawals of the ratifications by Ohio and New Jersey as compared to the subsequent ratifications of NC, SC, GA., after such states had formally rejected. The Court referred to the dubious first Proclamation of the Secretary of State and the following act of Congress was declared the 14th Amendment to have been adopted and the second Proclamation of the Secretary of State proclaiming adoption. The Court then stated:

"This decision by the political departments of the Government as to the validity of the adoption of the 14th Amendment has been accepted. We think that in accordance with this historic precedent the question of the efficacy of ratifications of State Legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in Congress in the exercise of its control over the promulgation of the adoption of the amendment."

The Tulane Law Review Vol. 28 of 1953 in the article entitled The Dubious Origin of the 14th Amendment by Walter J. Suthon, Jr., former President of the Louisiana State bar Association, states;

"The most extreme and amazing feature of the Act (Reconstruction Act of March 2, 1867) was the requirement that each excluded state must ratify the Fourteenth Amendment, in order to again enjoy the status and rights of a State, including representation in Congress, Section 3 of the Act sets forth this compulsive coercion thus imposed upon the Southern States.

The most apt characterization of this compulsive provision, placing these States under military authority, there to remain until they comply, inter alia with this requirement of ratifying the rejected Fourteenth Amendment, is found in a speech in a speech of Senator Doolittle of Wisconsin, a Northerner and a Conservative Republican. During the floor debate on the bill he said;

"My friend has said what has been said all around me, what is said everyday; the people of the South have rejected the constitutional amendment, and therefore we will march upon them and force them to adopt at the point of a bayonet, and establish military over them until they do adopt it." Congressional Globe 39th Congress *2nd Session, Part 3, at 1644 (1867).*

Surely, the authors of our Constitution never contemplated or understood that ratification of a constitutional amendment proposal by a State could lawfully be compelled "at the point of a bayonet", and by subjecting all aspects of civil life in the recalcitrant State to continue military rule, until said State recanted its heresy in rejecting the proposed amendment and yielded the desired ratification to the duress of continued and compelling force."

The footnote of this last statement states "*it is elementary that any consideration of an amendment proposal from Congress by a State legislature must involve equal freedom on the part of each State to ratify or reject, as its legislature in its deliberation and discretion determine. Constitutional right and power of a State legislature to ratify carries with it, by necessary implication, an unquestioned and unfettered right and power to refuse to ratify.*" The Legislative Act called Reconstruction expressly did not allow for rejection.

In every situation where these issues have been brought forth in the District and Superior Courts of North Carolina the State of North Carolina has a proven history of not allowing a meaningful hearing. These cases include: *North Carolina v. Ainsworth*_Case # 06-CRS-707182, *North Carolina v. Ainsworth* No. COA02-88, *North Carolina v. Honeycutt* File # 991F8737, *North Carolina v. Birch* No. NCAC 11-299, and *North Carolina v. Reid.* The history of each of these cases shows complete avoidance and lack of *"beyond a reasonable doubt"* (which is required by North Carolina law) proof of personal jurisdiction.

It is clear and beyond all reasonable doubt that gross violations of the Constitution and rights of the people of the several States took place and cannot be ignored without perpetuating an already comprised legal system.

III
POLITICAL QUESTION

In the Declaration of Independence we read *"...That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, - That*

whenever any Form of Government becomes destructive to these ends, it is the Right of the People to alter or abolish it, and to institute new Government...but when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their security..."

In the Mecklenburg Declaration of Independence of May 20, 1775 we read, *"That whosoever directly or indirectly abetted or in any way, form or manner countenanced to unchartered and dangerous invasion of our rights...is an enemy to this County – to America and to the inherent and inalienable rights of man."*

We see that our country was founded upon the principals that government was founded by consent for the purpose of securing the inalienable rights of man. And whenever government becomes destructive and abusive to the rights they have a duty to uphold this becomes reason and cause for political dissolution.

It is a common historical fact that abusive and oppressive governments which intend to maintain their abuses seek justification in a multitude of manners, i.e Germany claimed sovereign right to exterminate Jews. Some seek biased judiciaries; some seek dictatorial rights of a dictator. This list is virtually endless.

This applies to the present case in that a long train of abuses and usurpations by the United States Federal government and by the Congressionally Reconstructed State of North Carolina unquestionably consists in the legislative, executive branches, agencies and counties working together to usurp rights an commit egregious and wanton abuses. The Federalist Papers #78 tells us the judiciary should be a bulwark between the people and an over-reaching legislature. The Political question doctrine, if used as a defense in which governmental abuses and usurpations are procedurally given immunity, is yet another abuse and treason against the people. Our system of government consists of 4 parts: (1) the people (2) the legislative (3) the executive and (4) the judiciary. We purportedly have in our system checks and balances designed to prevent and stop abuses. In our system the checks and balances are designed to operate between the executive, legislative, and judiciary in a just and honorable manner to where the people are not left with exercising their check and balance as occurred in the Declarations of July 4, 1776 and May 20, 1775. The concept that the governments can violate the laws, rights, and

abuse the people until such time that the people rise up violently, is despotic and treasonous against the rights of the people.

In relation to Respondent, he shows a long train of abuses and usurpations, evincing a design to reduce the citizens of the several states to a subjugated people, not allowed to have a government of consent, with a denial of remedy from the judicial branch.

The issue Respondent bring is, Congress's authority to annul states (while having a duty of guaranteeing and securing states and the declared law that states that waging war against any of the several states, is treason) in times of peace under the principle of conquest, which is war, denying equal suffrage in the Senate, to a state and coercing the adoption of the 14th Amendment to state's that had previously rejected it. More succinctly, is Congress authorized to commit the political crime of treason by overthrowing State governments and ordering the amending of the Constitution of the United States of America? Does this set the precedent that coercion has binding force in law, which all persons are required to give obedience.

The United States Supreme court in *Georgia v. Stanton* 6 Wallace 50 was presented with the argument of whether the political overthrow of several Southern States, including North Carolina, through the use of force (coup d'état), carried more weight as opposed to the issue of a political question, as presented by the government. The Supreme Court having full authority to act *sua sponte,* if it felt that Congress's exercise of power, through non-refuted unconstitutional and despotic actions, or whether it was a purely political question, which the court could not take cognizance of, held more weight. The Supreme Court abdicated its obligation and duty to protect the rights of the American people and acted as a co-conspirator in the overthrow of the United States Constitution.

The Supreme Court had in front of it in the brief submitted by J.S. Black for the State of Georgia, the following undisputed facts,

> "The defendants avow their intention to take the government of the State of Georgia entirely into their own hands, to nullify her laws, to control the election of her officers to deprive her people of the right to be tried by their own courts and juries, to break up her whole social organization, to destroy her existence, and replace her and all her people to a state of complete slavery. Is it not possible to conceive how a greater wrong or a more grievous injury can be committed against any large body of persons. Nor is it pretended that these things are to be done in pursuance of any valid law. The

Constitution makes Georgia a free State, and the act of Congress which requires her to be enslaved is an attempt to repeal the Constitution. The counsel for the defendants will admit that the act of Congress is unconstitutional; and if that be true, it is of no more force than if the place it occupies on the statute-book were a blank. The defendants are, therefore, guilty of a great injury against Georgia, and are committing it without the show or color of legal excuse..."

This applies to the present case in that the facts surrounding are the same as they were in Georgia v. Stanton as evidenced by Mr. Black's statement *"No defense has yet been suggested by the defendants' counsel, no denial of the facts, no assertion that they are justified by legal authority"*.

In the brief written by the appellant in *ex parte McCardle* 7 Wallace 506 states;

"...We know that whatever power is possessed by Congress, or any other department of the Federal Government, is contained in a written Constitution. Within its few pages are comprised, either in expressed language or by necessary intendment, every power which it is possible for the Federal Authorities of any kind to exercise under any circumstances. Show me, then, I say, the power to erect this military government. You cannot find it expressed in any one of the 18 sub-divisions of the 8th section of the first article-----that section which contains the enumeration of the powers of Congress. If it is implied in any of them, tell me in which one. I cannot find it. Turn then to the 4th section of the 4th article, that which declares that "the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature or the Executive, ...against domestic violence."

"Is a Military Government here sanctioned? Certainly it is not expressed. It is implied? Supposing, for the sake of the argument, that the United States, uninvited by its legislative or executive, can go into a State for the purpose of repressing disorder, or violence, or of overthrowing an existing State Government on the ground that it is not republican. I deny that they can introduce a military government as a means to such an end. To avoid misapprehension, I carefully distinguish between the use of military power in aid of the civil, subordinate to it, and military government. The two systems are opposed to one another. In one case the civil power governs, in the other, the military. In one, the military power is the servant to the civil, in the other it is the master. My proposition is that a military government cannot be set up in the United

States for any of the purposes mentioned, and the reason is this: *military government is prohibited by the Constitution.* Not disputing the proposition that congress may pass all laws necessary or proper for carrying into effect any of the expressed powers conferred upon any department of the government, an that Congress is in general the judge both of the necessity and the means, the proposition is to be taken with this qualification: that is, that the means must not be such as are prohibited by the Constitution. A lawful end, an end expressly authorized by the Constitution cannot be obtained by prohibited means."

Respondent enter all arguments, written and oral and briefs, submitted to the Supreme Court in *ex parte McCardle* 7 Wallace 506.

The purpose of the Military Government was to maintain Military control while a new government with a new Constitution was created by the dictates of Congress. This "new" government would not be allowed Representation in Congress until such time as it ratified the 14th Amendment and the 14th Amendment became part of the Federal Constitution. The new Constitution was not a government for the freeman original body politic of North-Carolina.

The change in Government of North Carolina was in fact a "coup d'état", defined by Blacks Law Dictionary, Sixth Edition, p.51 as *"a political move to overthrow existing governments by force"*. It is an absurdity for anyone to claim that this method of changing government is lawful, binding, or in any way indicates due process of law.

It is an absurdity to claim that a coup d'état is a political question. Yet this is exactly what the United States Supreme Court did in Georgia v Stanton, S.C.,6 Wall.,50-78 when it stated that *"...the rights in danger must be rights of persons or property, not merely political rights."*

IV

PROPOSED CONCEPTS JUSTIFYING RECONSTRUCTED STATE CONSTITUTIONS AS BECOMING VALID

There is a concept that with time Reconstruction became valid. This concept is stated by Walter Suthon in the *Tulane Law Review* in which he states in the footnote on p. 41 ;

> *"In 1877 the people in Louisiana succeeded in re-establishing their own government, and thus rid themselves of the puppet government excrescence which the Reconstruction Act had for a time imposed upon them by coercion from without. The present state government of Louisiana is the direct linear successor "Nichols Government" which the people of Louisiana elected, installed and maintained in office in 1877.*
>
> *The "Nichols Government" came into office in Louisiana over the bitter opposition of the predecessor puppet government. The latter sought to install the "Packer Government" in official power in Louisiana, and for several months Louisiana had two governments----the puppet "Packard Government" spawned by the Reconstruction Act and the 'Nichols Government" elected by the people. Upon the withdrawal of military support from it, the "Packard Government" disintegrated ...The "Nichols Government" thus came into power as in actuality a new government------not as a successor in continuation of the "disintegrated" puppet government. This type of change was characteristic of what occurred in other Southern States, as the puppet governments which had gone through the form of ratifying the fourteenth amendment under the compulsion and coercion under the Reconstruction Acts, fell from power one by one and were succeeded by governments of the people".*

The Respondent agrees with most of Mr. Suthon's Treatise on the unconstitutionality of Reconstruction and the 14th Amendment; however he finds his proceeding words fail to take several important issues into consideration.

The Reconstruction Acts made three fundamental changes in our government <u>all through coercion:</u> (1) It changed the Body Politic (2) this new Body politic changed the fundamental laws of the state by adopting new constitutions (3) These new Body Politics operating under new constitutions purportedly adopted the 14th amendment to the United States Constitution.

Mr. Suthon's belief that the original Body Politic of Louisiana and other Southern States taking charge of, and administering the laws and governments, put into place by the Reconstruction Acts and the 14th Amendment, as remaining to be held valid as a part of the

Federal Constitution, somehow reverses Reconstruction and re-establishes lawful government, is incorrect.

If the laws of the Federal government and laws of the State government express a view that certain people should be members of the Body Politic and the people of a State can intimidate and coerce people with an express grant to participate in the government from participating in the government, then the people who purportedly re-established their own government, are acting in a manner no different than Congress when Congress passed the Reconstruction Acts. In other words, coercing people that can lawfully vote, not to vote, is nothing more than the violation of law. It is not the resurrection of lawful government. The only way for lawful government to be re-established, after a violent overthrow by the United States government, is for the people to go back under their original Constitution.

This relates to the Respondent in that this is exactly what has happened with the Re-establishment of the 12th State of North Carolina and their claim of being citizens of that State. Of the two States of North Carolina (the 12th and the 39th); the 12th State is the only lawful, constitutional and legitimate one.

V.

RECONSTRUCTION CREATES SUBJUGATION OF ALL STATE CITIZENS TO NATIONAL CITIZENS AND DESTROYS STATES RIGHTS

Prior to the purported adoption of the coerced 14th Amendment there was only one fundamental form of citizenship in the American Union - State Citizenship. At that time the Federal Government had no authority whatsoever over the Citizens or laws of the several states.

This situation was reversed through the purported Congressional creation of the *"citizen of the United States"* or *"United States citizen"* and its coerced adoption into the United States Constitution through the 14th Amendment in 1867. After the unconstitutional and coerced Reconstruction Acts, America's foundation was changed. In the United States "*there is in our Political System, a government of the several states and a government of the United States. Each is distinct from the other and has citizens of its own.*" US vs. Cruikshank, 92 US 542 (1875).

A United States citizen is national citizen and not a State Citizen.

A United States Citizen does not possess the unalienable Rights enumerated in the Bill of Rights – "*The only absolute and unqualified right of a United States citizen is to residence within the territorial boundaries of the United States*" US vs. Valentine 288 F. Supp. 597, and is considered to be a citizen of the District of Columbia, "*A person may be a citizen of the United States and not a Citizen of any Particular state*" (Slaughter-House cases) "*This is the condition of citizens residing in the District of Columbia and in the territories of the United States, or who have taken up residence abroad.*" Hepburn vs. Ellzey, 6 US 445 from CJS.

Later Courts further our understanding of this change of fundamental Citizenship – " *The privileges and immunities clause of the 14th Amendment protects very few rights because it neither incorporates the Bill of Rights, nor protects all rights of individual citizens. Instead this provision protects only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship.*" Jones vs. Temmer, 829 F.Supp. 1226

There are misconceptions as to the creation of a *"United States Citizen."* There are some that believe that this was an extension of citizenship for the freed blacks only. We need only look at the writings and speeches from that time frame in order to understand the original intent. James G. Blaine, one of the radical Republican Congressman during Reconstruction, made a political speech on August 29, 1866 in Skowhegan, Maine on the purpose and object of the proposed 14th Amendment. Congressman Blaine is very clear that United States citizenship is intended as a national citizenship which includes both black and white citizens. He stated,

> "And in making this extension of citizenship, we are not confining the breadth and scope of our efforts to the negro. It is for the white man as well. We intend to make citizenship National. Heretofore, a man has been a citizen of the United States because he was a citizen of some- one of the States: now, we propose to reverse that, and make him a citizen of any State where he chooses to reside, by defining in advance his National citizenship — and our Amendment declares that "*all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside.*" This Amendment will prove a great beneficence to this generation, and to all who shall succeed us in the rights of American citizenship; and we ask the people of the revolted States to consent to this condition as an antecedent step to their re-admission to Congress with Senators and Representatives." Political Discussions 1856 – 1886 by James G. Blaine 1887 p.64

Congressman Blaine further explained the intentions of the 14th amendment and Reconstruction in his autobiography Twenty Years of Congress 1861 - 1881 Vol. 2 (1884), it must be remembered that Congressman Blaine was in full support of both the 14th Amendment and Reconstruction measures. The following quotes show the intention of the Nationalization of citizenship and the reasoning for forcing the amending of the Constitution. In discussing the Constitutional Conventions ordered by Reconstruction Mr. Blaine states:

> *"All were ordained in the spirit of liberty, all prohibited the existence of any form of slavery, and all heartily recognized the supreme sovereignty of the National Government as having been indisputably established by the overthrow of the Rebellion which was undertaken to confirm the adverse theory of State-rights."* p. 300.

It was unnecessary for Congressman Blaine to add in the statement *"...all prohibited the existence of any form of slavery"* since slavery was abolished by constitutional amendment approximately two years earlier.

Congressman Blaine goes on giving justification for the Nationalization of citizenship and Congressional destruction of State's rights by stating;

> *"As the vicious theory of State-rights had been constantly at enmity with the true spirit of Nationality, the Organic Law of the Republic should be so amended that no standing-room for the heresy would be left."* P.303.

And:

> *"The first section of the Constitutional amendment which includes these invaluable provisions is in fact a new charter of liberty to the citizens of the United States; is the utter destruction of the pestilent heresy of State-rights, which constantly menaced the prosperity and even the existence of the Republic; and is the formal bestowment of Nationality upon the wise Federal system which was the outgrowth of our successful Revolution against Great Britain."* P. 312.

And:

> *"Its opening section settled all conflicts and contradictions on this question by a comprehensive declaration which defined National citizenship and gave to it precedence of the citizenship of a State.* "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United /States and of

the States wherein they reside" *These pregnant words distinctly reversed the origin and character of American citizenship. Instead of a man being a citizen of the United States because he was a citizen of one of the States, he was now made a citizen of any State in which he might choose to reside, because he was antecedently a citizen of the United States*". P. 313

VI.

NO ONE DENIES THE FACTS THAT RECONSTRUCTION AND THE GOVERNMENT OF THE 39th STATE OF THE UNION CALLED THE STATE OF NORTH CAROLINA are UNCONSTITUTIONAL

The unjust war waged upon North-Carolina, the resulting conquest of North-Carolina and her Citizens, the Reconstruction Acts of Congress and the Coerced amending of the United States Constitution have never been defended as Constitutional, lawful or just. In fact just the opposite is true. All parties recognize the unconstitutional reality of all of the above. The only defense used by Congress and those maintaining the Governments unlawful position is avoidance of the matter in Court as in *ex parte* McCardle & *ex parte* Yerger. The Courts have co-conspired in allowing this by allowing legal technicalities (Miss. vs. Johnson & Ga. vs. Stanton), outright delaying of issuing decisions, as in *ex parte* McCardle. In recent times as related to Respondent and others when these issues have been raised the State prosecutors have never rebutted one word or one fact presented. The North-Carolina District and Superior Courts have looked the other way on the State presenting no rebuttal and allowed continuation of prosecution without proof of jurisdiction as in North Carolina v. Ainsworth # 06-CRS-707182, North Carolina v. Ainsworth No. COA02-88, North Carolina v. Honeycutt File # 991F8737, and North Carolina v. Reid.

VII.

COERCION CREATES NO BINDING OBLIGATION

It should be needless to state that unlawful and unconstitutional coercion creates no lawfully binding obligation on anyone. This sad matter at hand clearly shows the necessity of having to state the most basic of legal concepts. Respondent has become aware of information that requires him to make an express statement of his status as a Citizen of North Carolina organized under its Constitution of December 18, 1776. All facts clearly prove that the original laws of North-Carolina were removed by unconstitutional and unlawful coercive measures. The STATE OF NORTH CAROLINA demands that Respondent recognize the coercive measures as lawful, therefore binding respondent to obey statutes put into force by an unconstitutionally put into place government, which is incapable of, and therefore refuses to prove the lawfulness of its authority and jurisdiction.

Respondent stands on the legal ground that clearly unconstitutional and unlawful acts of coercion create no lawful obligation. Respondent has never waived their Constitutional rights of participating in lawful republican government. "*Waivers of Constitutional Rights, not only must be done voluntarily, they must be knowingly intelligent acts, done with sufficient awareness of relevant circumstances and consequences.*"Brady vs. US, 397 US 742. "*Because of what appears to be a lawful command on the surface, many citizens, because of respect for the law are cunningly coerced into waiving their rights, due to ignorance*" US vs. Minker, 350 US 179

VIII

RECONSTRUCTION REDUCES LEGAL SYSTEM INTO A TOOL OF TYRANNY

Because of Reconstruction four of the most fundamental foundations of law are absent from our legal system, rendering it to be a sham and a tool of oppression. They are (1) Proof of jurisdiction, (2) meaningful hearing of facts, (3) impartiality of Judges, and (4) the State, through avoidance, continues prosecuting actions, when it has exculpatory evidence proving innocence.

CONCLUSION

Respondent stands on the legal ground that clearly unconstitutional and unlawful acts of coercion create no lawful obligation.

Respondent is faced with his conscience and duty in this situation. His choice is to deny history, facts, law, his duty to their posterity, his duty to God, and knowingly participate in the 39th Congress' overthrow of the government of the freeman/body politic of North Carolina and its unconstitutional subjugation to the Federal Congress, -or- he can recognize lawful government, not recognize unconstitutional Acts and stand on what he knows as facts, truth, and law.

It is clear that the STATE OF NORTH CAROLINA, by their actions so far, are maintaining the recognition of the overthrow of a lawful state (12th State) of the American Union. The STATE OF NORTH CAROLINA gets its authority by the overthrow of the original state. The STATE OF NORTH CAROLINA should easily be able to prove its lawful, unbroken, and constitutional chain of custody on the title of the soil of North Carolina, which would give them the authority to prove:

(1) The lawfulness of Abraham Lincoln's coercive measures to deny states laws of consent through secession,

(2) The lawfulness of North Carolina's refusal to participate in coercing states to stay in a Union not of their consent, and

(3) The lawfulness of North Carolina's secession, including whether the right of self defense on the part of North Carolina against the aggression of the Federal Government denying North Carolina a Government of consent can be deemed treason and/or rebellion,

(4) The Constitutional authority of the Federal Government to wage war on the several states by;

(a) declaring secession a criminal action,

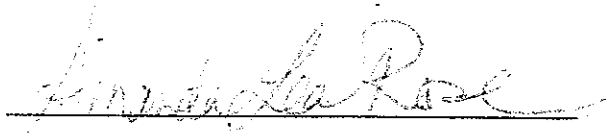
(b) annulling states,

(c) changing the body politics in the several United States from being citizens of their own country/state to that of national citizenship residing in one of the several States, thereby dissolving the Union and creating a Nation, and

(d) the coercion of the amending of the United States Constitution as it did the purported 14th Amendment through the Reconstruction Acts..

If the STATE OF NORTH CAROLINA bringing forth this action cannot or will not prove the above by law, then they should dismiss this action. To do anything otherwise would be a complete usurpation and an excess of jurisdiction

Respectfully submitted, this 12th day of September, 2011



Amanda Lea Rose, Respondent

North Carolina Department of Motor Vehicles
Raleigh, NC

Amanda Rose
9097 Concord Church Rd
Lewisville, NC 27023

To Whom It May Concern:

I, Amanda Lea Rose, a free Citizen of the North-Carolina American Republic, the re-established *de jure* State of North-Carolina, created under the constitution of 1776, hereby rescind my signature on the STATE OF NORTH CAROLINA document titled NORTH CAROLINA DRIVERS LICENSE, thereby reclaiming all my rights and privileges to travel freely and without restriction, and removing any purported claim of personal jurisdiction from the 39th State, created under the Reconstruction Acts of 1868, with a Constitutional revision in 1971.

The document was held out of necessity, fear, intimidation, and by oppression by public officials, and used for fear of my life, liberty, happiness, and well-being. Until such a time as the STATE OF NORTH CAROLINA can prove its lawfulness beyond a reasonable doubt in a court of law, this rescindment stands.

Effective April 30, 2011.

Respectfully submitted,

Amanda Rose

Declaration of Re-Establishment of the North-Carolina American Republic

By the Inhabitants of North-Carolina in the county of Mecklenburg, assembled this the first day of December in the year of our Lord one thousand nine hundred seventy-seven

We the Inhabitants of North-Carolina, do hereby of Right, Duty, and Necessity, re-establish the North-Carolina American Republic in alignment with Article IV, Section 4 of the Constitution of the United States of America.

Our written history has instructed us that it is our Duty and our Right to cast off the chains of bondage to any foreign occupation of our Sovereign state. The Federal United States Government has occupied North-Carolina in excess of 130 years. This federal experiment of oppressive military dominance over North-Carolina and her Inhabitants began with the unlawful subjugation of North-Carolina through the forced adoption of a new State Constitution of 1868, and has proven to the Nation that a government established in deception and military subjugation is destined to fail.

We derive our Rights from Almighty God, and do declare we have a Right to self-determination and a Right not to follow others down a path of self-destruction and servitude. We of Right, hereby declare our intention to correct this path of self-destruction rooted in deception, setting a peaceful example for others to follow. We, the Inhabitants of North-Carolina, know it is our Duty and our Right to re-establish North-Carolina and to set an example for the Nation to witness the re-establishment of a Republic of free sovereign people, peacefully, openly, and without violence in a manner never before seen in history. Caution must be noted! History has shown us that governments long established do not relinquish power and control over people lightly, easily, or without bloodshed. We, therefore, extend an open hand to the Federal United States Government to join us in peaceful cooperation for the re-alignment of the proper and constitutional roles in the relationship of the Federal Government to the government of the Several Sovereign Republican states.

The Inhabitants of North-Carolina, in order to assure a fresh start, hereby rescind the ordinance to dissolve the Union of states dated May 20, 1861, and declare it null and void. We also solemnly pledge and declare peace with the Federal United States Government and its lesser governments, which honor this re-establishment, from this day forward.

We take this opportunity in time to state that this task can only be accomplished with the guidance of Divine Providence, cool heads, honest diplomacy, and a facing of the truth of this Nation's past and present actions, as the United States Government has been actively involved in the subjugation and forced servitude, through deception, of the people of this Nation, in direct violation of the Constitution of the United States of America.

The Federal United States Government, which prides itself as a leader in the world in the maintenance of freedom, has become, in fact, a leader of the world in the forced subjugation of entire republics, commonwealths, nations and monarchies. This forced servitude is as unconscionable and tyrannical as those actions taken by the most despotic and treacherous governments the world has ever known. The Federal United States Government has done this through the illusion of freedom, when in fact there is no freedom.

In spite of the crimes committed against the Inhabitants of North-Carolina and the other states, we find our only option is to extend an offer of Amnesty, and to move forward with a renewed hope of Peace!

The Inhabitants of North-Carolina, in signing this Declaration of Re-establishment, re-unionization and peace, find it necessary to reveal candidly to the world the crimes committed by the Federal United States Government upon the people of the several states and upon its own Federal United States citizens.

The United States Government has acted in a pattern of trickery and deception for well over 130 years. It has repeatedly broken its most sacred duties, trusts, laws and resolutions. The abuses and usurpations of power are far too numerous to list here. Only a few examples, though ample to substantiate our resolve, are chosen here. The Federal United States Government has broken its solemn promise to the Inhabitants and Citizens of the entire nation by not honoring its obligation to follow its own joint resolution adopted July 25, 1861, relating to the object of the Civil War, to not subjugate, conquer, or impair the rights of the states in rebellion. The Federal United States Government perfidiously breached its Constitutional fiduciary responsibility in its action by coercing the Inhabitants of North-Carolina into a Federalized status through the forced acceptance and adoption of a new Constitution in 1868, which offered suffrage and offices in government only to those who encumbered themselves with Federal citizenship, which has no Rights associated with it, only privileges.

The Federal United States Government forced this new Constitution on the Inhabitants of North-Carolina in contravention of the organic Constitution of North-Carolina's Fourth Amendment of 1835, prescribing instead a foreign method of framing and adopting a Constitution. Therefore, the Constitution of 1776 has not been abrogated, for that Constitution could not be amended except by following the procedure prescribed in that Amendment. It certainly could not be repealed otherwise!

The forced creation of a Federal North Carolina, through the Constitution of 1868, violated the duty of Congress ~~duty~~ to guarantee to every state a Republican form of government, and instead, created a satellite government of the District of Columbia. This direct control and dominance has led to a situation where North-Carolinians who do not choose to encumber themselves with federal citizenship, in fact, have no government.

The Federal Government, in its joint resolution of July 1861, stated to the world that the belligerent actions against the states in rebellion would cease when the states regained their ante-bellum, unimpaired condition. In knowing this condition must be met for the federal war of deception and silence to end after over 130 years, it is necessary for the Inhabitants of North-Carolina, under our Creator, to breathe life back into the document named the Constitution of North-Carolina dated 1776, and its Amendments. We find it necessary to make changes in that document, as the Inhabitants of North-Carolina have been denied the opportunity to align their affairs and property in such a manner as to qualify to elect or hold office in North-Carolina.

There has been a well-documented usurpation of delegated powers exercised by several Presidents of the United States. This long and criminal train of usurpations, though not well known or understood, is partially documented in United States Senate Report 93-549, and is evidence of Congressional knowledge of the acquiescence to the usurpation of powers and failure to correct, thereby cloaking the situation from the American people. The information in United States Senate Report 93-549 should be taught and universally known, otherwise, the people are controlled through their lack of knowledge. Through silence and deception, the Federal United States Government has taken virtually every freedom from the people under extended fabricated "national emergencies," without the people's knowledge of how or why this happened, in a manner which can only be described as democratic dictatorship.

This situation has destroyed the system of checks and balances and has destroyed our judicial system. The present Government appoints to the supreme Court political appointees, who interpret the Constitution and Laws according to the will of the Executive Branch, further compromising our Nation. Patrick Henry specifically warned us that just such a situation would arise. The absence of Inhabitants of the several states in the supreme Court compromises the Court and makes suspect all decisions concerning the several states.

The present situation has no universally known or recognized remedy in law within the Federal jurisdiction. Therefore, the remedy must be found without the jurisdiction of the Federal Government; by the re-establishment of the old and recognized jurisdiction of the Inhabitants of North-Carolina, separate from Federal jurisdiction.

The Inhabitants of North-Carolina hereby refuse to continue the game of hide-and-seek with their Rights in the current Federal jurisdiction. We hereby refuse to honor a government which:

- taxes the Inhabitants without representation in government;
- forces the Inhabitants into unconscionable three-party contracts in order to perform the duties of their daily lives;
- writes laws, with words that have multiple and ambiguous meanings, used to the detriment of the people and to the benefit of members of the private Bar Association and the Government, in their design to reduce the Inhabitants to mere wards of the State.
- enforces laws which are incapable of being understood or defended by the average Citizen;
- enforces emergency actions while not disclosing the "emergency" to the Inhabitants.
- has a legal system which has become a source of uncontrolled profit for the few, at the expense of those most in need.
- has created a socialist State operating under the guise of freedom;
- has shirked its duty to regulate the value of the medium of exchange, delegating it to a foreign third party, which can economically collapse our nation at will;
- allows judges and magistrates to become active prosecutors on behalf of the State;
- deludes the people into their own bondage.
- legalizes chemical, biological and radiation experimentation upon unsuspecting Federal citizens (Title 50 USC Section 1520; Executive Order # 12891);
- terrorizes the Inhabitants into the acquiescence of their Rights.
- honors and enforces fraudulent contracts.

Through the forced encumbrance of Federal citizenship, the Federal United States Government has created a standing army in times of peace, enthusiastic and willing to enforce a plethora of unconscionable and unconstitutional statutes, which violate the Rights they have taken an Oath to defend. They have turned their backs on the people! Their crimes include fraud, extortion, racketeering, operating a continuing criminal enterprise under color of law - and even murder, all done with virtual impunity.
Divine Providence gave to our forefathers the tools of freedom, which have been handed down to us to use today. We have the written examples of how they formed our Nation and we have instructions for self-correction to follow. Therefore we follow in the footsteps of our forefathers by Declaring of Right, Duty, and Necessity, the re-establishment of a government best suited for, and designed to effect the safety and security of the Inhabitants of North-Carolina. Concomitant with this re-establishment is the pledge to assure a smooth transition into the uncharted areas into which we proceed. We do this through the guidance of our Lord, Saviour and King, Jesus Christ, through the forgiveness of the past actions of the Federal Government, its officers and agents, who come forward and confess all belligerent actions against the Inhabitants of North-Carolina, in a spirit of cooperation and Christian brotherhood.
Re-establishment fulfills a twofold purpose: First, it institutes a government which will diligently protect the Rights of the Inhabitants; Second, it creates a state under our Creator, which will breathe life back into the Constitution of the United States of America, recreating the duty and obligation once again to guarantee to the several states the protections as stated in Article IV Section 4, Article III Section 3 and the Thirteenth Article of Amendment of the Constution of the United States of America. Both governments shall co-exist within the geographic North-Carolina, each exercising exclusive control and jurisdiction over its own, in separate venues.
To use the weapons of the current silent war: total control of information, silence, seizure, corruption in the courts; to delay, halt, or hinder in any way the re-establishment of North-Carolina, shall be considered belligerent actions, and met with the demand for the Federal United States Government to strictly adhere to Article III Section 3 of the Constitution of the United States of America. We refuse to be fatigued by shrewd men intent on the continued subjugation of the states. We know and understand that returning the Federal United States Government to its proper Constitutional alignment of eager compliant servant of the several states will be arduous at best.
We the Inhabitants of North-Carolina, therefore, hereby make known to all men our resolve to re-establish the De Jure North-Carolina Republic. Unwavering, we exercise our Right and move forward, protected only by our Creator and the truth of our experience. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

Signed by the order of, and on behalf of the Inhabitants of North-Carolina present, the North-Carolina American Republic is hereby re-established (of necessity).

William Valentine III., Tem
RECORDER

George Jackson, Asst
James Arthur, Junior, Reid
Richard Wilson, Town
John Francis, Yadkin
William Allen, Ash

John Charles, Summit
PRESIDING OFFICER

Albert Rolfe, Jr., Cujo
Ray Lee, Junior, Grove
Arthur L. Moorehead
Patricia Gail, Honeycutt

Seal of the Republic of North-Carolina
Est. May 20, 1775
Archival Seal
Restored Dec. 1, 1997

I, [illegible] Certify that this is a true & correct copy of the Original North Carolina American Republic Archive Book [illegible] Number 000001

under the Seal of North Carolina Republic;
I certify this document as a true & complete copy of the Original
John Charles, Summit

March 2, 1867.

1866, ch. 236. *Ante*, p. 231.

CHAP. CLII. — *An Act to amend an Act entitled "An Act authorizing the Construction of a Jail in and for the District of Columbia," approved June [July] twenty-five, eighteen hundred and sixty-six.*

Repeal of part of section six of act of 1866, ch. 236.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the sixth section of the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved *June* [July] twenty-five, eighteen hundred and sixty-six, as specifies the amounts to be raised and paid into the treasury of the United States by the cities of Washington and Georgetown, respectively, before the completion of said jail, is hereby repealed.

City of Washington to pay $78,000 as its part for building jail in the District of Columbia.

SEC. 2. *And be it further enacted*, That it shall be the duty of the proper authorities of the city of Washington, and they are hereby required, to raise, by tax or otherwise, and pay into the treasury of the United States, at or before the time of the completion of said jail, the sum of seventy-eight thousand dollars; and it shall be the like duty of the proper authorities of the city of Georgetown, and they are hereby required, to raise, by tax or otherwise, and pay into the treasury of the United States, at or before the time of the completion of said jail, the sum of twelve thousand dollars.

Georgetown to pay $12,000.

APPROVED, March 2, 1867.

March 2, 1867.

CHAP. CLIII. — *An Act to provide for the more efficient Government of the Rebel States.*

Preamble.

WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

See Vol. xv. pp. 2, 14, 29, 30.

Certain rebel States to be divided into military districts and subjected to military authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

First District.
Second District.
Third District.
Fourth District.
Fifth District.

President to assign army officer to command each district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Military force to be detailed.

Commanders of districts, their powers and duties.

Local civil tribunals.

Military tribunals.

State interference declared null.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

Persons under military arrest to be speedily tried.

Punishment.

Sentences of military tribunals.

SEC. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the govern-

ment of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

Sentences of death.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

Conditions upon which such States shall be declared entitled to representation in Congress.

Delegates to conventions to form constitution, by whom elected.

Provisions of constitutions as to the elective franchise.

Constitutions to be ratified by popular vote; to be approved by Congress.

The States to adopt the amendment to the Constitution. *Ante*, p. 858.

Senators and representatives to be admitted upon taking the oath, and this act becomes inoperative.

Proviso.

Certain persons not eligible as members of the constitutional convention.

SEC. 6. *And be it further enacted*, That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third *article* of said constitutional amendment.

The civil government of such States to be provisional only until they are admitted to representation.

Who may vote in elections to office under provisional governments, and who are eligible to office.

Vol. xv. p. 4.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LA FAYETTE S. FOSTER,
President of the Senate, pro tempore.

IN THE HOUSE OF REPRESENTATIVES,
March 2, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act to provide for the more efficient government of the rebel States," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,
Clerk of H. R. U. S.

IN SENATE OF THE UNITED STATES,
March 2, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to provide for the more efficient government of the rebel States," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,
Secretary of the Senate.

March 2, 1867.

CHAP. CLIV.—*An Act regulating the Tenure of certain Civil Offices.*

Persons holding or appointed to any civil office, to hold the same until, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided:

The Secretaries of the several departments to hold office for, &c. Subject to removal.

Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

When civil officers, except, &c. shall become disqualified, &c. the President may suspend them and appoint persons temporarily to such offices.

SEC. 2. *And be it further enacted*, That when any officer appointed as aforesaid, excepting judges of the United States courts, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate, and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the person duly appointed to fill such office; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease, and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however*, That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

Such persons to take the oaths and give the bonds.

The President to report such suspensions and appointments to the Senate.

If Senate concurs, the President may remove the officer and appoint successor.

If Senate does not concur, the suspended officer resumes his office.

Provision as to salary, &c. during the suspension.

Proviso.

Suspension may be revoked and officer reinstated, if, &c.

SEC. 3. *And be it further enacted*, That the President shall have power to fill all vacancies which may happen during the recess of the Senate, by

Vacancies happening dur-

Oath of Allegiance to the State of North-Carolina

In compliance with Article 40 of the State Constitution

I, Amanda Rose, do solemnly swear/affirm that I will be faithful and bear true allegiance to the State of North-Carolina as organized under the Constitution of December 18th 1776 as amended; and that I will truly endeavor to support, maintain and defend the independent Christian government thereof against all powers and persons, who by secret arts or open force, shall endeavor to subvert the same: and that I will in every respect conduct myself as a peaceful and orderly citizen, and that I will disclose and make known to the Legislature, or some person or persons in civil authority, all treasons, conspiracies, or attempts, committed or intended against the said State, which shall come to my knowledge: so help me God.

Done at the county of FORSYTH in North-Carolina,

this the 17 day of JANUARY in the year of our Lord 2009

Amanda Rose
signature

Russell Scott Michael 1-17-2009
Witness Date

Robert Paul Eng 1-17-2009
Witness Date

Oath of Allegiance to the United States

I, Amanda Rose, do solemnly swear/affirm that I will support the Constitution and all constitutionally enacted laws of the United States in which the free people of the several states had true representation, and that I do absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate or earthly sovereignty whatever, and particularly to any government at war with the true and pure Constitution of the United States as lawfully amended through the 12th Article of Amendment: so help me God.

Done at the county of FORSYTH in North-Carolina,

this the 17 day of JANUARY in the year of our Lord 2009

Amanda Rose
signature

Russell Scott Michael 1-17-2009
Witness Date

Robert Paul Eng 1-17-2009
Witness Date

Affidavit of Citizenship and Domicile

county of Forsyth)
) *ss:*
North-Carolina American Republic)

KNOW ALL MEN BY THESE PRESENTS: I, Amanda Lea Rose, having first-hand knowledge of the facts as stated herein, hereinafter "affiant", do hereby declare my proper and lawful status with respect to Citizenship and Domicile, to-wit:

1. Affiant's natural birth occurred at (city) Winston-Salem (State) North Carolina on the 19th day of April, 19 81.

2. Affiant has been an Inhabitant of North-Carolina from (month) April, (year) 1981, until the present.

3. Affiant clearly understands the difference between a "state Citizen" and a "United States citizen; affiant is not a Fourteenth Amendment federal "United States citizen".

   (a) "We have in our political system, a government of each of the several states and a government of the United States. Each is distinct from the other and has citizens of its own." U.S. v Cruikshank, 92 US 542

   (b) "The persons declared to be citizens are '...all persons born or naturalized in the United States and subject to the jurisdiction thereof.' The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but *completely* subject." Elk v. Wilkins, 112 US 94

   (c) "The privileges and immunities clause of the 14th Amendment protects very few rights because it neither incorporates the Bill of Rights nor protects all rights of individual citizens. Instead this provision protects only those rights *peculiar to being a citizen of the federal government.* It does not protect those rights which belong to *state Citizenship.*" Jones v. Temmer, 829 F. Supp. 1226 (1993).

4. Affiant clearly understands that the term "United States" has three different meanings, and must be defined with respect to issues of law and citizenship;

   "The term 'United States' may be used in any one of the following senses: (1) It may merely be the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations or, (2) It may designate the territory over which the United States is sovereign or, (3) It may be the collective names of the *several states* which are united by and under the Constitution." Hooven & Allison v. Evatt, 324 US 652 (definitions hereinafter referred to as "*1st Hooven, 2nd Hooven, 3rd Hooven*)

5. Affiant is not a person subject to the exclusive jurisdiction of Congress as defined in Article I, Section 8 (17) of the United States Constitution (*2nd Hooven*). Affiant is an American Citizen of one of the several States (*3rd Hooven*), not a 14th Amendment U.S. citizen.

6. Any and all contracts or agreements which would tend to indicate that affiant is a 14th Amendment "U.S. citizen"; a citizen of the federal government, are hereby declared to be null and void. Your affiant hereby declares that any such contract/agreement was not entered into knowingly, voluntarily and intentionally, and therefore was the result of Constructive Fraud.

7. Through a study of history, your affiant has discovered that the de jure *state of North-Carolina* was porportedly annulled on 2 March 1867 by the 1st "Reconstruction Act" and that a new "State" named THE STATE OF NORTH CAROLINA entered the American union as the 39th State on June 25, 1868 in direct contravention of the July 1861 Resolutions of the United States Congress.

8. The de jure *state of North-Carolina* existed as a republic prior to the formation of the United States (*March 4, 1789 to November 21, 1789*) and, as Article IV, Section 4 of the Constitution for the United States of America guarantees to each state body politic a republican form of government, your affiant does not recognize the de facto State of North Carolina which purportedly entered the American union on June 25, 1868, as a lawfully created sovereign state. Said State is a de facto corporation, allowing only 14th Amendment U.S. citizens residing in North Carolina to vote and hold office therein. This action displaced the original State body politic composed of the Freeman of North Carolina, regulating their own affairs, with a body politic composed of

8. The de jure *state of North-Carolina* existed as a republic prior to the formation of the United States (*March 4, 1789 to November 21, 1789*) and, as Article IV, Section 4 of the Constitution for the United States of America guarantees to each state body politic a republican form of government, your affiant does not recognize the de facto State of North Carolina which purportedly entered the American union on June 25, 1868, as a lawfully created sovereign state. Said State is a de facto corporation, allowing only 14th Amendment U.S. citizens residing in North Carolina to vote and hold office therein. This action displaced the original State body politic composed of the Freeman of North Carolina, regulating their own affairs, with a body politic composed of residents of North Carolina who recognize the Federal United States government as their sovereign and sole governing power.

9. Your affiant hereby declares that any and all contracts or agreements which may be claimed to exist between affiant and the de facto STATE OF NORTH CAROLINA to be null and void, as any such contract/agreement was not entered into knowingly, voluntarily and intentionally and constitutes constructive fraud.

10. *SERVE NOTICE*: The de jure *state of North-Carolina* was re-established on 1 December 1997, of Right, Duty, and of necessity, and by the popular vote of state Inhabitants who were not and are not federal U.S. citizens,

returning to the organic state Constitution of 1776. A few Amendments were made to that Constitution, of necessity, and all have "sunset clauses" save one.

11. The one permanent Amendment passed, rescinded the secession Ordinance of 20 May 1861, as the Inhabitants of the de jure republic do not wish to secede from the United States of America (*3rd Hooven*), rather, to re-establish the antebellum status of the *state of North-Carolina* in which the Inhabitants are neither a conquered or a subjugated people, and where their Rights are both guaranteed and protected.

12. Affiant has, and hereby does, knowingly, voluntarily and intentionally:
    (a) Make a formal declaration of allegiance to North-Carolina, a state established by constitution on December 18, 1776, paid taxes therein, thereby securing the right to vote in that state;
    (b) Declare that your affiant is a *North-Carolina* state Citizen and *not* a "U.S." federal citizen;
    (c) Declare that your affiant is not a "*resident of*", an "*inhabitant of*" or "*domiciled within*" the United States (*2nd Hooven*);
    (d) Enter into a covenant (common-law contract) with a state foreign to the United States (*2nd Hooven*) for the protection of rights and property and;

13. Affiant hereby reserves all of his/her common-law rights to not be compelled to perform under any contract/ agreement which your affiant did not enter into knowingly, voluntarily and intentionally, and further-more, your affiant does not accept the liability associated with the compelled benefit of any unrevealed contract or commercial agreement.

WHEREFORE: Your affiant further saith naught.

NOTE: This affidavit is not intended for national expatriation. It is intended for renunciation of unconstitutional domestic 14th amendment Federal citizenship and claim to exclusive lawful state citizenship.

SIGNED: Amanda Lea Rose on this the 1 day of March 20 10
Affiant

Deuteronomy 19:15 On the evidence of two or three witnesses a matter shall be confirmed.

First Witness / Second Witness / Third Witness

North-Carolina tax paid: 120 PRN *Dollars in silver coin of the United States of America, or equivalent,*

1 March 2010
Date

Received by: _____, *title* Representative of Forsyth County

This Affidavit is in compliance with Article 40, Constitution of North-Carolina-1776 as amended.

Sealed unto my hand this the 1st **day of** March **20**10,

Authorized signature _____

title Representative of Forsyth County SEAL

Notice: Original signatures to be in blue ink
Form # 98ACD(c), (Affidavit of citizenship and domicile) 2/4/10

STATE OF NORTH CAROLINA

EXECUTIVE DEPARTMENT,

Raleigh July 1st 1868.

Gov. W. W. Holden

Raleigh, N. C.

Sir :-

Yesterday morning I was verbally notified by Chief Justice Pearson that, in obedience to a telegram from Genl. Canby, he would to-day, at 10 O'clock A. M., administer to you the oaths required, preliminary to your entering upon the discharge of the duties of Civil Governor of the State; and that, thereupon, you would demand possession of my office.

I intimated to the Judge my opinion that such recording was premature even under the reconstruction legislation of Congress, and that I should, probably, decline to surrender the office to you.

At sun-down yesterday evening, I received from Lieut. Williams, Commandant of this Military Post, an extract from the general orders, No. 120, of Genl. Canby, as follows :-

(Note: This letter was obtained and transcribed by T.I.G.E.R. as accurately as possible from a copy of the original letter of Governor Jonathan Worth. The copy of the original letter was obtained from the North Carolina archives. Copy of original letter attached)

State of North Carolina
Executive Department
Raleigh July 1st 1868

Gov. W. W. Holden
Raleigh, N.C.

Sir

Yesterday morning I was verbally notified by Chief Justice Pearson that in obedience to a telegram from Genl Canby, he would today at 10 A.M. administer to you the oaths required preliminary to your entering upon the discharge of the duties of Civil Governor of the State; - and that there upon you would demand possession of my Office.

I intimated to the Judge my opinion that such proceeding was premature even under the Reconstruction legislation of Congress and that I should probably decline to surrender the Office to you.

At sundown yesterday evening I received from Col Williams, Commandant of this Military Post an extract from the General Orders No. 120. – of Genl Canby as follows

Head Quarters 2nd Military Dist
Charleston, S. C. 30it 68

General Orders }
No 120 *{Extract}*

To facilitate the organization of the new State Government, the following appointments are made. To be Governor of North Carolina, W. W. Holden, Governor elect, vice Jonathan Worth, removed To be Lieut Governor elect of North Carolina, Tod R. Caldwell, Lieut Governor elect to fill our original vacancy. To take effect July 1st 1868. on the meeting of the General Assembly of North Carolina.

I do not recognize the validity of the late election, under which you and those cooperating with you claim to be invested with the Civil Government of the State. You have no evidence of your election, save the certificate of a Major General of the United States Army. I regard all of you as, in effect, appointees of the Military power of the United States, and not as "deriving your powers from the consent of those you claim to govern. Knowing, however, that you are backed by Military force here, which I could not resist if I would, I do not deem it necessary to offer a futile opposition but vacate the office without the ceremony of actual eviction, offering no further opposition than this, my protest. I would submit to actual expulsion in order to bring before the Supreme Court of the United States the question as to the Constitutionality of the legislation under which you claim to be the rightful Governor of the State, if the past action of that tribunal furnished any hope of a speedy trail. I surrender the office to you under what I deem Military duress, without stopping as the occasion would well justify. To comment upon the singular coincidence that the present State Government is surrendered, as without legality, to him whose own official sanction, but three years ago, declared it valid.

I am, very Respectfully,
Jonathan Worth,
Governor of N.C.

149 N.C. App. 310, *; 560 S.E.2d 852, **;
2002 N.C. App. LEXIS 185, ***

STATE OF NORTH CAROLINA v. DAVID RAY PHILLIPS

NO. COA01-648

COURT OF APPEALS OF NORTH CAROLINA

149 N.C. App. 310; 560 S.E.2d 852; 2002 N.C. App. LEXIS 185

February 13, 2002, Heard In the Court of Appeals
March 19, 2002, Filed

SUBSEQUENT HISTORY: Motion granted by, Appeal dismissed by *State v. Phillips, 355 N.C. 499, 564 S.E.2d 230, 2002 N.C. LEXIS 438 (2002)*
Subsequent appeal at *State v. Phillips, 152 N.C. App. 679, 568 S.E.2d 300, 2002 N.C. App. LEXIS 975 (2002)*
Subsequent appeal at *State v. Phillips, 2002 N.C. App. LEXIS 2269 (N.C. Ct. App., Sept. 3, 2002)*

PRIOR HISTORY: [***1] Appeal by defendant from judgments entered 12 December 2000 by Judge Judson D. DeRamus, Jr. in Forsyth County Superior Court.

DISPOSITION: Affirmed.

HEADNOTES

1.Appeal and Error-record on appeal-superior court jurisdiction-district court judgment not included

An appeal from convictions for speeding and refusing to produce a driver's license could have been dismissed where the record on appeal did not include a copy of the district court judgment establishing derivative jurisdiction in the superior court.

2.Criminal Law-jurisdiction-assertion that jurisdiction lacking-no opposing statement filed

The Court of Appeals rejected a criminal defendant's argument that the State effectively stipulated that the trial court lacked jurisdiction by failing to file a sworn statement challenging his assertion of a lack of jurisdiction. Defendant failed to cite any legal authority for his proposition.

3.Criminal Law-jurisdiction in state court-constitutional provision

Jurisdiction was established for a prosecution for speeding and failing to produce a license by a citation which clearly averred that the crimes were committed in North Carolina. *Article III, Section 2, Clause 1, of the U.S. Constitution* does not confer original jurisdiction on the U.S. Supreme Court in criminal matters brought by a state against its citizen for a crime occurring in that state.

4.Statutes-enacting language-preamble-session laws

A defendant convicted of speeding and failure to produce a license failed to show that the phrase "The General Assembly of North Carolina enacts..." was not properly included in Chapt. 20, as required by the North Carolina Constitution, where the proper language was included in the session laws. The enacting clause is generally in the preamble to an act and is not required in the law as codified.

5.Criminal Law-limited appearance to contest jurisdiction-not allowed

The trial court had jurisdiction over a defendant convicted of speeding and failure to produce a license where defendant attempted to limit his appearance to challenging jurisdiction, but did not cite any statute or case providing a criminal defendant with this right. Moreover, defendant was properly served with the citation.

6.Criminal Law-officer issuing citation-not unauthorized practice of law

A defendant convicted of speeding and refusing to produce a license was properly charged even though he contended that the officer who issued his citation was not authorized to "enter pleadings" on behalf of the State and was engaged in the unauthorized practice of law, and that the trial court erred by failing to hold a probable cause hearing. The officer issued a citation which complied with the statutory requirements and then transported defendant to a magistrate. The citation indicated that the magistrate determined that probable cause existed.

7.Constitutional Law-right to counsel-voluntarily waived

The defendant in a prosecution for speeding and failing to produce a license voluntarily, knowingly, and intelligently proceeded without counsel where the court repeatedly advised defendant of his right to have an attorney present and that one would be appointed if defen-

dant could not afford an attorney; defendant clearly and unequivocally asserted that he did not wish to proceed with an attorney and protested when the trial court attempted to have one appointed for him; the court informed defendant of the consequences of this action and defendant stated that he understood; and the court engaged in a lengthy discussion with defendant about the nature of the charges and the possible punishments.

8.Criminal Law-citation-statement of charges not required

The trial court did not err by proceeding to trial upon a citation in a prosecution for speeding and failing to produce a license because defendant had already been tried by citation in district court and was no longer entitled to assert his statutory right to require a statement of charges. Because the State was not required to file a statement of charges, the three-day trial preparation period of *N.C.G.S. § 15A-922(a)* did not apply.

9.Criminal Law-continuance to secure attorney-denied

The trial court did not abuse its discretion by denying defendant's motion for a continuance to secure an attorney in a prosecution for speeding and failing to produce a license where defendant initially asserted that he did not wish to hire an attorney and objected when the court attempted to appoint one for him; defendant objected to having to return to court the following day, stating that he wanted to proceed to trial that day; the next morning, he stated that he wanted a forty-five day continuance to find an attorney; the State objected, stating that defendant had had ample time (5 months) since his arrest to secure an attorney; the trial court allowed defendant that afternoon to bring in an attorney; defendant declined; and the trial proceeded.

COUNSEL: Attorney General Roy A. Cooper, III, by Special Deputy Attorney General Hal F. Askins, for the State.

David Ray Phillips, defendant-appellant, Pro se.

JUDGES: HUNTER, Judge. Judges WALKER and BRYANT concur.

OPINION BY: HUNTER

OPINION

[**854] [*312] HUNTER, Judge.

David Ray Phillips ("defendant") appeals convictions for speeding and failure to produce a driver's license. We hold there was no error in defendant's trial or sentencing.

On 28 July 2000, Officer Enned Gaylor of the Winston-Salem Police Department used radar to clock a vehicle driven by defendant as traveling fifty-seven miles per hour in a thirty- five mile-per-hour zone. Officer Gaylor activated the lights and siren on his patrol car and pursued defendant's vehicle for approximately one to one and a [*313] half miles before defendant pulled over. Officer Gaylor approached the vehicle and requested defendant's license and registration. Defendant did not produce a license [***2] and registration, but instead opened his window less than an inch and slid a laminated card out of the vehicle. The card read as follows:

"Dear public servant,

With all due respect to you, and no offense intended, I desire to inform you of the following: I am now exercising my Fifth Amendment right to 'not' answer any questions that may incriminate me, and neither will I present any material evidence that may be used against me in a Court of Law. I do not 'consent' to converse with you.

Unless you are placing me under arrest, or can state specific facts which warrant your detaining me further, I now ask that you allow me to go about my business, as is my right as a United State's citizen.

Thank you."

After reading the card, Officer Gaylor instructed defendant to exit his vehicle. Officer Gaylor attempted to open the vehicle door, but it was locked. Defendant asked if he was under arrest, and when Officer Gaylor responded affirmatively, defendant exited the vehicle. Officer Gaylor stated that defendant was being arrested for failure to produce a driver's license upon request. Although Officer Gaylor noticed that defendant was holding what appeared to be a license in his hand, [***3] defendant never gave his license to Officer Gaylor following the request.

Defendant was charged and tried for the offenses of speeding, refusing to produce a driver's license, and failure to stop for a police vehicle with active lights and a siren. On 12 December 2000, a jury convicted defendant of speeding and refusing to produce a license. The trial court entered judgment thereon, and as to both convictions sentenced defendant to forty- five days in prison, which [**855] sentences were suspended in exchange for supervised probation, a fine, and court costs.

As a preliminary matter, we note defendant has failed to include in the record on appeal a copy of the district court judgment establishing the derivative jurisdiction of the superior court. As the appellant, it is defendant's burden to produce a record establishing the [*314] jurisdiction of the court from which appeal is taken, and his failure to do so subjects this appeal to

dismissal. *See State v. Felmet, 302 N.C. 173, 176, 273 S.E.2d 708, 711 (1981).* Nevertheless, pursuant to *N.C. Gen. Stat. § 7A-32(c)* (1999), we elect to exercise our discretion to treat defendant's appeal as a petition for certiorari [***4] and grant the writ to address the merits of this appeal. *See Gibson v. Mena, 144 N.C. App. 125, 127, 548 S.E.2d 745, 746 (2001); Munn v. Munn, 112 N.C. App. 151, 154, 435 S.E.2d 74, 76 (1993).*

Defendant brings forth ten assignments of error on appeal. By his first assignment of error, he argues the trial court "erred in dismissing [his] sworn demand to dismiss for want of subject-matter/in personam jurisdiction." Defendant argues that it is "a well known maxim of law that sworn statements which go unanswered or uncontested with opposing sworn statements, are considered to be stipulated to as facts of the case by the opposing party." Defendant has failed to cite any legal authority for his proposition that the State effectively stipulated that the trial court lacked jurisdiction when it failed to file an opposing sworn statement challenging defendant's assertion that the trial court lacked jurisdiction. We therefore reject this argument.

By his second assignment of error, defendant argues the trial court erred in exercising subject matter and in personam jurisdiction over him for three reasons. First, defendant argues that because the State is a [***5] party to this case, the United States Supreme Court has original subject matter jurisdiction, and thus the trial court could not have had jurisdiction. Defendant cites *Article III, Section 2, Clause 2 of the United States Constitution*, providing that in cases "in which a state shall be party, the supreme court shall have original jurisdiction." *U.S. Const. art. III, § 2, cl. 2.* However, defendant fails to recognize that no new jurisdiction is conferred by this section, but rather, it "merely distributes the jurisdiction conferred by clause one," the preceding section. *Massachusetts v. Missouri, 308 U.S. 1, 19, 84 L. Ed. 3, 10, 60 S. Ct. 39 (1939).* "The original jurisdiction of [the Supreme] Court, in cases where a State is a party, 'refers to those cases in which, according to the grant of power made in the preceding clause, jurisdiction might be exercised in consequence of the character of the party, and an original suit might be instituted in any of the federal Courts; not to those cases in which an original suit might not be instituted in a federal Court.'" *Id. at 19-20, 84 L. Ed. at 10* (citation omitted); *see also Oklahoma ex rel. Johnson v. Cook, 304 U.S. 387, 392, 82 L. Ed. 1416, 1419, 58 S. Ct. 954 (1938)* [***6] (it is not enough that the State is a plaintiff to bring a case within the original jurisdiction of the Supreme Court).

[*315] Article III, Section 2, Clause 1 does not confer jurisdiction over criminal matters brought by a state against its own citizen for a crime occurring in that state. *See U.S. Const. art. III, § 2, cl. 1.* Rather, in such cases, the Constitution specifically provides that the trial of all crimes "shall be held in the state where the said crimes shall have been committed." *U.S. Const. art. III, § 2, cl. 3.* This argument is rejected. Accordingly, we also reject defendant's related argument that the State failed to affirmatively establish the facts necessary to show jurisdiction, as defendant's citation clearly avers that the crimes were committed in Forsyth County, North Carolina.

Defendant further argues that the trial court lacked subject matter jurisdiction over this case because Chapter 20 of the North Carolina General Statutes, pursuant to which defendant was prosecuted, was not properly enacted, and therefore there was "no duly enacted law as required by the Constitution." Defendant relies upon *Article II, Section 21 of the North Carolina Constitution*, which [***7] states that the style of the acts of the legislature shall be as follows: "'The General Assembly of North Carolina enacts:'". [**856] *N.C. Const. art. II, § 21.* Defendant claims that because Chapter 20, as enacted, fails to contain this enacting clause, it is not duly enacted law under which he can be properly prosecuted. However, the State argues, and we agree, that Article II, Section 21 does not require the enacting clause to be included in the actual law as codified; rather, the enacting clause is generally included in the preamble to an act. While the enacting clause is required for the act to become law, it does not itself become law, nor is that required to be the case. The State maintains that the session laws to each of the sections of Chapter 20 under which defendant was prosecuted contain the proper enacting clause language required by the Constitution. Defendant has failed to show that such language was not properly included.

By his third assignment of error, defendant argues the trial court lacked in personam jurisdiction because there was no valid service of process, and because defendant limited his appearances for the purpose of challenging jurisdiction. Defendant has failed [***8] to set forth any criminal case or statute providing a criminal defendant with the right to limit his appearance at trial in order to challenge jurisdiction. In any event, the record reveals that defendant was properly served with the citation under *N.C. Gen. Stat. § 15A-302(d)* (1999).

In his fourth, fifth, and sixth assignments of error, defendant challenges the process by which he was charged with the offenses. He [*316] contends that the citation issued by Officer Gaylor failed to conform to due process of law; that Officer Gaylor was not authorized to "enter pleadings" on behalf of the State, and thus his issuance of the citation constituted the unauthorized practice of law; and that the trial court erred in failing to hold a probable cause hearing. However, the record re-

veals that defendant was properly charged with the offenses in accordance with the law.

Under *N.C. Gen. Stat. § 15A-401(b)(1)* (1999), an officer "may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence." *N.C. Gen. Stat. § 15A-401(b)(1)*; *see also* [***9] *N.C. Gen. Stat. § 15A-302(b)* (officer "may issue a citation to any person who he has probable cause to believe has committed a misdemeanor or infraction"). Officer Gaylor testified that he clocked defendant on radar going fifty-seven miles per hour in a zone where the posted speed limit is thirty-five miles per hour, and that defendant failed to produce a valid driver's license upon request. Office Gaylor issued defendant a citation which complied with all necessary requirements of *N.C. Gen. Stat. § 15A-302(c)* and *(d)*: it identified the crimes charged and the date of the offenses; it contained the name and address of the person cited; it identified the officer issuing the citation; and it designated the court in which defendant was required to appear, and the date and time. Moreover, Officer Gaylor certified service by signing the original citation as permitted by *N.C. Gen. Stat. § 15A-302(d)*.

Upon making the arrest without a warrant, Officer Gaylor was required to take defendant before a "judicial official." *N.C. Gen. Stat. § 15A-501(2)* (1999). The judicial official is required [***10] to make a determination of whether there exists probable cause to believe the crime has been committed. *N.C. Gen. Stat. § 15A-511(c)(1)* (1999). Officer Gaylor testified that upon arresting defendant, he transported him to a magistrate at the Forsyth County Law Detention Center. Defendant's citation contained in the record has been filled out by a magistrate, indicating that the magistrate determined that there existed probable cause that defendant committed the offenses charged.

We have reviewed defendant's arguments challenging the constitutionality of these statutes, and we hold them to be without merit. The record shows that defendant was properly charged with these offenses under the applicable statutes, and that his constitutional rights were not abridged. These assignments of error are overruled.

[*317] By his seventh assignment of error, defendant maintains the trial court erred in imposing a sentence absent defendant's voluntary, knowing, and intelligent waiver of counsel. Defendant argues that he never waived any right to counsel, and further, that the trial [**857] court never adequately explained his right to counsel and the nature of the charges against him. [***11] Again, we disagree.

Our Supreme Court recently summarized a trial court's responsibilities pertaining to a defendant's waiver of the right to proceed without counsel. *See State v. Fulp, 355 N.C. 171, 558 S.E.2d 156 (2002)*. The Court in *Fulp* noted that a defendant has the right to "'. . . "handle his own case without interference by, or the assistance of, counsel forced upon him against his wishes."'" *Id.* at __, *558 S.E.2d at 158* (citations omitted). However, before the trial court may permit a defendant to proceed without counsel, the court must ensure that various requirements are met. *Id.* at __, *558 S.E.2d at 159*. First, a defendant must express his desire to proceed without counsel ". . . '"clearly and unequivocally."'" *Id.* (citations omitted). Second, the trial court must determine whether a defendant '"knowingly, intelligently, and voluntarily' waives his right to counsel." *Id.* (citation omitted). In determining if this requirement is met, it is sufficient if the trial court is satisfied as to factors set forth in *N.C. Gen. Stat. § 15A-1242* (1999). *Id.* That statute provides:

> A defendant [***12] may be permitted at his election to proceed in the trial of his case without the assistance of counsel only after the trial judge makes thorough inquiry and is satisfied that the defendant:
>
> (1) Has been clearly advised of his right to the assistance of counsel, including his right to the assignment of counsel when he is so entitled;
>
> (2) Understands and appreciates the consequences of this decision; and
>
> (3) Comprehends the nature of the charges and proceedings and the range of permissible punishments.
>
> *N.C. Gen. Stat. § 15A-1242.*

Applying these principles here, it is clear that the trial court conducted the proper inquiry into the statutory factors, and that these factors were satisfied. The trial court repeatedly advised defendant of [*318] his right to have an attorney present, and that if he could not afford an attorney, one would be appointed to him. Defendant clearly and unequivocally asserted that he did not wish to proceed with an attorney, and protested when the trial court attempted to have one appointed for him. The trial court informed defendant of the consequences of this action, including that he would not have the assistance of an attorney, [***13] that he would be held to the same standards as an attorney, and that the court would not act as his attorney during trial. Defendant stated that he understood and appreciated these consequences.

The trial court also engaged in a lengthy discussion with defendant about the nature of the charges to ensure that he understood them. The trial court also informed defendant of the possible punishments for all charges if convicted. The trial court complied with *N.C. Gen. Stat. § 15A-1242* prior to allowing defendant to proceed without counsel, and thus, defendant's decision to do so was voluntary, knowing, and intelligent. *See Fulp*, __ N.C. at

__, *558 S.E.2d at 159*. This assignment of error is overruled.

By his eighth assignment of error, defendant maintains that the trial court erred in proceeding upon a citation. Defendant is correct in stating that *N.C. Gen. Stat. § 15A-922(a)* (1999) requires that the State file a statement of the charges where a defendant objects to being tried by citation. However, a defendant's objection to trial by citation must be asserted in the court of original jurisdiction, in this case, the [***14] district court. *See State v. Monroe, 57 N.C. App. 597, 599, 292 S.E.2d 21, 22 (1982)* (defendant's statutory right to object under *N.C. Gen. Stat. § 15A-922(a)* applies only in the court of original jurisdiction). Thus, in *Monroe*, we held that "once jurisdiction had been established and defendant had been tried in district court, therefore, he was no longer in a position to assert his statutory right to object to trial on citation when he appealed to superior court." *Id.* Here, defendant, having already been tried by citation in district court, is no longer entitled to assert his right under *N.C. Gen. Stat. § 15A-922(a)*. This assignment of error is overruled.

[**858] Defendant next argues that the trial court erred in failing to give him three days to prepare his defense. Defendant cites *N.C. Gen. Stat. § 15A-922(b)(2)*, requiring that upon motion, a defendant is entitled to three working days for the preparation of his defense following the State's filing of a statement of the charges. However, we have already held that the State was not required to file a statement [*319] of the charges under [***15] *N.C. Gen. Stat. § 15A-922(a)*, and thus, *N.C. Gen. Stat. § 15A-922(b)* does not apply.

By his final assignment of error, defendant asserts the trial court erred in denying his motion to continue, thereby failing to allow defendant time to secure his own attorney. The transcript shows that when defendant initially appeared before the trial court he repeatedly asserted that he did not wish to hire an attorney, nor did he want one appointed to represent him. Indeed, defendant objected when the trial court attempted to appoint one for him. Defendant also objected to having to return to court the following morning for trial, stating that he wanted to proceed to trial that day. The next morning as the trial was set to commence, defendant informed the trial court that he wished to have a continuance of forty-five days in order to secure his own attorney. The State objected, stating that defendant had had ample time since his arrest (approximately five months earlier) to secure an attorney, and that defendant had been informed of his right to an attorney the preceding day and had repeatedly expressed his desire to proceed without one. The [***16] trial court acknowledged that it had told defendant that he could bring his own attorney in at any time during the trial should he want the assistance of counsel, and thus, the trial court told defendant he could bring in an attorney. However, the trial court determined that defendant was not entitled to a forty-five day continuance in order to do so. Rather, the trial court, noting that defendant had had ample time to secure an attorney in the matter, allowed defendant until that afternoon to bring in an attorney for the commencement of trial. Defendant declined to do so, and the trial proceeded.

"A motion for a continuance is ordinarily addressed to the sound discretion of the trial court, and the ruling will not be disturbed absent a showing of abuse of discretion." *State v. Call, 353 N.C. 400, 415, 545 S.E.2d 190, 200, cert. denied, 122 S. Ct. 628,* __ U.S. __, *151 L. Ed. 2d 548 (2001)*. "Even when the motion raises a constitutional issue, denial of the motion is grounds for a new trial only upon a showing that 'the denial was erroneous and also that [defendant's] case was prejudiced as a result of the error.'" *Id.* (citation omitted). [***17]

In the present case, we hold the trial court's denial of the motion was not erroneous in light of the circumstances of the case, particularly because defendant had some five months' time prior to trial in which to hire an attorney, but declined to do so. Moreover, the trial court did not deny defendant the ability to have his own attorney present, and offered to delay defendant's trial by several hours to permit [*320] defendant to hire an attorney. Defendant declined to do so. Defendant has also failed to argue on appeal that the denial of his motion prejudiced him in any way.

Defendant's trial was free of error.

No error.

Judges WALKER and BRYANT concur.

201 N.C. App. 540, *; 687 S.E.2d 504, **;
2009 N.C. App. LEXIS 2326, ***

STATE OF NORTH CAROLINA v. JAMES DONALD SULLIVAN

NO. COA09-705

COURT OF APPEALS OF NORTH CAROLINA

201 N.C. App. 540; 687 S.E.2d 504; 2009 N.C. App. LEXIS 2326

November 17, 2009, Heard in the Court of Appeals
December 22, 2009, Filed

SUBSEQUENT HISTORY: Appeal denied by *State v. Sullivan, 364 N.C. 247, 699 S.E.2d 921, 2010 N.C. LEXIS 506 (2010)*
US Supreme Court certiorari denied by *Sullivan v. North Carolina, 131 S. Ct. 937, 178 L. Ed. 2d 754, 2011 U.S. LEXIS 574 (U.S., Jan. 10, 2011)*

PRIOR HISTORY: [***1]
Pender County. No. 08 CRS 1482.

DISPOSITION: No error.

COUNSEL: Attorney General Roy Cooper, by Special Deputy Attorney General Robert C. Montgomery, for the State.

James Donald Sullivan, Pro se, for defendant-appellant.

JUDGES: CALABRIA, Judge. Judges WYNN and BEASLEY concur.

OPINION BY: CALABRIA

OPINION

[*542] [**507] Appeal by defendant from judgment entered 25 February 2009 by Judge Jay D. Hockenbury in Pender County Superior Court. Heard in the Court of Appeals 17 November 2009.

CALABRIA, Judge.

James Donald Sullivan [1] ("defendant") appeals a judgment entered upon a jury verdict finding him guilty of operating a motor vehicle on a street or highway without the vehicle being registered with the North Carolina Department of Motor Vehicles ("NCDMV") and operating a motor vehicle on a street or highway without having in full force and effect the financial responsibility required by *N.C. Gen. Stat. § 20-313* (2007). We find no error.

1 James Donald Sullivan is defendant's full legal name. Defendant has been referred to as "Donald Sullivan" in previous cases before this Court. *See, e.g., Sullivan v. Pender County, ___N.C. App. ___, 196 N.C. App. 726, 676 S.E.2d 69 (2009).*

I. Background

On 2 June 2008, Deputy Kevin Malpass ("Deputy Malpass") of the Pender County Sheriff's Department [***2] initiated a traffic stop of defendant's vehicle because a valid registration plate was not displayed. As Deputy Malpass attempted to explain to defendant the reason he initiated the traffic stop, defendant pulled out a folder and attempted [*543] to convince Deputy Malpass that his constitutional rights would be violated if Deputy Malpass issued him a citation. Defendant stated that he had no insurance for the vehicle he was driving, but he showed Deputy Malpass a bank statement which indicated defendant had $ 1,514,974.22 in his bank account. Defendant also attempted to convince Deputy Malpass that Sheriff Carson Smith had given defendant permission to travel in Pender County without a valid registration plate.

After checking with his superiors, Deputy Malpass issued defendant a citation for (1) operating a motor vehicle on a street or highway without a proper registration with the NCDMV and (2) operating a motor vehicle on a street or highway without having in full force and effect the financial responsibility required by *N.C. Gen. Stat. § 20-313* (2007). On 23 September 2008, after a bench trial, defendant was convicted of both offenses in Pender County District Court. Defendant appealed [***3] his conviction to the superior court.

Defendant was tried *de novo* beginning on 24 February 2009 in Pender County Superior Court. On 25 February 2009, the jury returned verdicts of guilty to both of the charges. Defendant was sentenced to forty-five days in the North Carolina Department of Correction. That sentence was suspended and defendant was placed on unsupervised probation for twelve months on the condition that defendant pay a $ 750 fine and $ 259.50 in court costs. Defendant was also ordered, as special conditions of his probation, to (1) not violate the laws of any state or the federal government; and (2) not operate his vehicle

until it was properly registered and had proper financial responsibility. Defendant appeals.

II. Rules of Appellate Procedure

As an initial matter, we note that defendant has failed to comply with a number of our appellate rules. Defendant's statement of the facts includes argumentative assertions in violation of N.C.R. App. P. 28(b)(5). Additionally, for each of his questions presented, plaintiff has failed to state the appropriate standard of review or cite to specific assignments of error or record pages, in violation of N.C.R. App. P. 28(b)(6). Defendant [***4] has previously been reminded to follow the appellate rules, particularly N.C.R. App. P. 28(b). *Sullivan v. Pender County, 196 N.C. App. 726, 728, 676 S.E.2d 69, 71 (2009)*. While we will consider defendant's arguments because "only in the most egregious instances of non-jurisdictional default will dismissal of [an] appeal be appropriate," *Dogwood Dev. & Mgmt. Co., LLC v. White* [*544] *Oak Transp. Co., 362 N.C. 191, 200, 657 S.E.2d 361, 366 (2008)*, we again remind defendant that these rules are mandatory and caution him that his continued failure to [**508] adhere to these rules subjects him to possible sanctions, including dismissal of his appeal.

III. Jurisdictional Arguments

Defendant argues that the trial court erred by exercising jurisdiction over him. While it is difficult to discern the exact substance of defendant's argument, it appears that, essentially, defendant argues that (1) *N.C. Gen. Stat. §§ 20-111(1) & 20-313* (2007) are unconstitutional; (2) the trial court lacked jurisdiction because defendant has no contractual relationship with the State; (3) only federal jurisdiction exists because the State is a party to the instant case; and (4) the trial court lacked jurisdiction because the State [***5] of North Carolina cannot prove its lawful creation after the Civil War. We disagree.

A. Constitutionality of *N.C. Gen. Stat. §§ 20-111(1) & 20-313*

> In challenging the constitutionality of a statute, the burden of proof is on the challenger, and the statute must be upheld unless its unconstitutionality clearly, positively, and unmistakably appears beyond a reasonable doubt or it cannot be upheld on any reasonable ground. When examining the constitutional propriety of legislation, [w]e presume that the statutes are constitutional, and resolve all doubts in favor of their constitutionality.

State v. Mello, 200 N.C. App. 561, 564, 684 S.E.2d 477, 479 (2009)(internal quotations and citations omitted).

Defendant argues that *N.C. Gen. Stat. §§ 20-111(1)*, which makes it unlawful "[t]o drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered" & *20-313*, which forbids operating a motor vehicle "without having in full force and effect the financial responsibility required" are invalid regulations that infringe upon his right to travel.

> [T]he right to travel upon the public streets of a city is a part of every individual's [***6] liberty, protected by the *Due Process Clause of the Fourteenth Amendment to the United States Constitution* and by the Law of the Land Clause, *Article I, § 17, of the Constitution of North Carolina.* The familiar traffic light is, however, an ever present reminder that this segment of liberty is not absolute. It may be regulated, as to the time and manner of its exercise, when reasonably deemed necessary to the public safety, by laws reasonably adapted to the attainment of that objective.

[*545] *State v. Dobbins, 277 N.C. 484, 497, 178 S.E.2d 449, 456 (1971)*. However, the right to travel is not synonymous with the right to operate a motor vehicle on the highways of this State. "The operation of a motor vehicle on such highways is not a natural right. It is a conditional privilege, which may be suspended or revoked under the police power. The license or permit to so operate is not a contract or property right in a constitutional sense." *Honeycutt v. Scheidt, 254 N.C. 607, 609-10, 119 S.E.2d 777, 780 (1961)*(internal quotations and citations omitted).

> The *Tenth Amendment to the Constitution of the United States* provides, "The powers not delegated to the United States by the Constitution nor prohibited [***7] by it to the States are reserved for the States respectively or to the people." Within this reservation of powers to the individual states, is what has been judicially termed "the police power."

State v. Whitaker, 228 N.C. 352, 359, 45 S.E.2d 860, 865 (1947).

> [A] State may rightfully prescribe uniform regulations necessary for public safety and order in respect to the opera-

> tion upon its highways of all motor vehicles. . . . And to this end it may require the registration of such vehicles and the licensing of their drivers. . . . This is but an exercise of the police power uniformly recognized as belonging to the States and essential to the preservation of the health, safety and comfort of their citizens[.]

Hendrick v. Maryland, 235 U.S. 610, 622, 35 S. Ct. 140, 59 L. Ed. 385, 391 (1915).

Defendant's contention that vehicle registration and financial responsibility requirements are not valid exercises of this State's police power because they do not bear any relationship to public safety is meritless. There are ample public safety justifications for both requirements.

> [**509] The reason assigned for the necessity of registration and licensing is that the vehicle should be readily identified in order to debar operators [***8] from violating the law and the rights of others, and to enforce the laws regulating the speed, and to hold the operator responsible in cases of accident. The Legislatures have deemed that the best method of identification, both as to the vehicle and the owner or operator, is by a number or a tag conspicuously attached to the vehicle. In case of any violation of law this furnishes means of identification, for, from the number, the [*546] name of the owner may be readily ascertained and through him the operator. Such acts. . . have for their object the protection of the public.

Parke v. Franciscus, 194 Cal. 284, 228 P. 435, 439 (Cal. 1924)(quotation and citation omitted). Similarly, the purpose of financial responsibility requirements "is to protect the public on the highways against the operation of motor vehicles by reckless and irresponsible persons, a duty which is inherent in every sovereign government and is a proper exercise of police power." *Doyle v. Kahl, 242 Iowa 153, 46 N.W.2d 52, 55 (Iowa 1951)*(citations omitted).

We hold that *N.C. Gen. Stat. §§ 20-111(1) & 20-313* "bear[] a real and substantial relationship to public safety. The General Assembly, therefore, had ample authority, under its police power, to enact [***9] the section[s] of the statute here challenged and to make [their] violation a criminal offense." *State v. Anderson, 275 N.C. 168, 171, 166 S.E.2d 49, 51 (1969)*. If defendant does not wish to follow these statutory requirements, we remind him that he may exercise his right to travel in a variety of other ways. "If he wishes, he may walk, ride a bicycle or horse, or travel as a passenger in an automobile, bus, airplane or helicopter. He cannot, however, operate a motor vehicle on the public highways. . . ." *State v. Davis, 745 S.W.2d 249, 253 (Mo. Ct. App. 1988)*. This assignment of error is overruled.

B. The State as a Party

Defendant argues that the trial court lacked jurisdiction because the State is a party in the instant case. Defendant contends that U.S. Const. art. III requires that any case in which the State is a party, including criminal proceedings, must be brought in federal court. This Court has previously rejected this argument. *See State v. Phillips, 149 N.C. App. 310, 315, 560 S.E.2d 852, 855 (2002)*("Article III, Section 2, Clause 1 does not confer jurisdiction over criminal matters brought by a state against its own citizen for a crime occurring in that state."); *see also* [***10] *Georgia v. Pennsylvania R. Co., 324 U.S. 439, 446, 65 S. Ct. 716, 89 L. Ed. 1051, 1056 (1945)*("The original jurisdiction is confined to civil suits where damage has been inflicted or is threatened, not to the enforcement of penal statutes of a State."). This assignment of error is overruled.

C. Remaining Jurisdictional Arguments

In his remaining jurisdictional claims, defendant fails to cite any legal authority that supports his arguments that the trial court lacked [*547] jurisdiction because defendant has no contractual relationship with the State and because the State of North Carolina cannot prove its lawful creation after the Civil War. While defendant purports to have added "authority" to these arguments in his Reply Brief, these additional arguments do not actually contain any legal authority. Consistent with our appellate rules, "[defendant]'s patently frivolous assertions raised on appeal in a rambling narrative, unsupported by any authority will not be considered on appeal." *Redden v. State, 1987 OK CR 142, 739 P.2d 536, 538 (Okla. Crim. App. 1987)*; *see also* N.C.R. App. P. 28(b)(6) (2008)("Assignments of error . . . in support of which no reason or argument is stated or authority cited, will be taken as abandoned."). [***11] These assignments of error are dismissed.

III. Willfulness

A. Motion to dismiss

Defendant argues that the trial court erred by failing to dismiss the charges against him because the State

failed to produce evidence of defendant's willfulness. Defendant made a motion to dismiss at the close of the State's evidence, but failed to renew his motion at the close of all the evidence. [**510] Therefore, he has failed to preserve this question for appellate review. *See* N.C.R. App. 10(b)(3) (2008)("[I]f a defendant fails to move to dismiss the action . . . at the close of all the evidence, he may not challenge on appeal the sufficiency of the evidence to prove the crime charged.").

B. Jury instructions

Defendant argues that the trial court erred by failing to use defendant's definition of "willfully" in its instructions to the jury. Defendant contends that the trial court should have instructed the jury that "a willful act is one that is done knowingly and purposely with the direct object of injuring another." We disagree.

"It is fundamental that the purpose of the jury charge is to provide clear instructions regarding how the law should be applied to the evidence, in such a manner as to assist the jury [***12] in understanding the case and in reaching a verdict." *State v. Wardrett, 145 N.C. App. 409, 417, 551 S.E.2d 214, 220 (2001)* (citation omitted). "Where the instructions to the jury, taken as a whole, present the law fairly and clearly to the jury, we will not find error even if isolated expressions, standing alone, might be considered erroneous." *State v. Morgan, 359 N.C. 131, 165, 604 S.E.2d 886, 907 (2004)*(citations omitted).

[*548] Defendant's proposed definition of a willful act comes from *Hazle v. Southern Pac. Co., 173 F. 431, 432 (1909)*. *Hazle* was a negligence action and the *Hazle* Court was defining willful in the context of a "willful and wanton injury." *Id.* This definition does not apply in a criminal action, such as the instant case.

The other case cited by defendant, *State v. Young*, is also not applicable to the instant case. In *Young*, the defendant, a registered sex offender who had been adjudicated incompetent, was charged with failing to notify the sheriff's department of a change of address. *140 N.C. App. 1, 4, 535 S.E.2d 380, 381 (2000)*. This Court held that special notification requirements were necessary because of the defendant's incompetence. *Id. at 11-14, 535 S.E.2d at 386-88.* [***13] *Young* did not disturb the general rule that "ignorance of the law will not excuse" a defendant who "either knew or should have known of the possible violation." *Id. at 11-12, 535 S.E.2d at 386.*

In the instant case, the trial court instructed the jury that "[t]he word willfully means something more than an intention to commit the offense. It implies committing the offense purposely and designedly in violation of law." This instruction is consistent with the definition of "willfully" provided by our Supreme Court. *See State v. Stephenson, 218 N.C. 258, 264, 10 S.E.2d 819, 823 (1940)*. This assignment of error is overruled.

IV. Trial Court's Oath

Defendant argues that the trial court erred in presiding over defendant's trial because the trial court lacked a "constitutional oath" on file with the clerk of court. Defendant's argument, which cites no legal authority other than the oath in question, is without merit. After reviewing the trial court's oath, we find that it complies with both the United States and North Carolina constitutions, as well as *N.C. Gen. Stat. §§ 11-7 & 11-11* (2007). This assignment of error is overruled.

V. Vagueness

Defendant argues that the trial court erred in denying [***14] his motion to dismiss the charges against him because the statutes at issue were void for vagueness. We disagree.

> A statute is "void for vagueness" if it forbids or requires doing an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. When evaluating whether a person of ordinary intelligence could determine what conduct is prohibited, [o]nly a reasonable degree of [*549] certainty is necessary, mathematical precision is not required. The purpose of this fair notice requirement is to enable a citizen to conform his or her conduct to the law.

State v. Mello, 200 N.C. App. 561, 567, 684 S.E.2d 477, 481 (2009)(internal quotations and citations omitted).

[**511] Defendant was convicted of failure to register under *N.C. Gen. Stat. § 20-111*, which states:

> It shall be unlawful for any person to commit any of the following acts:
>
> > (1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered with the Division in accordance with this Article or does not display a current registration plate.

N.C. Gen. Stat. § 20-111 (2007).

Defendant was also convicted under [***15] *N.C. Gen. Stat. § 20-313*, which states:

> (a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a Class 1 misdemeanor.

N.C. Gen. Stat. § 20-313 (2007). The methods of demonstrating financial responsibility are contained in *N.C. Gen. Stat. § 20-309(b)*: "Financial responsibility shall be a liability insurance policy or a financial security bond or a financial security deposit or by qualification as a self-insurer, as these terms are defined and described in Article 9A, Chapter 20 of the General Statutes of North Carolina, as amended." *N.C. Gen. Stat. § 20-309(b)* (2007).

The purpose of the statutes at issue is very clear. There is nothing in these statutes that "forbids or requires doing an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application." *Mello, 200 N.C. App. at 567, 684 S.E.2d at 481*. Defendant has failed to demonstrate how these statutes failed to give him the type of [***16] fair notice that is necessary to enable him or anyone else operating a motor vehicle to conform their conduct to the law. This assignment of error is overruled.

[*550] VI. Right to Counsel

Defendant argues that the trial court erred by denying his motion to continue so that he could obtain counsel and by denying defendant the right to counsel from defendant's son, an unlicensed layman. Defendant cites no authority for his argument regarding his motion to continue and it is therefore deemed abandoned. *See* N.C.R. App. P. 28(b)(6) (2008). We disagree with defendant's remaining contention.

After defendant's motion to continue was denied, he requested that the trial court recognize his son, a layman, as "counsel to sit here and provide me aid and counsel during the trial." The trial court denied this request. Defendant argues that this decision deprived him of his Sixth Amendment right to counsel of his choice. The assertion of a "right" to be represented by a non-attorney has previously been rejected by this Court. *State v. Phillips, 152 N.C. App. 679, 683, 568 S.E.2d 300, 303 (2002)*. This assignment of error is overruled.

Defendant has failed to bring forth any argument regarding his remaining assignment [***17] of error. As such, we deem this assignment of error abandoned pursuant to N.C.R. App. P. 28(b)(6) (2008). We hold that "defendant, in spite of his own efforts, received a fair trial free from prejudicial error. . . ." *Phillips, 152 N.C. App. at 687, 568 S.E.2d at 305*.

No error.

Judges WYNN and BEASLEY concur.

STATE OF NORTH CAROLINA WILKES COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 10IfS 706153; 706154
State of North Carolina)) Vs.)) Amanda Lea Rose)	Order Denying Defendant's Motion to Dismiss

THIS MATTER COMING ON TO BE HEARD AND BEING HEARD before the Honorable Lindsay R. Davis, Jr., Superior Court Judge, present and presiding over the September 12th 2011 term of Superior Court in Wilkes County, North Carolina upon the defendant's Motion to Dismiss the above referenced cases for lack of jurisdiction.

The Court reviewed the defendant's motion, supporting documents and received sworn testimony from North Carolina State Highway Patrolman, Trooper S. A. Shouse. The Court makes the following FINDINGS OF FACT:

1. On October 21, 2010, S. A. Shouse, a duly sworn officer of the North Carolina State Highway Patrol, was on duty in Wilkes County, North Carolina;
2. Trooper Shouse stopped the defendant, Amanda Lea Rose, for failing to wear her seatbelt as required by North Carolina General Statute §20-135.2A;
3. The defendant was issued two separate citations for this offense because the defendant drove off from the first incident without wearing her seatbelt as required by N. C. G. S. §20-135.2A;
4. On each occasion the defendant was operating a motor vehicle on a street or highway as contemplated by N.C.G.S. §20-135.2A, US Highway 421 South ramp to NC 16/18 and ramp from NC 16/18 to north bound US Highway 421, respectfully;
5. The defendant presented a valid North Carolina Drivers License to Trooper Shouse;
6. Trooper Shouse presented the defendant with two citations, each citation met the requirements of North Carolina General Statute §15A-302(d).

Based upon the forementioned FINDINGS OF FACTS and the applicable law, the Court makes the following CONCLUSIONS OF LAW:

1. This Court has jurisdiction to hear these matters pursuant to N.C.G.S. §15A-1115;
2. Wilkes County is the county where venue lies pursuant to N.C.G.S. §15A-1112;

3. The North Carolina Court of Appeals has previously decided in, *State of North Carolina vs. Duard Stockton Swaim, Jr.* 92 N. C. App. 240 (1988), that N.C.G.S. §20-135.2A is constitutional, as a valid exercise of the North Carolina's police power.

THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that the State of North Carolina has met its burden in proving that the State has subject matter in these cases and personal jurisdiction over the defendant, Amanda Lea Rose, in these actions.

This the _____ day of September 2011.

Honorable Lindsay R. Davis, Jr.
Superior Court Judge Presiding

STATE OF NORTH CAROLINA	**IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION**
WILKES COUNTY	**FILE NOS. 10 IFS 706153 AND 10 IFS 706154**
	Filed 9|22|11 11:05am CD
STATE OF NORTH CAROLINA, **Plaintiff** **v.** **AMANDA LEA ROSE,** **Respondent**	**ANSWER TO PROPOSED ORDER**

Amanda Rose maintains her Special Appearance challenging jurisdiction to answer the State's attempt to establish jurisdiction by means of the proposed Order Denying Defendant's Motion To Dismiss which was emailed to Ms. Rose at 4:21pm on Wednesday, September 21, 2011, actually received by Ms. Rose at 6:25pm. The State offered no sufficient time for Ms. Rose to review and rebut considering this late notice.

The "evidence" brought forth by the State on 9-13-11 in Superior Court was referring to subject matter jurisdiction rather than personal & territorial jurisdiction (which is what Ms. Rose is challenging). Both cases that the State presented – *North Carolina v Phillips* and *North Carolina v Sullivan* are not relevant and do not relate to Ms. Rose in that they do not address the constitutionality of the Reconstruction Acts and the new State of North Carolina that was created from these Acts.

Judge Davis told the State Prosecutor that his evidence presented was insufficient to establish jurisdiction and ordered him to bring forth more evidence to prove they have jurisdiction over Ms. Rose. Judge Davis gave him 14 days.

Respondent objects to the proposed Order Denying Defendant's Motion to Dismiss the State brings to this court today. It is frivolous and without merit for the following reasons:

- Ms. Rose never filed a Motion to Dismiss and made a Special Appearance to challenge the jurisdiction. Jurisdiction is not discretionary and must be proven before there is any business with the court. Ms. Rose never made a General Appearance filing motions.

- The State's Proposed Order is merely a written version of what he presented on 9-13-11.

- The State has brought forth nothing new or any real evidence as Judge Davis ordered last week.

In the State's motion they present unresolved conflicts as conclusions of law as follows:

1. This Court has jurisdiction to hear these matters pursuant to N.C.G.S. §15A-1115

   The State here is making the assumption that this Statute gives the reconstructed state of North Carolina jurisdiction over citizens of the de-jure state of North Carolina organized under the constitution of Dec. 18, 1776. It is clearly stated in the Memorandum of Law that Ms. Rose is challenging the creation of the 39th state to make this assumption. The challenge is for the State to fulfill the most basic element of a lawful jurisdiction by having the ability to prove it- not just claim it. The State is clearly ignoring NC Supreme Court case *State v Batdorf* that jurisdiction isn't something that can just be claimed; it must be proven beyond reasonable doubt. The State clearly has failed.

2. Wilkes County is the county where venue lies pursuant to N.C.G.S. §15A-1112

   "Venue does not refer to jurisdiction at all. *Arganbright v Good*, 46 Cal App. 2d Supp.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 a case. *Village of Oakdale v Ferrante*, 44 Ohio App. 2d 318, 338 N.E. 2d 767, 769. As such, while a defect in venue may be waived by the parties, lack of jurisdiction may not. Blacks Law Dictionary, 6th Edition, p.1557

   Jurisdiction has been challenged here, not venue. The State has failed to provide any evidence that they have a lawful jurisdiction over citizens of the de-jure state.

3. The North Carolina Court of Appeals has previously decided in, *State of North Carolina vs. Duard Stockton Swaim, Jr.* 92 N. C. App. 240 (1988), that N.C.G.S. §20-135.2A is constitutional, as a valid exercise of the North Carolina's police power.

   It is not denied that a lawfully created state has police powers within its borders. The issue that the prosecutor is avoiding is the lawfulness of the State.

4. Should there be a question of the use of the roads – Ms. Rose has a right to such use and the roads belong to the people. The State maintains the roads but they don't own them. They are entrusted to maintain them and are paid for by gas and road use taxes.

5. As far as a claim that Respondent was within the corporate limits of the de-facto state; mere use of the roads is not a viable claim.

6. If there is a claim as to ownership of the roads by the de-facto State, the de-jure state has the rightful claim. The de-facto State cannot show a clear Chain of Title to the Soil.

THE BASIC ARGUMENT FOR THE STATE TO PROVE, *BEYOND A REASONABLE DOUBT*, is as follows:

Article 4, Section 3, Clause 1 of the United States Constitution states: "New States may be admitted by the congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the consent of the Legislature of the States concerned as well as of the Congress."

The facts of the matter are that two States named North Carolina have entered the American Union. The first one was on November 21, 1789 as the 12th State and the second one was on June 25, 1868 as the 39th State. The only thing in common of these 2 States is the soil and the name.

Their differences are the body politics and constitutions. States are composed of 3 parts: (1) Body, (2) Soil, and (3) Law. The pre-amble to the Constitution of the United States says that the constitution is ordained for ourselves and our posterity. This is a direct reference to the Body, which has authority to create the laws over the soil.

<u>The legal question raised is whether the 39th State is a continuation of the posterity that is mentioned in the Constitution or a new creation?</u>

<u>If it is a new creation, is that creation lawfully authorized?</u>

<u>Does Congress have the power to annul States in times of peace, for the purpose of nationalizing citizenship, without the consent of a free people, by threat of military rule?</u>

The purported "State" prosecuting this action must provide proof beyond reasonable doubt of the lawfulness of the due process of the Reconstruction Acts of Congress that created it, to include the Constitutional authority for these Acts and show how the resulting "State" is a State of the consent of the posterity of the people who compacted together under the United States Constitution.

The "people" (the original usurpers who were put into place by an act of treason) that voted in the new NC Constitution does not cure the unconstitutionality of Reconstruction nor the treason that took place and continues today through continued and purposeful avoidance of the real issue of law here.; which is exactly what the State is attempting here; to change the argument from jurisdiction over the person and soil to subject matter jurisdiction, which was never even brought forth originally.

Respectfully submitted, this 22nd day of September, 2011

Amanda Lea Rose

Amanda Lea Rose, Respondent

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the ANSWER TO PROPOSED ORDER upon the parties listed below by Hand delivery.

District Attorney of Wilkes County

Clerk of Court of Wilkes County

This 22nd day of September, 2011

Amanda Lea Rose

Amanda Lea Rose

2011 Oct 4 AM 8:45

FILED

2011 OCT -4 AM 8:45

WILKES COUNTY, C.S.C.

NORTH CAROLINA

WILKES COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
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,

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

2011 Oct 7 PM 4:30

STATE OF NORTH CAROLINA — IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WILKES COUNTY — File Nos. 10-IfS-706153-3 & -4

2011 OCT -7 PM 4:35
WILKES COUNTY, C.S.C.

STATE OF NORTH CAROLINA,
Plaintiff,
BY _____

vs.

NOTICE OF APPEAL

Amanda Lea Rose,
Respondent.

TO THE COURT OF APPEALS OF NORTH CAROLINA:

Preserving her jurisdictional challenge, Respondent Amanda Lea Rose, *Pro Se, sui juris,* hereby gives notice of appeal to the Court of Appeals of North Carolina from the ORDER of superior court judge Lindsay R. Davis, Jr., entered in the above-captioned action on 29 September 2011, which denied Respondent's challenge to the jurisdiction of the STATE and its' courts to charge and try her.

This is an interlocutory appeal, pursuant to N.C. Gen. Stat. § 7A-27(d) and existing case law, including (but not limited to) *Blackwater v. State Dep't. Of Human Resources,* 60 N.C. App. 331, 299 S.E.2d 777 (1983); *Heavener v. Heavener,* 73 N.C. App. 331, 326 S.E.2d 78, *cert. denied,* 313 N.C. 601, 330 S.E.2d 610 (1985) ("An order is interlocutory if it does not determine the issues but directs some further proceeding preliminary to final decree"), and *State v. Shoff,* 118 N.C. App. 724, 456 S.E.2d 875 (1995) appeal dismissed, 340 N.C. 638, 466 S.E.2d 277 (1996) ("Reliance upon a substantial rights analysis as the basis for appellate review appears contrary to the plain and unambiguous language of the statutes governing criminal appeals").

Submitted this 7 day of October, 2011, by:

Amanda Lea Rose

Amanda Lea Rose
9097 Concord Church Road
Lewisville, NC 27023

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing NOTICE OF APPEAL in-hand to the office of the:

Wilkes County Clerk of Superior Court
500 Courthouse Drive # 1115
Wilkesboro, NC
28697-2929

and by depositing the same into a Depository under the exclusive custody of the United States Postal Service, in a plain wrapper with pre-paid first-class postage affixed, properly addressed to:

Wilkes County District Attorney's Office
500 Courthouse Drive, Suite 2022
Wilkesboro, NC
28697-2929

on this 7 day of October, 2011, By: Amanda Rose

STATEMENT OF TRANSCRIPT OPTION

Per Appellate Rules 7(b) and 9(c), the transcript of the entire proceedings in this case taken by Mildred Jones, Court Reporter, from 12 September 2011 through 22 September 2011, consisting of 33 pages, numbered 1-33, bound in one volume, will be electronically filed by Mildred Jones promptly once a docket number is assigned to this appeal.

STATE OF NORTH CAROLINA	**IN THE GENERAL COURT OF JUSTICE**
	SUPERIOR COURT DIVISION
WILKES COUNTY	**FILE NOS. 10 IFS 706153-4**

STATE OF NORTH CAROLINA,
Plaintiff
v.

AMANDA LEA ROSE,
Respondent

TRANSCRIPT DOCUMENTATION

Pursuant to Rule 7(a)(1) of the North Carolina Rules of Appellate Procedure, Amanda Lea Rose hereby files a copy of her agreement with Mildred Jones, Official Court Reporter, PO Box 219, Sparta, North Carolina 28675 to contract for the transcription of the proceedings that took place from 12 September 2011 to 22 September 2011 in this action. (See Attachment A.)

This the 18th day of November 2011.

Amanda Lea Rose
Amanda Lea Rose, Respondent

Certificate of Service

I hereby certify that I have served a copy of the Transcript Documentation upon the parties listed below by hand delivery.

District Attorney of Wilkes County
Mildred P. Jones, Official Court Reporter, 23rd District

Amanda Lea Rose
Amanda Lea Rose, Respondent

September 27, 2011

Mildred P. Jones, CVR
Official Court Reporter
23rd Judicial District
P.O. Box 219
Sparta, N.C. 28675

Re: *State v. Amanda Lea Rose*, Wilkes County-10 IFS 706153-4

Dear Ms. Jones:

As we discussed by telephone and electronic mail, this letter confirms our contract for a transcript for the appeal in the above-referenced case. We have agreed that you will prepare a complete transcript of the proceedings that took place in this case from September 12, 2011 through September 22, 2011. We have agreed that we will pay your usual and customary fees for this transcription.

Rule 7(b) of the North Carolina Rules of Appellate Procedure makes this transcript due in electronic "PDF" format sixty (60) days after service of this contract. We would appreciate receiving the transcript as soon as possible. If, however, circumstances arise that will make it difficult for you to meet that deadline, please let me know at once, and I will assist you in obtaining an extension. Please send a compact disc with the transcript in PDF format to Amanda Lea Rose, 9097 Concord Church Rd. Lewisville, NC 27023 and C. Fred Bauer, ADA at 500 Courthouse Drive, Suite 2022, Wilkesboro, NC 28697-2929.

If I can answer any questions, please feel free to call me at (336) 745-9251. Thank you for your help with this appeal.

Sincerely,

Amanda Lea Rose

Amanda Lea Rose

PROPOSED ISSUES ON APPEAL

1. The court erred in its denial of Defendant's Challenge to jurisdiction.
Order issued by Lindsay R. Davis, Jr., Superior Court Judge, on the 29th day of September 2011, in its entirety.

2. The court erred in its declaration of the Nature of the "challenge" conclusion.
Order p 2 para II, lines 9-11 *et. al.*

3. The court erred in the inclusion and admittance of evidence not submitted to the court.
Order p 2 & 3, footnotes 2 and 3.

4. The court erred in making statements inconsistent with established fact when it contended: "That constitution contains no reference at all to the territory comprising the State."
Order p 3, footnote 3.

5. The court erred in its conclusions of law and each of them.
Order p 4, para IV.

6. The court erred in acting on behalf of the Prosecution to establish jurisdiction, and, in effect, became the Prosecutor against Defendant and a Judge in his own cause.

IDENTIFICATION OF COUNSEL FOR THE APPEAL

Appellant:

Amanda Lea Rose
9097 Concord Church Rd
Lewisville, North-Carolina 27023
Forsyth County
336-745-9251
jackofalltrades@triad.rr.com

For the Appellee:

C. Fred Bauer, Esquire
NC Bar ID No: 19810
336-651-4410
Charles.F.Bauer@nccourts.org
ASSISTANT DISTRICT ATTORNEY
WILKES COUNTY COURTHOUSE
500 COURTHOUSE DRIVE, SUITE 2022
WILKESBORO, NC 28697-2929

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served the STATE OF NORTH CAROLINA with the proposed record of appeal by hand delivering a copy thereof to the ASSISTANT DISTRICT ATTORNEY as follows:

C. Fred Bauer, Esquire
ASSISTANT DISTRICT ATTORNEY
WILKES COUNTY COURTHOUSE
500 COURTHOUSE DRIVE, SUITE 2022
WILKESBORO, NC 28697-2929
336-651-4410
Charles.F.Bauer@nccourts.org

This 18th day of November, 2011.

Amanda Lea Rose

Amanda Lea Rose
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