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5
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7 Related documents:

Faded illegible ticket: <http://www.lawyerdude.netfirms.com/8597.pdf>

8
9
10 **Hill County Precinct 1, Hillsboro, Texas**
John K. Milburn, Justice of the Peace

Box 316, Hillsboro, Texas 76645

254-582-4025

<http://www.co.hill.tx.us/ips/cms/countyoffices/justiceOfThePeace.html>

<http://www.tsha.utexas.edu/handbook/online/articles/HH/hch15.html>

13
14 Clerk of court, a high school
graduate, having unlawfully
15 and unconstitutionally (in
violation of her oath of
16 office) usurped the
prosecutorial function that is
17 solely the province of the
elected prosecutor, dba
18 under false color of law and
corrupt legal fiction as "The
19 State of Texas"

v
20 Charles Alan Couchman,
One of the actual People of
21 Texas,

22 Putative Faux non-
23 Defendant

Case Number
Ticket Number 917309

1st Substantive Motion for Defendant.
Document #8555 Version 1.001

Demand for legible copy of ticket.

Demand to recall any warrants.

**Demand for adjournment/ continuance/
postponement of arraignment to
consider this motion.**

Waiver of time.

**Demand to Quash due to the clerk's having
usurped the power of the prosecutor
and for failure to file a complaint.**

**Demand for recordation by a stenographic
court reporter.**

**Demand for prompt e-transcript of every
hearing by email to my address shown
above.**

Date: No oral hearing is needed; There is no opposition.

Time:

Place: Court of Judge Milburn

24
25
26 **Demand to Quash. Demand to Vacate. Waiver of time.**

To Clerk and to John K. Milburn, and the police officer: You have all conspired and usurped the
27 role of the prosecutor by filing a ticket in this case thereby initiating prosecution and bypassing the
28 prosecutorial function: By the motions set forth in detail I hereby demand that the court dismiss this

Motion #8555. Demand to Quash. By C. Alan Couchman.

1 spurious fake prosecution. Not one of you is a prosecutor or lawyer. Not one of you knows the law. Not
 2 one of you has taken the time to go to law school. Some of you work for the court; the court's job is to be
 3 a neutral judge - not a prosecutor. The inquisition ended some years ago. You have done the work of the
 4 prosecutor and yet you don't do my work. You should be neutral; you are not. "Equal Protection of the
 5 Law" is the law. **I waive my right to a speedy trial as necessary to vindicate my legal rights. You
 should have advised me well; you didn't. If there were a neutral prosecutor I could have worked
 this out with him. You may not be both judge and prosecutor.**

6 Signed _____ Charles Alan Couchman Tuesday, June 5, 2007

7
 8 **Contents of this Demand to Quash/ Dismiss:**

9 **Notice of Concurrent and Upcoming Motions and Demands** -3-
 10 **Statement of the Case** -4-
 11 **There was no legal basis for this traffic stop. Traffic rules are merely**
 12 **recommendatory.** -4-
 13 **Police officer has usurped the clerk's role.** -4-
 14 Declaration of Expert Attorney Douglas Palaschak regarding Traffic Court Abuses,
 15 Methodology, Corruption, and Systemic Denial of Due Process - especially in Texas.
 16 -5-
 17 A ticket can never be a summons. -6-
 18 **Table of Authorities and Fountains of Liberty cited herein:** -7-
 19 **U.S. Constitutional Clauses Cited herein:** -7-
 20 **List of Clauses from the Colorado Constitution cited herein:** -7-
 21 **List of Clauses from the Kansas Constitution cited herein:** -7-
 22 **List of Clauses from the Texas Constitution cited herein:** -7-
 23 **List of Clauses from the Florida Constitution cited herein:** -8-
 24 **List of U.S. Supreme Court cases cited herein:** -8-
 25 **Treaties cited herein:** -8-
 26 **Illinois, California, and other Foreign Constitutions rightfully cited herein:** ... -8-
 27 **Table of California Statutes cited herein:** -9-
 28 **List of California state cases cited herein:** -9-
Treatises cited herein: -9-
 Argument. Memorandum of Points and Authorities. -9-
Clerk has unconstitutionally usurped function of prosecutor; Dismissal is my
remedy. -9-
My constitutional right to a remedy. -9-
and a speedy remedy afforded for every injury to person, property or character; and right
and justice should be administered without sale, denial or delay. -10-

1	Under U.S. Constitution IV, 2, I am entitled to Georgia, Illinois, and California	
2	rights	<u>-10-</u>
3	I am entitled to utilize the constitutional concepts expressed in foreign constitutions.	<u>-10-</u>
4	Application: Kansas Constitution contains no Due Process Clause - and yet I have	
5	a state constitutional right to due process.	<u>-11-</u>
6	Fountains of Liberty: Magna Charta, 1948 Universal Declaration of Human rights.	
7	. . . . .	<u>-11-</u>
8	I am a beneficiary of the rights declared by the California constitution.	<u>-12-</u>
9	The clerk and judge have usurped the prosecutorial function; that is wrong.	
10	Dismissal is the remedy.	<u>-12-</u>
11	A defendant may appear by motion - by paper.	<u>-13-</u>
12	I have not signed any agreement to appear. The police officer has no authority to	
13	issue such a command! The judicial branch may not delegate its authority	
14	to a member of the executive branch including an employee police officer.	
15	. . . . .	<u>-13-</u>
16	Permitting Police to Summon me to court denies Equal Protection Under the Law	
17	. . . . .	<u>-14-</u>
18	The Legislature may not give Police the Power to Summon and may not give	
19	Clerks the power to prosecute.	<u>-14-</u>
20	You are Equitably Estopped from Presuming a Waiver of Jurisdictional Challenge.	
21	. . . . .	<u>-14-</u>
22	You may not serve me a summons in court; that would constitute a benefit from	
23	your wrongdoing.	<u>-14-</u>
24	Pleadings of Pro Se Litigants must be given some leeway	<u>-14-</u>
25	Special Scrutiny and Prosecution for those who know the law denies equal	
26	protection.	<u>-14-</u>
27	Proof of Service	<u>-14-</u>
28	Appendix: Brief Biography of Attorney Douglas Palaschak	<u>-15-</u>
	Appendix: Kansas Bill of Rights	<u>-15-</u>
	Appendix: Lawyerdude's Sanitized Bill of Rights of Texas. Part of the Texas Constitution.	
	. . . . .	<u>-17-</u>
	Appendix: Sample state Bill of Rights. Excerpts from the Florida Bill of Rights.	<u>-18-</u>
	Excessive fines	<u>-19-</u>
	Topical Index	<u>-20-</u>

Notice of Concurrent and Upcoming Motions and Demands

1. I will be filing a motion to suppress all evidence in this case.

1 2. Regarding the Pretextual Stop using the instrument of a vague and overbroad statute, I will be
2 challenging the statute should that issue arise. All traffic laws are merely recommendatory.
3 Otherwise the statutes would be oppressive. I will be moving in that regard.

4 **Statement of the Case**

5 I was ticketed in a pretextual traffic stop at around 11 pm on Monday 29 January, 2007. There
6 was no probable cause for the traffic stop. Officer T Ballew gave me a ticket falsely alleging that my
7 speed was 75 in a 65.

8 The handwriting on the ticket is illegible. The ticket is faded. I have uploaded a picture of the
9 ticket at the following hyperlink: : <http://www.lawyerdude.netfirms.com/8597.pdf>

10 The ticket does not designate under whose authority this uniformed officer acts.

11 The clerk has invaded the exclusive province of the prosecutor as set forth more fully in my
12 memorandum of authorities below.

13 **There was no legal basis for this traffic stop. Traffic rules are merely recommendatory.**

14 There was no legal basis for this traffic stop/ ticket. Traffic rules are there to prevent accidents
15 and to assist in determining causation/ liability/ blame in the event of a car crash.

16 Even if there were a basis for the stop, a prosecutor would be required to make the decision to
17 prosecute - not this clerk. A prosecutor would have an ethical duty to reject this case. However, the clerk,
18 being uneducated in the law violates my rights when she usurps the prosecutorial role as she has done
19 here. Furthermore the clerk is biased in this case by loyalty to her employer. Money from my fine would
20 be added to the fund that pays her. She has thereby caused the court to be unconstitutionally biased.
21 See for example: *Tumey v Ohio* (1927) 273 U.S. 510. In this prohibition era case, the city received \$5 for
22 each conviction. The Tumey case can be see at: <http://www.lawyerdude.8k.com/Tumey.html>

23 **Police officer has usurped the clerk's role.**

24 There has been a reciprocal usurpation. Ironically the police officer usurped the clerk's function
25 which is to summon people to court only after there is a case filed by a duly authorized person. There was
26 no such complaint/ case when the usurpatious officer issued the faux, spurious summons/ ticket to me
27 appear in court. My remedy is this motion to Quash.

28 To this date, I have been served neither a valid summons nor a verified complaint. I therefore
demand dismissal. I demand that this court recognize that I have neither been properly summoned to
court nor properly prosecuted by an authorized prosecutor. Instead a mere police officer performed the
legal nullity of serving me a substitute for a summons. The officer has no authority to summon me to
court; issuance of a summons is the duty of the clerk. The officer may not ordain himself a clerk even if
the legislature so deems.

The clerk, who would ordinarily issue summonses, now elevates herself to the position of
prosecutor by prosecuting this case without the requisite legal formality of a complaint signed by a
complaining party/ witness. This is classic stealthy incessant encroachment. Only a prosecutor may
lawfully file a complaint. The clerk may not ordain herself to the status of prosecutor.

1 Usurpation denies me Due Process. Both the federal and Kansas constitution guarantee me due
2 process.

3 By stealthy encroachment our oppressive governments encroach. Corporations including
4 governments enjoy eternal life and infinite wealth. They tell the lie over the course of generations. My
5 children do not know the lie that the government told my parents. This truth about the lie is most obvious
6 regarding income taxes. They were sold to Americans around 1909 as a tax that would never tax the
7 wages of the working man. Example 2: In 1903 the federal government usurped the power of our various
8 state militias by creating the National Guard and seizing control of the militias by co-opting/ incorporating
9 them.

10 Every court wants to be a profit center. They incorrectly claim to be working for the greater good
11 but they are not. Like all corporations they exist to serve their own; they thus create "the governing class"
12 which is a parasitic class. Traffic tickets are the bite of these parasites. The city justifies traffic tickets as
13 a means to raise revenue. In New Orleans the Public Defender is paid from revenue from parking meters.

14 In American the individual is king. Primacy of the individual human was once our mantra. All the
15 aforementioned usurpations are destructive of our great country.

16 So now we have a dynamic tension: the struggle between the individual human and the corporate/
17 government for hegemony. Today the various governments have sent hither swarms of Officers to
18 harass our people and steal our wealth by the instrument of institutionalized highway robbery. The
19 overlord always sets up toll gates and other methods of plundering the wealth of the land. This instrument
20 of oppression was one of the offenses that triggered our early revolution: Declaration of Independence:
21 "He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and
22 eat out their substance."

23 This will not stand.

24 My legal argument is set forth below in my Memorandum of Legal Authorities.

25 Charles Alan Couchman. Monday, June 25, 2007.

26 **Declaration of Expert Attorney Douglas Palaschak regarding Traffic Court Abuses, Methodology,
27 Corruption, and Systemic Denial of Due Process - especially in Texas.**

28 I, Attorney Douglas Palaschak, declare the following under penalty of perjury:

My biography is appended hereto. I have been a lawyer for nearly a quarter century.

For over a quarter century I have studied the tactics and methodology of traffic courts. They are
instruments of oppression. Over half of my work consists of writing motions for traffic court. I see the
same patterns in nearly all the 50 states.

Your system treats citizens as your subjects and Hillsboro, Texas, as your fiefdom. Feudalism is a
natural thing - like warts. As civilized people we rise above the medieval cruelty that was feudalism.

For years Ventura, California, showed a video that contained blatant lies about your rights. In
particular they said there were 3 pleas; there are 6. They ignored the demurrer. Texas courts have no

1 video.

2 All California courts prosecute insurance tickets even in the absence of an accompanying citation
3 on the same paper - in violation of statute.

4 Police court retains the vestiges of both feudalism and the Inquisition. Proof: "Mr. Smith, you are
5 accused of going 50 in a 35. How do you plead." Mr. Smith never thinks to ask "Who accuses me?" It is
6 obvious: the court accuses you! When the court is the accuser and the judge, then the system is
7 Inquisitorial and not Adversarial. Such is this police court of Mount Vernon. Masquerading under the
8 euphemism of "municipal court" changes nothing. This is military power used unconstitutionally against
9 the people.

8 **A ticket can never be a summons.**

9 A summons is required for the court to gain jurisdiction. A summons is a notification from the
10 court addressed to the defendant in a pending case. A ticket is never a summons despite the intentions of
11 the legislature. When a person write a ticket there is no pending case. There will be no pending case
12 until a prosecutor has made a decision to prosecute. Then the prosecutor files a complaint. Only then is
13 a summons possible. There is then a pending case. I would then have the opportunity to settle the case
14 with the prosecutor. Most traffic courts today permit the clerk to usurp power and prosecute the case.
15 This practice is unconstitutional. It is an example of denial of equal protection. The clerk has
16 demonstrated a bias for the prosecution. Also, the clerk is paid by the money earned by the ticket that she
17 prosecutes.

18 Your pretext for prosecuting this defendant is violation of a license. The license is a legal fiction.
19 We are each entitled to use the roads! It is only by incessant stealthy encroachment that the police state
20 now treats the roads as its private fiefdom. The right to use the highway has been eroded and diminished
21 until today it is no longer a right of the people but a franchise of the state.

22 The police power stems from a medieval concept of questioning every stranger. The police court
23 has been an instrument of institutional oppression. Your name has now been changed to the euphemism
24 of "municipal court" but the game remains the same. Your name change is part of your institutional deceit.

25 You are a mockery to justice.

26 No. This will not stand.

27 Signed by Charles Alan Couchman for and with Special Permission of Palaschak

28 _____ . Monday, June 25, 2007.

1 **Table of Authorities and Fountains of Liberty cited herein:**

2 **U.S. Constitutional Clauses Cited herein:**

3 Article IV, Section 2.: The citizens of each state shall be entitled to all privileges and immunities of citizens
in the several states. [-10-](#), [-13-](#)

4 Commerce Clause/ interstate commerce [-11-](#)

5 Due Process Clause [-12-](#)

6 Equal protection clause of the 14th amendment [-14-](#)

7 Griffin v Illinois (1956)100 L Ed 891, 351 US 12, 79 S Ct 585, 55 ALR2d 1055 I have a right to a transcript
even if I cannot afford one. <http://www.circuitlawyer.8m.com/griffin.html> [-10-](#)

8 **Haines v Kerner** (1972) 404 U.S. 519 (1972) [Http://www.lawyerdude.netfirms.com/haines.html](http://www.lawyerdude.netfirms.com/haines.html) Pleadings of
9 Pro Se litigants are entitled to some leeway. **Haines v Kerner** (1972) 404 U.S. 519 (1972)
10 [Http://www.lawyerdude.netfirms.com/haines.html](http://www.lawyerdude.netfirms.com/haines.html) This ruling is consistent with statutes in nearly all
jurisdictions. The law is not a trap for the unwary. For every wrong there is a remedy. [-14-](#)

11 No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the
12 United States; nor shall any state deprive any person of life, liberty, or property, without due process of
law; nor deny to any person within its jurisdiction the equal protection of the laws. - Privilege and
13 Immunities Clause of the 14th amendment. [-11-](#)

14 **List of Clauses from the Colorado Constitution cited herein:**

15 §6. Equality of justice. Courts of justice shall be open to every person, **and a speedy remedy**
afforded for every injury to person, property or character; and right and justice should be
administered without sale, denial or delay. - Colorado constitution. [-10-](#)

17 **List of Clauses from the Kansas Constitution cited herein:**

18 Kansas Bill of Rights is appended hereto. [-15-](#)

19 Kansas Constitution contains no Due Process Clause - and yet I have a right to due process - even if it is
not written into the federal constitution. It is a constitutional concept. We remember the ancient common
law. Forty-nine other state constitutions accrue to my benefit. Also, I rely on the common law since the
20 Norman Conquest of 1066. http://en.wikipedia.org/wiki/Norman_Conquest [-11-](#)

21 § 15. "Search and seizure. The right of the people to be secure in their persons and property against
unreasonable searches and seizures shall be inviolate; and no warrant shall issue but on probable cause,
22 supported by oath or affirmation, particularly describing the place to be searched and the persons or
property to be seized." This is identical to the U.S. constitution at the 4th amendment.
23 [-13-](#)

24 **List of Clauses from the Texas Constitution cited herein:**

25 Bill of Rights of Texas is appended to this brief. [-17-](#)

26 § 3 of the Bill of Rights of Texas. " All free men when they form a social compact have equal rights, and no
man, **or set of men**, is entitled to exclusive separate public emoluments, or privileges, but in
27 consideration of public services." This clause applies to all people in every state by the terms of the U.S.
Constitution as follows: Article IV, section 2: "The citizens of each state shall be entitled to all privileges
28 and immunities of citizens in the several states." [-13-](#)

1
2 **List of Clauses from the Florida Constitution cited herein:**

3 Florida Bill of Rights. Excerpts are reprinted in the Appendix. -18-

4 Florida constitution Art. 1, section 21. guarantees my right to a remedy: Art. 1, section 21. Access to
5 courts- The courts shall be open to every person for redress of any injury, and justice shall be
6 administered without sale, denial or delay. - Florida Bill of Rights. -10-

7 **List of U.S. Supreme Court cases cited herein:**

8 **Bell v Burson** (1971) 402 US 535, 29 L Ed 2d 90, 91 S Ct 1586,
9 <http://www.circuitlawyer.8m.com/Burson.html> <http://www.lawyerdude.netfirms.com/bursonb.html>
10 -10-

11 **MLB v SLJ** (1996) 519 US 102; 117 S Ct 555; 136 L Ed2d 473 <http://www.circuitlawyer.8m.com/mlb.html>
12 Right to a free transcript even in some civil cases. -10-

13 **Norton v Shelby County, Tennessee** (1886) 118 U.S. 425 . "An unconstitutional act is not a law; it
14 confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal
15 contemplation, as inoperative as though it had never been passed."
16 <http://www.lawyerdude.netfirms.com/norton.html>
17 -10-

18 **Tumey v Ohio** (1927) 273 U.S. 510. In this prohibition era case, the city received \$5 for each conviction.
19 <http://www.lawyerdude.8k.com/Tumey.html> The clerk has usurped the prosecutorial function - for
20 profit. -4-

21 **U.S. v Gonzalez-Lopez** 2005-352. Decided 2006. <http://www.lawyerdude.netfirms.com/8345.html> -10-

22 **Treaties cited herein:**

23 Treaty. 1948 Universal Declaration of Human Rights"Article 20(2) No one may be compelled to belong to
24 an association." <http://www.lawyerdude.netfirms.com/8213.html> This treaty, the 1st amendment, the 6th,
25 and the 14th amendments preclude the regulation of the practice of law by non-government lawyers.
26 -11-

27 **Illinois, California, and other Foreign Constitutions rightfully cited herein:**

28 California constitution: Section 1. All people are by nature free and independent and have inalienable
rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting
property, and pursuing and obtaining safety, happiness, and privacy.
http://www.leginfo.ca.gov/const/article_1 <http://www.leginfo.ca.gov/const-toc.html> -12-

Illinois constitution. Section 6. Searches, Seizures, Privacy, and Interceptions: The people shall have the
right to be secure in their persons, houses, papers and other possessions against unreasonable searches,
seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other
means. No warrant shall issue without probable cause, supported by affidavit particularly describing the
place to be searched and the persons or things to be seized. -12-

Illinois Constitution. Section 1. Inherent and Inalienable Rights: All men are by nature free and
independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit
of happiness. To secure these rights and the protection of property, governments are instituted among
men, deriving their just powers from the consent of the governed. -11-

1 Illinois Constitution: Section 2. Due Process and Equal Protection. No person shall be deprived of life,
liberty or property without due process of law nor be denied the equal protection of the laws. -12-

3 **Table of California Statutes cited herein:**

4 PC 949. The first pleading on the part of the people in a misdemeanor or infraction case is the complaint
except as otherwise provided by law. -14-

5 Penal Code § 740 states as follows: Except as otherwise provided by law, all misdemeanors and
6 infractions must be prosecuted by written complaint under oath subscribed by the complainant. -14-

7 **List of California state cases cited herein:**

8 ***People v Dragomir*** Feb 14, 2006 <http://www.lawyerdude.netfirms.com/Dragomir.html> -13-

9 ***People v Carlucci*** 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
10 <http://www.lawyerdude.netfirms.com/carlucci.html> -13-

11 ***People v Kurt Albert Stapf*** (1999) <http://www.lawyerdude.netfirms.com/8289.html> Only the duly elected
prosecutor or attorney general may prosecute. -9-

12 ***People v. Municipal Court (Real Party: Pellegrino)*** (1972)
13 <http://www.lawyerdude.netfirms.com/8453.html> 27 CA3d 193 (Ventura). In Pellegrino a Ventura judge
appointed a local lawyer to prosecute after the prosecutor declined to prosecute. The court of appeal
14 ruled that the special prosecutor was unconstitutional. See also the *Stapf* case herein. -9-

15 **Treatises cited herein:**

16 http://en.wikipedia.org/wiki/Norman_Conquest Story of the Norman Conquest

17 **Argument. Memorandum of Points and Authorities.**

18 **Clerk has unconstitutionally usurped function of prosecutor; Dismissal is my remedy.**

19 The clerk may not initiate prosecution. She has done so in this case. Only the duly elected
20 prosecutor may initiate a criminal prosecution. The court may not initiate prosecution. Neither may the
court appoint someone to prosecute. Only the duly elected prosecutor or the attorney general may
21 prosecute a criminal case. This is the holding of ***People v. Municipal Court (Real Party: Pellegrino)***
(1972) <http://www.lawyerdude.netfirms.com/8453.html> 27 CA3d 193 (Ventura). In Pellegrino a Ventura
22 judge appointed a local lawyer to prosecute after the prosecutor declined to prosecute. The court of
23 appeal ruled that prosecution by the special prosecutor was unconstitutional.

24 The concept/ rule of “ exclusive province “ was reaffirmed in ***People v Kurt Albert Stapf*** (1999)
<http://www.lawyerdude.netfirms.com/8289.html> .

25 **My constitutional right to a remedy.**

26 I have a right to a remedy. Thirty-five states include a “right to a remedy” in their constitution.
27 Colorado is one such state. The list is at the following hyperlink: *Constitutional Right to a Remedy*
<http://www.lawyerdude.netfirms.com/8428.html>

1 The Colorado constitution guarantees my right to a remedy for the clerk's usurpation:
2 § 6. Equality of justice. Courts of justice shall be open to every person, **and a speedy remedy**
3 **afforded for every injury to person, property or character; and right and justice should be**
4 **administered without sale, denial or delay.** - Colorado constitution.

4 Other state constitutions proclaims a right to a remedy:

5 Art. 1, section 21. Access to courts- The courts shall be open to every
6 person for redress of any injury, and justice shall be administered without
7 sale, denial or delay. - Florida Bill of Rights.

7 You can't take away a driver license without a hearing. That's what the Supreme Court said: **Bell**
8 **v Burson** (1971) 402 US 535, 29 L Ed 2d 90, 91 S Ct 1586, <http://www.circuitlawyer.8m.com/Burson.html>
9 <http://www.lawyerdude.netfirms.com/bursonb.html> . Therefore the purported suspension by a mere high
10 school graduate was void ab initio.

10 This void act was a legal nullity. **Norton v Shelby County, Tennessee** (1886) 118 U.S. 425
11 <http://www.lawyerdude.netfirms.com/norton.html>

11 "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it
12 affords no protection; it creates no office; it is, in legal contemplation, as inoperative as
13 though it had never been passed." - The U.S. Supreme Court in **Norton v Shelby** (1886)

14 A void act does not become valid by the running of time.

14 My right to a transcript even if I cannot afford one is guaranteed by the **Due Process** and **Equal**
15 **Protection** clauses of the U.S. Constitution. The Supreme court ruled so in **Griffin v Illinois** (1956) 100 L
16 Ed 891, 351 US 12, 79 S Ct 585, 55 ALR2d 1055 <http://www.circuitlawyer.8m.com/griffin.html> . The
17 Supreme Court reaffirmed that right even in some civil cases in 1996. **MLB v SLJ** (1996) 519 US 102;
18 117 S Ct 555; 136 L Ed2d 473 <http://www.circuitlawyer.8m.com/mlb.html>

18 The state constitution and the 7th amendment guarantee my right to a jury trial.

19 My right to counsel of choice is guaranteed also. The Supreme Court ruled on this in 2006 in the
20 case of **U.S. v Gonzalez-Lopez** 2005-352. Decided 2006. <http://www.lawyerdude.netfirms.com/8345.html>

21 **Under U.S. Constitution IV, 2, I am entitled to Georgia, Illinois, and California rights.**

21 Under the constitutional concept of "dual federalism" we are all beneficiaries of at least two
22 constitutions, to wit: state and federal.

23 The federal constitution and the common law invest us with additional rights as follows:

24 **I am entitled to utilize the constitutional concepts expressed in foreign constitutions.**

24 All people in all states, including Washington, are entitled to the rights of Californians, except the
25 right to vote in California state and local elections, which, or course, is reserved to California citizens. That
26 is why I cite California law herein.

26 U.S. Constitution: Article IV, Section 2.: The citizens of each state shall be entitled to all
27 privileges and immunities of citizens in the several states.

28 The officer violated the Privileges and Immunities Clause of the 14th amendment which states:

1 No state shall make or enforce any law which shall abridge the privileges
2 or immunities of citizens of the United States; nor shall any state deprive
3 any person of life, liberty, or property, without due process of law; nor
4 deny to any person within its jurisdiction the equal protection of the laws. -
Privilege and Immunities Clause of the 14th amendment.

5 **Application: Kansas Constitution contains no Due Process Clause - and yet I have a state**
6 **constitutional right to due process.**

7 **Fountains of Liberty: Magna Charta, 1948 Universal Declaration of Human rights.**

8 We struggle to “find” the law. Example: A lawyer need not change his bar license upon entering a sister
9 state. Once he has passed his test he has proven himself. Compulsion to join the compulsory bar
10 violates the compulsory association clause of the 1948 Universal Declaration of Human rights

11 “Article 20(2) No one may be compelled to belong to an association.” -
12 Treaty. 1948 Universal Declaration of Human Rights.

13 <http://www.lawyerdude.netfirms.com/8213.html>

14 Likewise a driver need not register himself at every state border. Neither should a statute require
15 that I re-register my car upon residing in a state more than 60 days or whatever that state requires. Such
16 a requirement violates so very many clauses in the various fountains of liberty. Example: To do so
17 imposes an undue burden on **interstate commerce**. Both lawyers and drivers are subjected to ever
18 tightening reigns of state governments. Governments by stealthy encroachment over the course of
19 generations seek to fatten the corporate bureaucracies and extract greater percentages of the wealth of
the citizenry which they view as their subjects. In the beginning we sought government to provide law and
order - not to enslave and rule us. Consider the portentous words of “our” Illinois constitution. By terms of
the U.S. constitution, we free people of every state are beneficiaries of the liberating clause of the
constitutions of Illinois and California as well as our own. We have 51 fountains of liberty from which to
drink:

20 Illinois Constitution. Section 1. Inherent and Inalienable Rights: All men
21 are by nature free and independent and have certain inherent and
22 inalienable rights among which are life, liberty and the pursuit of
23 happiness. To secure these rights and the protection of property,
24 governments are instituted among men, deriving their just powers from
the consent of the governed. - Illinois Bill of Rights.

25 There are 50 state constitutions. It is interesting to compare them and investigate their derivation.
26 Consider the flowery language of the first paragraph of the California Constitution which is constantly
27 under attack by Republicans shaming Lincoln and attempting to curtail our rights by, for example, limiting
28 our own search prohibition so that it is no stronger than the 4th amendment. Here is that first flowery
meaningless clause:

1 California constitution - same as Ohio constitution: Section 1. All people
2 are by nature free and independent and have inalienable rights. Among
3 these are enjoying and defending life and liberty, acquiring, possessing,
4 and protecting property, and pursuing and obtaining safety, happiness,
5 and privacy. <http://www.leginfo.ca.gov/const-toc.html>

6 **I am a beneficiary of the rights declared by the California constitution.**

7 I was exercising my California defined Section 1 rights as a free and natural human when the
8 police officer unconstitutionally violated my rights to enforce his institutional corporate prejudice against
9 drivers. My remedy is dismissal. Do it.

10 "Our" Illinois constitution forbids unwarranted searches.

11 Illinois constitution. Section 6. Searches, Seizures, Privacy, and
12 Interceptions: The people shall have the right to be secure in their
13 persons, houses, papers and other possessions against unreasonable
14 searches, seizures, invasions of privacy or interceptions of
15 communications by eavesdropping devices or other means. No warrant
16 shall issue without probable cause, supported by affidavit particularly
17 describing the place to be searched and the persons or things to be
18 seized.

19 I have addressed the search issue in a concurrent motion listed at another section in this brief.

20 **The clerk and judge have usurped the prosecutorial function; that is wrong. Dismissal is the
21 remedy.**

22 This argument is based on the **Due Process Clause** of the U.S. constitution.

23 This argument is based on independent state grounds. The **Illinois constitution** makes it sound
24 as though we created the government to serve us, not to govern us:

25 Illinois Constitution: Section 2. Due Process and Equal Protection. No
26 person shall be deprived of life, liberty or property without due process of
27 law nor be denied the equal protection of the laws.

28 By stealthy encroachment over the course of generations, all governments and other corporations
encroach upon the personal freedoms of humans. The human lives only 75 years. The father fails to
warn the grandchild of the lies of the corporation. The lie remains unchallenged generations later due to
human ignorance and mortality. The immortality of the corporation gives the government opportunity to
encroach as such a speed as to be imperceptible by a single generation of humans.

The summons was originally a document issued by a civil court only after the civil prosecutor had
made a decision to prosecute. As the court corporations became fatter they ordered the litigants: "write
our summonses and bring them to use for signature". Their fellow government minions in the legislature
wrote the corresponding rules.

1 Then the courts saw the money flow and realized that they should promote the traffic ticket game
2 by processing the tickets without a prosecutor.

3 The court recognized the power it wields in criminal case. If they converted a civil action into a
4 criminal action they could then change their posture to an inquisitorial posture.

5 This is unconstitutional. The remedy is dismissal. Only a prosecutor can prosecute a criminal
6 offense. This is not an administrative tribunal. If it were, there would be a hearing officer or administrative
7 law judge.

8 This group of people operating the traffic court is in violation of the Texas constitution.

9 § 3. All free men when they form a social compact have equal rights, and
10 no man, **or set of men**, is entitled to exclusive separate public
11 emoluments, or privileges, but in consideration of public services.

12 The traffic court provides no service. It is an exercise in feudalism. They view us as their serfs.
13 They view the county as their fiefdom.

14 Citizens of every state are entitled to the benefits given by the Texas constitution. The leveling
15 clause of U.S. constitution requires that we all have the same rights:

16 U.S. Constitution. Article IV. Section 2: "The citizens of each state shall
17 be entitled to all privileges and immunities of citizens in the several
18 states."

19 The prosecution may not constitutionally be done without any prosecutor unless the defendant
20 pleads guilty - and even then the plea is subject to withdrawal at any time because the court has no
21 jurisdiction unless the prosecutor prosecutes. To the extent that the following cases take a less generous
22 stand, they are mistaken. *People v Carlucci* 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
23 <http://www.lawyerdude.netfirms.com/carlucc.html> *People v Dragomir* Feb 14, 2006
24 <http://www.lawyerdude.netfirms.com/Dragomir.html>

25 **A defendant may appear by motion - by paper.**

26 I need not appear in person but may appear by written motion. **I have not signed any**
27 **agreement to appear. The police officer has no authority to issue such a command! The judicial**
28 **branch may not delegate its authority to a member of the executive branch including an employee**
29 **police officer.** A warrant may only issue upon probable cause and it must be signed by a magistrate!
30 Authority: 4th amendment and section 15 of the Kansas Bill of Rights:

31 § 15. Search and seizure. The right of the people to be secure in their
32 persons and property against unreasonable searches and seizures shall
33 be inviolate; and no warrant shall issue but on probable cause, supported
34 by oath or affirmation, particularly describing the place to be searched
35 and the persons or property to be seized.

36 The ticket is no kind of summons. To call it a summons is to redefine fundamental terms in the

1 middle of the game. This denies me due process. Changing the terms is a common instrument of
2 oppression. See the entire list of *Modern Day Instruments of Oppression* at:

3 <http://www.lawyerdude.8k.com/5724.html>

4 **Permitting Police to Summon me to court denies Equal Protection Under the Law**

5 When I want to sue the police I must jump through the hoops of a summons and complaint and
6 filing fee. Conversely when he wants to "sue" me he uses his ticket book. Then the clerk prosecutes for
7 him. Wouldst that my lawsuits against the police were that quick and easy. That difference denies me
8 equal protection under the law. Your process violates the **equal protection clause of the state
9 constitution and the 14th amendment**. My remedy is dismissal. Do it.

10 **The Legislature may not give Police the Power to Summon and may not give Clerks the power to
11 prosecute.**

12 Penal Code § 740 states as follows:

13 Except as otherwise provided by law, all misdemeanors and infractions
14 must be prosecuted by written complaint under oath subscribed by the
15 complainant.

16 PC § 949 states as follows:

17 The first pleading on the part of the people in a misdemeanor or infraction
18 case is the complaint except as otherwise provided by law. - PC 949

19 All criminal law follows the ancient common law. The statute merely codifies and distills what is
20 already the law.

21 **You are Equitably Estopped from Presuming a Waiver of Jurisdictional Challenge.**

22 You have no jurisdiction over me until a prosecutor files a complaint. There is no controversy. The police
23 and clerk may not prosecute.

24 **You may not serve me a summons in court; that would constitute a benefit from your wrongdoing.**

25 The officer could not give me a summons. No man shall be permitted to benefit from his wrong.
26 You may not now serve me in court; nor may you order me to appear. To do so would violate the equal
27 protection and due process clauses of the federal and state constitutions by making it easier for the
28 government employee and harder for me to gain access and use the court.

29 **Pleadings of Pro Se Litigants must be given some leeway**

30 Pleadings of Pro Se litigants are entitled to some leeway. *Haines v Kerner* (1972) 404 U.S. 519
31 (1972) [Http://www.lawyerdude.netfirms.com/haines.html](http://www.lawyerdude.netfirms.com/haines.html) This ruling is consistent with statutes in nearly all
32 jurisdictions. The law is not a trap for the unwary. For every wrong there is a remedy.

33 **Special Scrutiny and Prosecution for those who know the law denies equal protection.**

34 You may not now subject me (and only me) to prosecution by a prosecutor. To do so would
35 punish me with special scrutiny for having performed this public service as a Private Attorney General.
36 Though your purpose be masked as efficiency it is in truth mere corruption and fraud. You must dismiss
37 my case now.

38 Signed _____ Charles Alan Couchman. Monday, June 25, 2007.

39 **Proof of Service**

40 I, Charles Alan Couchman, served this document in open court. No service on the prosecutor is

1 necessary because no prosecutor has appeared in writing in this case. Circle one of the following: I mailed
2 this to the court on this day . I served the clerk in court hand delivery in court on this day .
Signed _____ Charles Alan Couchman. Date of service: _____.

Appendix: Brief Biography of Attorney Douglas Palaschak

4 This subdocument is <http://www.lawyerdude.netfirms.com/bio33.html>

5 I, Douglas Palaschak, declare the following under penalty of perjury: I have enjoyed a charmed
6 life. I grew up on the perfect farm. My brother Greg farms it now. I am an Engineering Graduate of the
7 University of Illinois, Urbana, the best engineering school in the world - home of the Hal9000 of 2001, A
8 Space Odyssey. There I was an honors student. I marched in "The Marching Illini", the world's undisputed
9 Premiere Marching Band. John Philip Sousa said that we were the best. I began my career as a
10 Registered Professional Engineer. I consulted for the U.S. Navy, Mobil, and Exxon. My expert testimony
11 resolved a personal injury case where my calculations proved that a hydraulic accumulator could not
12 contain sufficient oxygen for combustion to have overloaded the failed bolts. This tended to prove that the
13 cause of the explosion was a failed hydraulic safety valve.

14 I conceived and designed subsea machinery for the U.S. Navy. I performed the buckling
15 analysis for the riser tubes and contributed to the design of the giant seafloor template for a quarter mile
16 tall oil rig presently in service in the North Sea.

17 I have been a licensed lawyer for nearly a quarter century. I passed the California bar exam in
18 1983. I have my J.D. from Ventura College of Law. I have published approximately 1200 legal articles on
19 the internet. My areas of expertise are:

20 Licenses, Rights, and Privileges, and their use as Instruments of Oppression,
21 Criminal Defense,
22 Internet-driven Improvements in the Efficiency of Litigation,
23 Empowerment of Pro Se Litigants,
24 Bankruptcy.

25 I wrote only one appeal in my career and it won.

26 My most recent book is on the subject of Pre-trial Criminal Litigation of Malum Prohibitum Crimes. It
27 is available by mail order via the internet. My proudest accomplishment is having found a mistake in the
28 sheet music for Debussy's Clair De Lune. Warner Brothers republished their Debussy book. Here is their
letter in that matter: <http://lawyerdude.8m.com/Warnerletter.jpg> I have been feature on *The Love
Connection, Hard Copy, and Inside Edition*.

My heroes are Williams Kunstler <http://www.lawyerdude.netfirms.com/kunstler.html> Stephen
Yagman <http://www.circuitlawyer.8m.com/yagman.html> , and Melvin Belli. Kunstler was sentenced to 4
years and 13 days in jail for his zealous advocacy. He won on appeal. Yagman was suspended for 2 years
for having accused Judge Real of being a drunk. He won on appeal. Belli was whacked by the California
bar for having done a TV spot for his favorite wine.

Appendix: Kansas Bill of Rights

<http://skyways.lib.ks.us/KSL/ref/constitution/rights.html>

§ 1. Equal rights. All men are possessed of equal and inalienable natural rights, among which are life,
liberty, and the pursuit of happiness.

§ 2. Political power; privileges. All political power is inherent in the people, and all free governments are
founded on their authority, and are instituted for their equal protection and benefit. No special privileges or
immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the
same body; and this power shall be exercised by no other tribunal or agency.

§ 3. Right of peaceable assembly; petition. The people have the right to assemble, in a peaceable
manner, to consult for their common good, to instruct their representatives, and to petition the
government, or any department thereof, for the redress of grievances.

1 § 4. Bear arms; armies. The people have the right to bear arms for their defense and security; but
2 standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military
shall be in strict subordination to the civil power.

3 § 5. Trial by jury. The right of trial by jury shall be inviolate.

4 § 6. Slavery prohibited. There shall be no slavery in this state; and no involuntary servitude, except for the
5 punishment of crime, whereof the party shall have been duly convicted.

6 § 7. Religious liberty. The right to worship God according to the dictates of conscience shall never be
7 infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control
8 of or interference with the rights of conscience be permitted, nor any preference be given by law to any
religious establishment or mode of worship. No religious test or property qualification shall be required for
any office of public trust, nor for any vote at any elections, nor shall any person be incompetent to testify
on account of religious belief.

9 § 8. Habeas corpus. The right to the writ of habeas corpus shall not be suspended, unless the public
10 safety requires it in case of invasion or rebellion.

11 § 9. Bail. All persons shall be bailable by sufficient sureties except for capital offenses, where proof is
12 evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor
cruel or unusual punishment inflicted.

13 § 10. Trial; defense of accused. In all prosecutions, the accused shall be allowed to appear and defend in
14 person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness
15 face to face, and to have compulsory process to compel the attendance of the witnesses in his behalf, and
a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have
been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same
offense.

16 § 11. Liberty of press and speech; libel. The liberty of the press shall be inviolate; and all persons may
17 freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such
18 rights; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it
shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be
acquitted.

19 § 12. No forfeiture of estate for crimes. No conviction within the state shall work a forfeiture of estate.

20 § 13. Treason. Treason shall consist only in levying war against the state, adhering to its enemies, or
21 giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two
witnesses to the overt act, or confession in open court.

22 § 14. Soldiers' quarters. No soldier shall, in time of peace, be quartered in any house without the consent
23 of the occupant, nor in time of war, except as prescribed by law.

24 § 15. Search and seizure. The right of the people to be secure in their persons and property against
25 unreasonable searches and seizures shall be inviolate; and no warrant shall issue but on probable cause,
supported by oath or affirmation, particularly describing the place to be searched and the persons or
property to be seized.

26 § 16. Imprisonment for debt. No person shall be imprisoned for debt, except in cases of fraud.

27 § 17. Property rights of citizens and aliens. No distinction shall ever be made between citizens of the state
28 of Kansas and the citizens of other states and territories of the United States in reference to the purchase,
enjoyment or descent of property. The rights of aliens in reference to the purchase, enjoyment or descent

1 of property may be regulated by law.

2 § 18. Justice without delay. All persons, for injuries suffered in person, reputation or property, shall have
remedy by due course of law, and justice administered without delay.

3 § 19. Emoluments or privileges prohibited. No hereditary emoluments, honors, or privileges shall ever be
4 granted or conferred by the state.

5 § 20. Powers retained by people. This enumeration of rights shall not be construed to impair or deny
others retained by the people; and all powers not herein delegated remain with the people.

6 **Appendix: Lawyerdude's Sanitized Bill of Rights of Texas. Part of the Texas Constitution.**

7 This document is <http://www.lawyerdude.netfirms.com/8632.html>

I have removed some bullshit (Texas aphorism/ colloquialism) and useless clauses.

8 Article1. Bill of Rights.

9 That the general, great and essential principles of liberty and free government may be recognized and
established, we declare:

10 § 2. All political power is inherent in the people and all free governments are founded on their authority,
and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a
11 republican form of government, and, subject to this limitation only, they have at all times the inalienable
right to alter, reform or abolish their government in such manner as they may think expedient.

12 § 3. All free men when they form a social compact have equal rights, and no man, or set of men, is
entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

13 § 5. No person shall be disqualified to give evidence in any of the courts of this State on account of his
religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered
14 in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of
perjury.

15 § 8. Every person shall be at liberty to speak, write or publish his opinions on any subject, being
responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech
16 or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in
public capacity, or when the matter published is proper for public information, the truth thereof may be
17 given in evidence. And in all indictments for libels the jury shall have the right to determine the law and the
facts under the direction of the court, as in other cases.

18 § 9. The people shall be secure in their persons, houses, papers and possessions from all unreasonable
seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue
without describing them as near as may be, nor without probable cause supported by oath or affirmation.

19 § 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall
have the right to demand the nature and cause of the accusation against him and to have a copy thereof.
20 He shall not be compelled to give evidence against himself. He shall have the right of being heard by
himself or counsel or both; shall be confronted with the witnesses against him; and shall have compulsory
21 process for obtaining witnesses in his favor. And no person shall be held to answer for a criminal offense,
unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment
22 otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in
the militia, when in actual service in time of war or public danger.

23 § 11. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is
evident; but this provision shall not be so construed as to prevent bail after indictment found, upon
24 examination of the evidence in such manner as may be prescribed by law.

25 § 12. The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall
enact laws to render the remedy speedy and effectual.

26 § 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment
inflicted. All courts shall be open, and every person for an injury done him in his lands, goods, person or
reputation shall have remedy by due course of law.

27 § 14. No person, for the same offense, shall be twice put in jeopardy of life or liberty; nor shall a person be
again put upon trial for the same offense after a verdict of not guilty in a court of competent jurisdiction.

28 § 15. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be

1 needed to regulate the same, and to maintain its purity and efficiency.
2 § 16. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts shall be made.
3 § 17. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and, when taken, except for the use of the State, such compensation shall be first made, or secured by deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature or created under its authority shall be subject to the control thereof.
4 § 18. No person shall ever be imprisoned for debt.
5 § 19. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.
6 § 20. No citizen shall be outlawed; nor shall any person be transported out of the State for any offense committed within the same.
7 § 24. The military shall at all times be subordinate to the civil authority.
8 § 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.
9 § 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain
10 inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

11 **Appendix: Sample state Bill of Rights. Excerpts from the Florida Bill of Rights.**
12 http://en.wikipedia.org/wiki/Florida_Constitution

13 SECTION 1. Political power.--All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

14 SECTION 2. Basic rights.--All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

17 History.--Am. S.J.R. 917, 1974; adopted 1974; Am. proposed by Constitution Revision Commission, Revision No. 9, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

19 SECTION 5. Right to assemble.--The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

20 SECTION 9. Due process.--No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

22 History.--Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

24 SECTION 10. Prohibited laws.--No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

25 SECTION 11. Imprisonment for debt.--No person shall be imprisoned for debt, except in cases of fraud.

26 SECTION 12. Searches and seizures.--The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued
27 except upon probable cause, supported by affidavit, particularly describing the place or places to be
28

1 searched, the person or persons, thing or things to be seized, the communication to be intercepted, and
2 the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment
3 to the United States Constitution, as interpreted by the United States Supreme Court. Articles or
4 information obtained in violation of this right shall not be admissible in evidence if such articles or
5 information would be inadmissible under decisions of the United States Supreme Court construing the 4th
6 Amendment to the United States Constitution.

7 History.--Am. H.J.R. 31-H, 1982; adopted 1982.

8 SECTION 13. Habeas corpus.--The writ of habeas corpus shall be grantable of right, freely and without
9 cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or
10 invasion, suspension is essential to the public safety.

11 SECTION 14. Pretrial release and detention.--Unless charged with a capital offense or an offense
12 punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person
13 charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on
14 reasonable conditions. If no conditions of release can reasonably protect the community from risk of
15 physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial
16 process, the accused may be detained.

17 History.--Am. H.J.R. 43-H, 1982; adopted 1982.

18 SECTION 15. Prosecution for crime; offenses committed by children.--

19 (a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for
20 other felony without such presentment or indictment or an information under oath filed by the prosecuting
21 officer of the court, except persons on active duty in the militia when tried by courts martial.

22 (b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of
23 delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases.
24 Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding,
25 be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by
26 law.

27 SECTION 16. Rights of accused and of victims.--

28 (a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of
the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory
process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both,
and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the
county is not known, the indictment or information may charge venue in two or more counties
conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading
the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes
committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are
entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of
criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the
accused.

History.--Am. S.J.R. 135, 1987; adopted 1988; Am. proposed by Constitution Revision Commission,
Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 17. Excessive punishments.--**Excessive fines**, cruel and unusual punishment, attainder,
forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The

1 death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition
 2 against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be
 3 construed in conformity with decisions of the United States Supreme Court which interpret the prohibition
 4 against cruel and unusual punishment provided in the Eighth Amendment to the United States
 5 Constitution. Any method of execution shall be allowed, unless prohibited by the United States
 6 Constitution. Methods of execution may be designated by the legislature, and a change in any method of
 7 execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a
 8 method of execution is invalid. In any case in which an execution method is declared invalid, the death
 9 sentence shall remain in force until the sentence can be lawfully executed by any valid method. This
 10 section shall apply retroactively.

11 History.--Am. H.J.R. 3505, 1998; adopted 1998; Am. H.J.R. 951, 2001; adopted 2002.

12 SECTION 18. Administrative penalties.--No administrative agency, except the Department of Military
 13 Affairs in an appropriately convened court-martial action as provided by law, shall impose a sentence of
 14 imprisonment, nor shall it impose any other penalty except as provided by law.

15 History.--Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the
 16 Secretary of State May 5, 1998; adopted 1998.

17 SECTION 19. Costs.--No person charged with crime shall be compelled to pay costs before a judgment
 18 of conviction has become final.

19 SECTION 21. Access to courts.--The courts shall be open to every person for redress of any injury, and
 20 justice shall be administered without sale, denial or delay.

21 SECTION 22. Trial by jury.--The right of trial by jury shall be secure to all and remain inviolate. The
 22 qualifications and the number of jurors, not fewer than six, shall be fixed by law.

23 SECTION 23. Right of privacy.--Every natural person has the right to be let alone and free from
 24 governmental intrusion into the person's private life except as otherwise provided herein. This section shall
 25 not be construed to limit the public's right of access to public records and meetings as provided by law.

26 **Topical Index**

14th amendment . . .	-10- , -11- , -14-	bar license	-11-	Colorado	-7- , -9- , -10-
1983	-15-	belief	-16- , -17-	Colorado constitution . .	-7- , -10-
4th amendment	-11- , -13- , -19-	Bell v Burson	-10-	commerce	-11-
administrative law	-13-	beneficiaries	-10- , -11-	common law	-10- , -14-
adversarial	-6-	benefit	-14- , -15- , -17-	communication	-19-
affidavit	-12- , -18-	bill of rights	-10- , -11- , -13- , -15- , -17- , -18-	community	-19-
affords no protection	-10-	Bill of rights of	-17-	compact	-13- , -17-
amendment	-10- , -11- , -13- , -14- , -19- , -20-	California	-5- , -6- , -8- , -12- , -15-	compelled	-11- , -16- , -18- , -20-
analysis	-15-	California bar	-15-	complaint	-1- , -4- , -6- , -14-
appeal	-9- , -15-	California constitution	-11- , -12-	compulsion	-11-
appear	-4- , -13- , -14- , -16-	Carlucci	-13-	compulsory	-11- , -16- , -17- , -19-
as though	-10- , -12-	citizens in the several states	-10- , -13-	compulsory association clause	-11-
association	-11-	civilized	-5-	compulsory bar	-11-
Attorney Douglas Palaschak	-5- , -15-	civilized people	-5-	conditions	-19-
bail	-16- , -17-	clause of the state constitution	-14-	confers no rights	-10-
bar	-11- , -15-	Clerks	-14-	Conquest	-9-
		color of law	-1-	constitution	-5- , -7- , -15- , -17- , -20-
				constitutional	-7- , -9- , -11- , -19-

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