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6 This document is <http://www.lawyerdude.netfirms.com/8004.pdf>

7 **State Court of Cobb County**
8 **Courtroom of Judge Irma Glover**

9 <http://statecourtadmin.cobbcountyga.gov/judges.htm>
10 12 East Park Square, Suite 4B, Marietta, Georgia 30090

11 Clerk: Andrea Nicholson 770-528-1711. Fax: 770-528-1733. Researcher: Audrey Baggett 770-528-1713.
12 Court Reporter: Louise Thijssen 770-528-1714

13 Our Mission: Money: In calendar year 2003, the State Court of Cobb led all Georgia state courts in total case filings and
14 dispositions with 174,814 filings and 148,187 case dispositions. The State Court of Cobb County is the second largest in Georgia
15 in the number of full time judges and ranks third in population served. So even though we don't have the most judges or the
16 biggest population we nonetheless file the most cases - including some that should never be filed. Query: Isn't that called barratry
17 when a person generates trivial prosecutions?

18 Barry Morgan, acting in violation of the Georgia
19 constitution (in violation of his oath of office)
20 having usurped the power of the State of Georgia
21 and now proceeding fraudulently and
22 unconstitutionally under false color of law as
23 "people of Georgia", Prosecutor,
24 v
25 Sean Holloway (incorrectly cited as "SHAWN
26 HOLLOWAY" - what is this obsession with ALL
27 CAPS?) one of the actual true **People of Georgia**,
28 Defendant.

Case Number: 06 M 2937

Document #8004. Version 1.004
Defendant's First Motion.

**Demand to Quash and Dismiss this
Unconstitutional Prosecution with
Prejudice.**

Proof of Service.

Date: Thursday 26 October 2006
Time: 1:30 pm
Place: This court of Irma Glover.

20 Quoting Barry Morgan in his complaint:

21 " . . . **contrary to the laws of this State**".

22 No. There is no state law involved here!

23 **Demand to Quash and Dismiss this Unconstitutional Prosecution with Prejudice.**

24 At the venue designated in the caption or at such other venue as the court shall designate, I, Sean
25 Holloway, will demand dismissal in this case as more fully set forth herein.

26 - Sean Holloway

27 Motion continues on next page.

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10 **By stealthy encroachment governments take away our rights and sell them back to us.**

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11 **Why is it that tenants can't get help re rats and yet you ticket me for my truck?**

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12 **The law you are using is not a valid Georgia criminal statute.** Page 5 of 6

13 **A Republic Form of Government Forbids Fiefdoms and subinfeudation.** Page 5 of 6

13 adopted by the board of commissioners [not the legislature] Page 5 of 6

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14 **Action defining any criminal offense or providing for criminal punishment.** .. Page 6 of 6

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Statement of the Case:

In December 2005 I moved into a "fixer upper". I agreed to fix up the house in exchange for rent. I fixed the house. I carried away a slight amount of demolition debris in my pickup. While the pickup was parked in my yard I received a ticket falsely accusing me of storing trash.

Notice of Concurrent and Future Motions for overbreadth and lack of sworn witness.

The statute underlying this case is overbroad - but I will save that for another motion. I tried to resolve the matter. The prosecutor elected to file a complaint without sworn testimony - which I will save for another motion.

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**Memorandum of Authority in Support of Motion to Quash
Table of Authorities cited herein:**

Provisions of the U.S. Constitution and Declaration of Independence cited herein:

Republican form of government clause of the U.S. Constitution. Article IV. Section 4. "The United States shall guarantee to every state in this union a republican form of government . . ." - U.S. Constitution, Article IV, Section 4. <http://www.law.cornell.edu/constitution/constitution.table.html> The U.S. Constitution guarantees us a "republican" form of government - not a feudal form of government. Cobb County is not permitted to act as a fiefdom entitled to prey on us by subinfeudation. By stealthy encroachment our predatory governments steal our basic rights and sell them back to us as permits and licenses. They invent new crimes. They "erect a multitude of New Offices, and send hither swarms of Officers to harass our people and eat out their substance" to quote the Declaration of Independence.

..... Page 5 of 6

" . . . erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance" - Our Declaration of Independence.

..... Page 4 of 6

Table of Georgia Constitutional Provisions Cited Herein:

Article IX. Section II. Paragraph I of Georgia Constitution". . . (c) The power granted to counties in subparagraphs (a) and (b) above **shall not be construed to extend to the following matters** or any other matters which the General Assembly by general law has preempted or may hereafter preempt, but such matters shall be the subject of general law or the subject of local acts of the General Assembly to the extent that the enactment of such local acts is otherwise permitted under this Constitution:

(1) Action affecting any elective county office, the salaries thereof, or the personnel thereof, except the personnel subject to the jurisdiction of the county governing authority.

(2) Action affecting the composition, form, procedure for election or appointment, compensation, and expenses and allowances in the nature of compensation of the county governing authority.

(3) **Action defining any criminal offense or providing for criminal punishment.**" - Georgia Constitution, Article IX, Section 2, Paragraph 1c 3 found at:

<http://www.law.emory.edu/GEORGIA/gaconst.html> and
http://www.sos.state.ga.us/ELECTIONS/2003_constitution.pdf Page 6 of 6

Table of Cobb County Ordinances cited herein:

Cobb County Ordinance 134-197: . . . c. No materials, equipment or business vehicles may be stored or parked on the premises, except that one business vehicle, used exclusively by the resident may be parked in a carport, garage or rear or side yard. The off-site employees of the resident shall not congregate on the premises for any purpose concerning the business of the home occupation. . . . e. No outside storage

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is permitted, excluding firewood and lawn furnishings. - Ordinance 134-197 which is found at <http://www.municode.com/Resources/gateway.asp?pid=10572&sid=10> Page 4 of 6

“This Code constitutes a complete recodification of the general and permanent ordinances of Cobb County, Georgia. Source materials used in the preparation of the Code were the 1977 Code, as supplemented through January 24, 1995, and ordinances subsequently **adopted by the board of commissioners [not the legislature]**. The source of each section is included in the history note appearing in parentheses at the end thereof.” - Cobb County Municipal Code found at <http://www.municode.com/Resources/gateway.asp?pid=10572&sid=10> Page 5 of 6

Scholarly Treatises cited herein:
Subinfeudation is explained at <http://www.lawyerdude.netfirms.com/7761.html> Page 4 of 6

Argument

The Georgia Constitution forbids this criminal enforcement of a mere ordinance.

The “statute” used in the complaint in my case is a mere Cobb County Ordinance although the prosecutor deceptively failed to so state. The ordinance is 134-197

Cobb County Ordinance 134-197:
... c. No materials, equipment or business vehicles may be stored or parked on the premises, except that one business vehicle, used exclusively by the resident may be parked in a carport, garage or rear or side yard. The off-site employees of the resident shall not congregate on the premises for any purpose concerning the business of the home occupation.
... e. No outside storage is permitted, excluding firewood and lawn furnishings. - Ordinance 134-197 which is found at <http://www.municode.com/Resources/gateway.asp?pid=10572&sid=10>

By stealthy encroachment governments take away our rights and sell them back to us.

Cobb County is constitutionally forbidden to be a mesne-lords entitled to prey on us by subinfeudation. <http://www.lawyerdude.netfirms.com/7761.html> explains subinfeudation. By stealthy encroachment our governments steal our basic rights and sell them back to us as permits and licenses. They invent new crimes. They “erect a multitude of New Offices, and send hither swarms of Officers to harass our people and eat out their substance” to quote the Declaration of Independence.

Why is it that tenants can't get help re rats and yet you ticket me for my truck?

1 In many places in this country rats continue to invade rooms in homes where children eat, sleep,
2 and bath. See, for example, the case of Mike Hanna who cannot arouse the city of Hemet, California, to
3 take action against his slum landlord. <http://www.lawyerdude.netfirms.com/7936.pdf>
4 <http://www.lawyerdude.netfirms.com/7937.pdf> <http://www.lawyerdude.netfirms.com/7948.html> And yet
5 you come after me for merely putting construction materials in my pickup truck. Laws should be enforced
6 even handedly. The law does not concern itself with trivialities - such as what I carry in the bed of my
7 pickup.

8 **The law you are using is not a valid Georgia criminal statute.**

9 Georgia statute are written by the Georgia legislature and signed by the Governor. Your use of this
10 law violates the “republican” clause of the U.S. Constitution. The U.S. Constitution guarantees us a
11 “republican” form of government - not a feudal form of government. Cobb County is not a fiefdom.

12 Article IV. Section 4.”The United States shall guarantee to every
13 state in this union a republican form of government . . .” - U.S.

14 Constitution, Article IV, Section 4 found at:

15 <http://www.law.cornell.edu/constitution/constitution.table.html>

16 **A Republic Form of Government Forbids Fiefdoms and subinfeudation.**

17 We need only look to the code to see who wrote the law in this case:

18 “This Code constitutes a complete recodification of the general and
19 permanent ordinances of Cobb County, Georgia. Source materials
20 used in the preparation of the Code were the 1977 Code, as
21 supplemented through January 24, 1995, and ordinances
22 subsequently **adopted by the board of commissioners [not
23 the legislature]**. The source of each section is included in the
24 history note appearing in parentheses at the end thereof.” - Cobb
25 County Municipal Code

26 This code is found at <http://www.municode.com/Resources/gateway.asp?pid=10572&sid=10>

27 **Georgia Constitution Strictly Forbids Counties to Make Criminal Laws**

28 The county has neither the constitutional authority to make criminal laws nor the authority to prosecute
“county laws” criminally. The Georgia Constitution provides that all bills be passed by the legislature and
signed by the governor. The legislature may not delegate its power to the county. Certain provision is made
for “home rule” but the state of Georgia prevents counties from establishing criminal laws:

1 Article IX. Section II. Paragraph I of Georgia Constitution. . .(c) The
2 power granted to counties in subparagraphs (a) and (b) above **shall**
3 **not be construed to extend to the following matters** or any other
4 matters which the General Assembly by general law has preempted
5 or may hereafter preempt, but such matters shall be the subject of
6 general law or the subject of local acts of the General Assembly to
7 the extent that the enactment of such local acts is otherwise
8 permitted under this Constitution:

9 (1) Action affecting any elective county office, the salaries thereof,
10 or the personnel thereof, except the personnel subject to the
11 jurisdiction of the county governing authority.

12 (2) Action affecting the composition, form, procedure for election or
13 appointment, compensation, and expenses and allowances in the
14 nature of compensation of the county governing authority.

15 (3) **Action defining any criminal offense or providing for**
16 **criminal punishment.**" - Georgia Constitution, Article IX, Section
17 2, Paragraph 1c 3 found at:

18 <http://www.law.emory.edu/GEORGIA/gaconst.html> and
19 http://www.sos.state.ga.us/ELECTIONS/2003_constitution.pdf

20 I am Sean Holloway and I approved this motion.

21 Signed _____ Sunday, September 24, 2006.

22 **Proof of Service**

23 I, Sean Holloway, declare under penalty of perjury that on the date affixed to my signature below
24 I served this motion upon the prosecutor in person at the address designated in service list below.

25 Thereafter I served the motion in person at the court's criminal filing window.
26 Signed _____ Sean Holloway. Date ____ September 2006.

27 Service List:

28 Attorney Barry E. Morgan

<http://www.cobbsolicitorgeneral.com/index.htm>

barrymorgan@cobbcounty.org

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