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Related documents:

Picture of the usurpatious complaint: <http://www.lawyerdude.netfirms.com/8747.jpg>

Luzerne County Court of Pennsylvania sitting in an office space.

20 North Pennsylvania Avenue, Wilkes Barre, Pennsylvania 18711-1001
Civil/Criminal Court Scheduling (570) 825 1593, 1594/5/6, 1655, Judge's chambers: 1667
9-4:30 pm

10 Judge Toole, having unlawfully and
unconstitutionally (in violation of his
11 oath of office) usurped the
prosecutorial function that is solely
12 the province of the elected
prosecutor doing business under
13 false color of law and corrupt legal
fiction as "The Commonwealth of
14 Pennsylvania"
Specious Fake Corrupt Plaintiff.

v
15 Joseph Levandowski,
One of the actual People of Arizona,
16 Moving Party and Putative, Faux non-
17 Defendant.

Case Numbers: 5-39-2006
Ticket Number
Folder #1084. Client #913.

Document #8746 Version 1.000

Special Appearance.

**Demand to Quash due to Toole'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.**

Proof of Service.

Proposed Venue:
Date: **Tuesday 18 September, 2007.**
Time: 1:30 pm
Place: This same courtroom

23 **"In the criminal justice system, the people are represented by two separate yet**
24 **equally important groups: the police who investigate crime and the district**
25 **attorneys who prosecute the offenders. These are their stories." - Law and Order**

[http://en.wikipedia.org/wiki/Law & Order](http://en.wikipedia.org/wiki/Law_%26_Order)

Demand to Quash. Demand to Vacate. Waiver of time.

27 To the clerk and judge: Whoops. You skipped the step where the prosecutor prosecutes. You
28 have conspired and usurped the role of the prosecutor by filing a ticket in this case thereby initiating

Motion #8746. Demand to Quash. By Joseph Levandowski.

1 prosecution and bypassing the prosecutorial function: **At the venue designated in the caption**
2 **or at such other venue as the court shall designate**, I will demand that the court dismiss
3 this case. Not one of you is a prosecutor.

4 You work for the court; the court's job is to be a neutral judge - not a prosecutor. The inquisition
5 ended some years ago. You have done the work of the prosecutor and yet you don't do my work. You
6 should be neutral; you are not. "Equal Protection of the Law" is the law. **I waive my right to a speedy**
7 **trial as necessary to vindicate my legal rights. You should have advised me well; you didn't. If**
8 **there were a neutral prosecutor I could have worked this out with him. You may not be both judge**
9 **and prosecutor.**

Signed _____ Joe Levandowski. Monday, August 13, 2007

9 **Contents of this Demand to Quash/ Dismiss:**

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	Argument. Memorandum of Points and Authorities.	<u>-10-</u>
	The right to drive is fundamental. A statute abridging such a right is suspect.	

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..... -10-

**Clerk and Judge have unconstitutionally usurped function of prosecutor;
Dismissal is my remedy. -10-**

My constitutional right to a remedy. -10-

**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. -11-**

**Under U.S. Constitution IV, 2, I am entitled to Georgia, Illinois, and California
rights -11-**

I am entitled to utilize the constitutional concepts expressed in foreign constitutions. -11-

**Application: Kansas Constitution contains no Due Process Clause - and yet I have
a state constitutional right to due process. -12-**

**Fountains of Liberty: Magna Charta, 1948 Universal Declaration of Human rights.
..... -12-**

I am a beneficiary of the rights declared by the California constitution. -13-

**The clerk and judge have usurped the prosecutorial function; that is wrong.
Dismissal is the remedy. -13-**

A defendant may appear by motion - by paper. -14-

**I have not signed any agreement to appear. The police officer has no authority to
issue such a command! The judicial branch may not delegate its authority
to a member of the executive branch including an employee police officer.
..... -14-**

**Permitting Police to Summon me to court denies Equal Protection Under the Law
..... -15-**

**The Legislature may not give Police the Power to Summon and may not give
Clerks the power to prosecute. -15-**

**You are Equitably Estopped from Presuming a Waiver of Jurisdictional Challenge.
..... -15-**

**You may not serve me a summons in court; that would constitute a benefit from
your wrongdoing. -15-**

Pleadings of Pro Se Litigants must be given some leeway -15-

**Special Scrutiny and Prosecution for those who know the law denies equal
protection. -15-**

Proof of Service -15-

Appendix: Brief Biography of Attorney Douglas Palaschak -16-

Appendix: Arizona Constitution and Bill of Rights. Selected Provisions. -16-

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Appendix: Kansas Bill of Rights -18-

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Notice of Concurrent and Upcoming Motions and Demands

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

Statement of the Case

I was ticketed in a pretextual traffic stop in late 2006 and falsely accused of breaking a law. There was no probable cause for the traffic stop. As of this writing I have not been accused by any person with prosecuting authority.

This officer has no authority to do what he did.

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

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

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

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

Police officer has usurped the clerk's role.

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

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.

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

5 Usurpation denies me Due Process. Both the federal and Kansas constitution guarantee me due
6 process.

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

14 Every court wants to be a profit center. They incorrectly claim to be working for the greater good
15 but they are not. Like all corporations they exist to serve their own; they thus create "the governing class"
16 which is a parasitic class. Traffic tickets are the bite of these parasites. The city justifies traffic tickets as
17 a means to raise revenue. In New Orleans, location of Tulane Law School, where George Anagnosta
18 studied law, the Public Defender is paid from revenue from parking meters.

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

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

28 This will not stand.

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

- Joseph Levandowski. Monday, August 13, 2007.

Declaration of Attorney Douglas Palaschak regarding setting the venue for this motion.

On Monday, August 13, 2007 at 1:30 pm Eastern time I telephoned the office of the scheduling
clerks. One told me to call the chambers of Judge Toole. There I talked to a coughing woman who said
that motions are generally held the morning of the trial. I explained the this practice is unacceptable. We
all know that O.J. Simpson did not argue have any of his motions heard on the morning of trial.

1 **Declaration of Expert Attorney Douglas Palaschak regarding Traffic Court Abuses, Methodology,**
2 **Corruption, and Systemic Denial of Due Process - especially in Arizona.**

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

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

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

8 Your system treats citizens as your subjects and Arizona as your fiefdom.

9 Feudalism is a natural system. As civilized people we rise above the medieval cruelty that was
10 feudalism.

11 For years Ventura, California, showed a video that contained blatant lies about your rights. In
12 particular they said there were 3 pleas; there are 6. They ignored the demurrer.

13 They prosecute insurance tickets even in the absence of an accompanying citation on the same
14 paper - in violation of statute.

15 Police court retains the vestiges of both feudalism and the Inquisition. Proof: "Mr. Smith, you are
16 accused of going 50 in a 35. How do you plead." Mr. Smith never thinks to ask "Who accuses me?" It is
17 obvious: the court accuses you! When the court is the accuser and the judge, then the system is
18 Inquisitorial and not Adversarial. Such is this police court of (insert your city name here - they all do it)
19 _____ Pennsylvania. Masquerading under the euphemism of "municipal court" changes nothing. This is
20 military power used unconstitutionally against the people.

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

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

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

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

You are a mockery to justice.

No. This will not stand.

Signed by Joe Levandowski for and with Special Permission of Palaschak _____.

Monday, August 13, 2007

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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. -11-

4 Commerce Clause/ interstate commerce -12-

5 Due Process Clause -13-

6 Equal protection clause of the 14th amendment -15-

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

9
10 **List of Clauses from the Colorado Constitution cited herein:**

11 §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. -11-

12
13 **List of Clauses from the Kansas Constitution cited herein:**

14 Kansas Bill of Rights is appended hereto. -18-

15 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
16 law. Forty-nine other state constitutions accrue to my benefit. Also, I rely on the common law since the
Norman Conquest of 1066. http://en.wikipedia.org/wiki/Norman_Conquest -12-

17 § 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,
18 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.
19 -14-

20 **List of Clauses from the Florida Constitution cited herein:**

21 Florida Bill of Rights. Excerpts are reprinted in the Appendix. -19-

22 Florida constitution Art. 1, section 21. guarantees my right to a remedy: Art. 1, section 21. Access to
courts- The courts shall be open to every person for redress of any injury, and justice shall be
23 administered without sale, denial or delay. - Florida Bill of Rights. -11-

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

25 **Bell v Burson** (1971) 402 US 535, 29 L Ed 2d 90, 91 S Ct 1586,
<http://www.circuitlawyer.8m.com/Burson.html> <http://www.lawyerdude.netfirms.com/bursonb.html>
26 -11-

27 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> -11-

1 **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
Pro Se litigants are entitled to some leeway. **Haines v Kerner** (1972) 404 U.S. 519 (1972)
2 [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. -15-

3 **Kent v Dulles** (1958) 357 U.S. 116 http://www.oyez.org/cases/1950-1959/1957/1957_481/ The right to
4 travel is fundamental. -10-

5 **Miranda V Arizona** (1966) <http://www.lawyerdude.netfirms.com/miranda.html> 384 U.S. 436, 86 S. Ct.
1602, 16 L. Ed. 2d 694, 10 ALR 3rd 974 and 59 other ALR treatises . The court uses the word
6 "inquisition" or its variant many times in this case. -14-

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

9 **Norton v Shelby County, Tennessee** (1886) 118 U.S. 425 . "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
10 contemplation, as inoperative as though it had never been passed."
<http://www.lawyerdude.netfirms.com/norton.html>
11 -11-

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

14 **U.S. v Gonzalez-Lopez** 2005-352. Decided 2006. <http://www.lawyerdude.netfirms.com/8345.html> -11-

16 **Treaties cited herein:**

Treaty. 1948 Universal Declaration of Human Rights "Article 20(2) No one may be compelled to belong to
17 an association." <http://www.lawyerdude.netfirms.com/8213.html> This treaty, the 1st amendment, the 6th,
and the 14th amendments preclude the regulation of the practice of law by non-government lawyers.
18 -12-

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

20 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
21 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> -13-

22 Illinois constitution. Section 6. Searches, Seizures, Privacy, and Interceptions: The people shall have the
23 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
24 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. -13-

25 Illinois Constitution. Section 1. Inherent and Inalienable Rights: All men are by nature free and
26 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
27 men, deriving their just powers from the consent of the governed. -12-

28 Illinois Constitution: Section 2. Due Process and Equal Protection. No person shall be deprived of life,

1 liberty or property without due process of law nor be denied the equal protection of the laws. -13-

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
5 except as otherwise provided by law. -15-

6 Penal Code§ 740 states as follows: Except as otherwise provided by law, all misdemeanors and
7 infractions must be prosecuted by written complaint under oath subscribed by the complainant. -15-

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

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

9 *People v Carlucci* 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
10 <http://www.lawyerdude.netfirms.com/carlucc.html> -14-

11 *People v Kurt Albert Stapf* (1999) <http://www.lawyerdude.netfirms.com/8289.html> Only the duly elected
12 prosecutor or attorney general may prosecute. -10-

13 *People v. Municipal Court (Real Party: Pellegrino)* (1972)
14 <http://www.lawyerdude.netfirms.com/8453.html> 27 CA3d 193 (Ventura). In Pellegrino a Ventura judge
15 appointed a local lawyer to prosecute after the prosecutor declined to prosecute. The court of appeal
16 ruled that the special prosecutor was unconstitutional. See also the *Stapf* case herein.
17 -10-

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 **The right to drive is fundamental. A statute abridging such a right is suspect.**

19 Traveling is a fundamental right. *Kent v Dulles* (1958) 357 U.S. 116

20 http://www.oyez.org/cases/1950-1959/1957/1957_481/

21 **Clerk and Judge have unconstitutionally usurped function of prosecutor; Dismissal is my remedy.**

22 The judge may not initiate prosecution. The clerk may not initiate prosecution. They have done
23 so in this case. Only the duly elected prosecutor may initiate a criminal prosecution. The court may not
24 initiate prosecution. Neither may the court appoint someone to prosecute. Only the duly elected
25 prosecutor or the attorney general may prosecute a criminal case. This is the holding of *People v.*

26 *Municipal Court (Real Party: Pellegrino)* (1972) <http://www.lawyerdude.netfirms.com/8453.html> 27

28 CA3d 193 (Ventura). In Pellegrino a Ventura judge appointed a local lawyer to prosecute after the
29 prosecutor declined to prosecute. The court of appeal ruled that the special prosecutor was
30 unconstitutional.

31 The concept/ rule of “ exclusive province “ was reaffirmed in *People v Kurt Albert Stapf* (1999)

32 <http://www.lawyerdude.netfirms.com/8289.html> .

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

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

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

8 Other state constitutions proclaims a right to a remedy:

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

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

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

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

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

22 My right to a transcript even if I cannot afford one is guaranteed by the **Due Process** and **Equal**
23 **Protection** clauses of the U.S. Constitution. The Supreme court ruled so in **Griffin v Illinois** (1956) 100 L
24 Ed 891, 351 US 12, 79 S Ct 585, 55 ALR2d 1055 <http://www.circuitlawyer.8m.com/griffin.html> . The
25 Supreme Court reaffirmed that right even in some civil cases in 1996. **MLB v SLJ** (1996) 519 US 102;
26 117 S Ct 555; 136 L Ed2d 473 <http://www.circuitlawyer.8m.com/mlb.html>

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "Article 20(2) No one may be compelled to belong to an association." -
16 Treaty. 1948 Universal Declaration of Human Rights.

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

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

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

35 There are 50 state constitutions. It is interesting to compare them and investigate their derivation.
36 Consider the flowery language of the first paragraph of the California Constitution which is constantly
37 under attack by Republicans shaming Lincoln and attempting to curtail our rights by, for example, limiting
38

1 our own search prohibition so that it is no stronger than the 4th amendment. Here is that first flowery
2 meaningless clause:

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

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

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

11 "Our" Illinois constitution forbids unwarranted searches.

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

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

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

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

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

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

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

1 our summonses and bring them to use for signature". Their fellow government minions in the legislature
2 wrote the corresponding rules.

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

5 The court recognized the power it wields in criminal case. If they converted a civil action into a
6 criminal action they could then change their posture to an inquisitorial posture. The inquisitorial nature is
7 an unconstitutional nature. The Supreme Court discussed it in the Miranda case. **Miranda V Arizona**
(1966) <http://www.lawyerdude.netfirms.com/miranda.html> 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d
8 694, 10 ALR 3rd 974 and 59 other ALR treatises .

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

12 In Miranda the court mentions the work "inquisition" or its variant many times. Today you ask
13 each of us defendants to confess! You do this even though no prosecutor prosecutes us! In Miranda the
14 court talks about "inquisitorial and manifestly unjust methods of interrogating accused persons." It talks
15 about "inquisitorial character." It talks about "the right to refrain from answering any further inquiries." It
16 talks about "an unconstitutional inquisition . . .Lilburn. . .the inquisitorial Court of Star Chamber. . [and]
17 the inquisitorial system." Six variation of the inquisitional theme are condemned in the Miranda opinion
18 and yet this court goes blithely forth as though this 1966 opinion had never been written.

19 The prosecution may or may not constitutionally be done without any prosecutor - depending on
20 the actual facts of the case. **People v Carlucci** 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
21 <http://www.lawyerdude.netfirms.com/carlucc.html> **People v Dragomir** Feb 14, 2006
22 <http://www.lawyerdude.netfirms.com/Dragomir.html>

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

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

§ 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, supported
by oath or affirmation, particularly describing the place to be searched
and the persons or property to be seized.

The ticket is no kind of summons. To call it a summons is to redefine fundamental terms in the
middle of the game. This denies me due process. Changing the terms is a common instrument of

1 oppression. See the entire list of *Modern Day Instruments of Oppression* at:

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

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

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

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

11 Penal Code§ 740 states as follows:

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

15 PC § 949 states as follows:

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

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

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

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

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

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

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

Pleadings of Pro Se litigants are entitled to some leeway. *Haines v Kerner* (1972) 404 U.S. 519
(1972) [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.

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

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

Signed _____ Joe Levandowski. Monday, August 13, 2007

Proof of Service

No service on the prosecutor is necessary because no prosecutor has appeared in writing in this
case. I served the clerk in court hand delivery in court on this day .

Signed _____ Joe Levandowski. Monday, August 13, 2007

Appendix: Brief Biography of Attorney Douglas Palaschak

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

Here is my photograph from April 2007: <Http://www.lawyerdude.netfirms.com/HPIM0622.JPG>

Here I am on YouTube: <http://www.youtube.com/watch?v=nesDVOx7Iac>

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

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

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

Enhancement of Freedom through constructive rebellion and litigation;

The abuse of Licensure <http://en.wikipedia.org/wiki/Licensure> by the state as an Instruments of Oppression;

Pre-Trial Criminal Defense of Malum Prohibitum Crimes - the subject of my book;

Internet-driven Improvements in the Efficiency of Litigation;

Empowerment of Pro Se Litigants;

Bankruptcy.

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

My most recent book is on the subject of Pre-trial Criminal Litigation of Malum Prohibitum Crimes. It is available by mail order via the internet. <http://www.lawyerdude.netfirms.com/8457.html> My proudest accomplishment is having found a mistake in the sheet music for Debussy's *Clair De Lune*.

<http://roseck1.tripod.com/debussy-clair-de-lune.mid> Warner Brothers republished their Debussy book.

Here is their letter in that matter: <http://lawyerdude.8m.com/Warnerletter.jpg> I have appeared 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. Here is his biography:

<http://www.lawyerdude.netfirms.com/kunstler.html> Yagman was suspended for 2 years for having accused Judge Real of being a drunk. He won on appeal. <http://www.circuitlawyer.8m.com/yagman.html> Belli was whacked by the California bar for having done a TV spot for his favorite wine.

Appendix: Arizona Constitution and Bill of Rights. Selected Provisions.

2. Political power; purpose of government. Section 2. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

The state of Arizona cannot even publish its own constitution properly. A search on the internet reveals the following garbled website: <http://www.azleg.state.az.us/Constitution.asp> It is a sad day for people infected by contact with Arizona government.

Appendix: Pennsylvania Constitution of 1776, Declaration of Rights.

I. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

1 II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of
2 their own consciences and understanding: And that no man ought or of right can be compelled to attend
3 any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or
4 against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly
5 deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode
6 of religious worship: And that no authority can or ought to be vested in, or assumed by any power
7 whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the
8 free exercise of religious worship.

9 III. That the people of this State have the sole, exclusive and inherent right of governing and regulating the
10 internal police of the same.

11 IV. That all power being originally inherent in, and consequently derived from, the people; therefore all
12 officers of government, whether legislative or executive, are their trustees and servants, and at all times
13 accountable to them.

14 V. That government is, or ought to be, instituted for the common benefit, protection and security of the
15 people, nation or community; and not for the particular emolument or advantage of any single man, family,
16 or sett of men, who are a part only of that community; And that the community hath an indubitable,
17 unalienable and indefeasible right to reform, alter, or abolish government in such manner as shall be by
18 that community judged most conducive to the public weal.

19 VI. That those who are employed in the legislative and executive business of the State, may be restrained
20 from oppression, the people have a right, at such periods as they may think proper, to reduce their public
21 officers to a private station, and supply the vacancies by certain and regular elections.

22 VII. That all elections ought to be free; and that all free men having a sufficient evident common interest
23 with, and attachment to the community, have a right to elect officers, or to be elected into office.

24 VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and
25 property, and therefore is bound to contribute his proportion towards the expence of that protection, and
26 yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can
27 be justly taken from him, or applied to public uses, without his own consent, or that of his legal
28 representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled
thereto, if he will pay such equivalent, nor are the people bound by any laws, but such as they have in like
manner assented to, for their common good.

IX. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council,
to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for
evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous
consent of which jury he cannot be found guilty; nor can he be compelled to give evidence against himself;
nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his
peers.

X. That the people have a right to hold themselves, their houses, papers, and possessions free from
search and seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient
foundation for them, and whereby any officer or messenger may be commanded or required to search
suspected places, or to seize any person or persons, his or their property, not particularly described, are
contrary to that right, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the parties have a right
to trial by jury, which ought to be held sacred.

XII. That the people have a right to freedom of speech, and of writing, and publishing their sentiments;
therefore the freedom of the press ought not to be restrained.

1 XIII. That the people have a right to bear arms for the defence of themselves and the state; and as
2 standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the
3 military should be kept under strict subordination to, and governed by, the civil power.

3 XIV. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation,
4 temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep
5 a government free: The people ought therefore to pay particular attention to these points in the choice of
6 officers and representatives, and have a right to exact a due and constant regard to them, from their
7 legislatures and magistrates, in the making and executing such laws as are necessary for the good
8 government of the state.

9 XV. That all men have a natural inherent right to emigrate from one state to another that will receive them,
10 or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think
11 that thereby they may promote their own happiness.

12 XVI. That the people have a right to assemble together, to consult for their common good, to instruct their
13 representatives, and to apply to the legislature for redress of grievances, by address, petition, or
14 remonstrance.

15 The Founders' Constitution Volume 5, Bill of Rights, Document 5
16 http://press-pubs.uchicago.edu/founders/documents/bill_of_rightss5.html The University of Chicago Press

17 Thorpe, Francis Newton, ed. The Federal and State Constitutions, Colonial Charters, and Other Organic
18 Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America. 7
19 vols. Washington, D.C.: Government Printing Office, 1909.

Appendix: Kansas Bill of Rights

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

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

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

27 § 3. Right of peaceable assembly; petition. The people have the right to assemble, in a peaceable
28 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.

§ 4. Bear arms; armies. The people have the right to bear arms for their defense and security; but
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.

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

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

§ 7. Religious liberty. The right to worship God according to the dictates of conscience shall never be
infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control
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

1 any office of public trust, nor for any vote at any elections, nor shall any person be incompetent to testify
2 on account of religious belief.

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

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

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

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

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

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

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

§ 17. Property rights of citizens and aliens. No distinction shall ever be made between citizens of the state
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
of property may be regulated by law.

§ 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.

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

§ 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.

Appendix: Sample state Bill of Rights. Excerpts from the Florida Bill of Rights.

http://en.wikipedia.org/wiki/Florida_Constitution

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

3 SECTION 2. Basic rights.--All natural persons, female and male alike, are equal before the law and have
4 inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to
5 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.

6 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.

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

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

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

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

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

15 SECTION 12. Searches and seizures.--The right of the people to be secure in their persons, houses,
16 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
17 except upon probable cause, supported by affidavit, particularly describing the place or places to be
searched, the person or persons, thing or things to be seized, the communication to be intercepted, and
18 the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment
to the United States Constitution, as interpreted by the United States Supreme Court. Articles or
19 information obtained in violation of this right shall not be admissible in evidence if such articles or
information would be inadmissible under decisions of the United States Supreme Court construing the 4th
20 Amendment to the United States Constitution.

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

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

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

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

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

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

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

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

7 (a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of
8 the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory
9 process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both,
10 and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the
11 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.

12 (b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are
13 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.

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

16 SECTION 17. Excessive punishments.--**Excessive fines**, cruel and unusual punishment, attainder,
17 forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The
18 death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition
19 against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be
20 construed in conformity with decisions of the United States Supreme Court which interpret the prohibition
21 against cruel and unusual punishment provided in the Eighth Amendment to the United States
Constitution. Any method of execution shall be allowed, unless prohibited by the United States
Constitution. Methods of execution may be designated by the legislature, and a change in any method of
execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a
method of execution is invalid. In any case in which an execution method is declared invalid, the death
sentence shall remain in force until the sentence can be lawfully executed by any valid method. This
section shall apply retroactively.

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

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

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

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

28 SECTION 21. Access to courts.--The courts shall be open to every person for redress of any injury, and

1 justice shall be administered without sale, denial or delay.

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

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

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