



- 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 39<sup>th</sup> 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, 6<sup>th</sup> 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 12<sup>th</sup> State and the second one was on June 25, 1868 as the 39<sup>th</sup> 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.

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

If it is a new creation, is that creation lawfully authorized?

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?

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

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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

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Amanda Lea Rose