

ATTACHMENT "A"

The law of this case is decreed as follows:

JUDICIAL COGNIZANCE. Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. [Black's Law Dictionary, 5th Edition, page 760.]

POLITICAL POWER. "All political power is inherent in the people. Government is instituted for their equal benefit, security, and protection." Art. I, § 1 "Declaration of Rights"; Constitution of Michigan of 1963.

ASSEMBLY, CONSULTATION, INSTRUCTION, PETITION. "The people have the right peaceably to assemble, to consult for the common good, to instruct their representative, and to petition for redress of grievances." Art. I, § 3 "Declaration of Rights"; Constitution of Michigan of 1963.

SLAVERY AND INVOLUNTARY SERVITUDE. "Neither slavery nor involuntary servitude unless for the punishment of crime shall ever be tolerated by this state." Art. I, § 9 "Declaration of Rights"; Constitution of Michigan of 1963.

ATTAINDER; EX POST FACTO LAWS; IMPAIRMENT OF CONTRACTS. "No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be enacted." Art. I, § 10 "Declaration of Rights"; Constitution of Michigan of 1963.

HABEAS CORPUS. "The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public may require it." Art. I, § 12 "Declaration of Rights"; Constitution of Michigan of 1963.

DOUBLE JEOPARDY. "No person shall be subject for the same offense to be twice put in jeopardy...." Art. I, § 15 "Declaration of Rights"; Constitution of Michigan of 1963.

RESERVATION OF RIGHTS: "The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people." Art. I, § 23 "Declaration of Rights"; Constitution of Michigan of 1963.

....This declaration of rights may not be construed to impair or deny others retained by the people." [California Constitution, Article 1, Declaration Of Rights Sec. 24.]

The state cannot diminish rights of the people. [Hurtado v. People of the State of California, 110 US 516.]

COMMON LAW. "The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or

repealed." Art. III, § 7 "General Government"; Constitution of Michigan of 1963.

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business....The people of this state do not yield their sovereignty to the agencies which serve them." [California Government Code, Section 11120.]

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business....The people of this State do not yield their sovereignty to the agencies which serve them. [California Government Code Section 54950.]

Laws, whether organic or ordinary, are either written or unwritten. [California Code of Civil Procedure, Section 1895.]

A written law is that which is promulgated in writing, and of which a record is in existence. [California Code of Civil Procedure, Section 1896]

The organic law is the Constitution of Government, and is altogether written. Other written laws are denominated statutes. The written law of this State is therefore contained in its Constitution and statutes, and in the Constitution and statutes of the United States. [California Code of Civil Procedure, Section 1897]

Any judicial record may be impeached by evidence of a want of jurisdiction in the Court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings. [California Code of Civil Procedure, Section 1916]

...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves..... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.]

The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]

The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am.Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

A consequence of this prerogative is the legal *ubiquity* of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. (Fortesc.c.8. 2Inst.186) His judges are the mirror by which the king's image is reflected. 1 Blackstone's Commentaries, 270, Chapter 7, Section 379.

Ignorantia juris sui non praejudicat juri. Ignorance of one's right does not prejudice the right. See Black's Law Dictionary, page: 873, 5<sup>th</sup>, Ed. (1979)

The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice. [Davis v. Wechsler, 263 US 22, 24.]

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them. [Miranda v. Arizona, 384 US 436, 491.]

There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights. [Sherer v. Cullen, 481 F 946.]

Whereas, the people of California have presented a constitution....and which, on due examination, is found to be republican in its form of government.... [Act [of Congress] for the Admission of California Into the Union, Volume 9, Statutes at Large, Page 452.]

Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." Black's Law Dictionary, Fifth Edition, p. 626.]

The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. [California Constitution, Article 3, Sec. 1.]

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Constitution for the United States of America, Article VI, Clause 2.]

Amendment IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

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

COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. [Black's Law Dictionary, 5th Edition, page 318.]

COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority. [Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]

COURT OF RECORD. To be a court of record a court must have four characteristics, and may have a fifth. They are:

A. A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

B. Proceeding according to the course of common law [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

C. Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231]

D. Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

E. Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis,

96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law  
Dictionary, 4th Ed., 425, 426]

...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgement in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297" "Sources of Our Liberties" Edited by Richard L. Perry, American Bar Foundation.]

"Henceforth the writ which is called Praeceptum shall not be served on any one for any holding so as to cause a free man to lose his court." Magna Carta, Article 34.

AUTHORITY TO GRANT WRIT [28 USC Sec. 2241]

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless -

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

APPLICATION FOR WRIT [28 USC Sec. 2242]

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

ISSUANCE OF WRIT; RETURN; HEARING; DECISION [28 USC Sec. 2243]

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf. [28 USC Sec. 2242]

Every person unlawfully committed, detained, confined or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. [Nevada Revised Statutes 34.360]

Availability of writ. Writ of habeas corpus [Nevada Revised Statutes 34.360] is available to allow presentation of questions of law that cannot otherwise be reviewed, or that are so important as to render ordinary procedure inadequate and justify extraordinary remedy. [State ex rel. Orsborn v. Fogliani, 82 Nev. 300, 417 P.2d 148 (1966), cited, Director, Dep't of Prisons v. Arndt, 98 Nev. 84, at 85.640 P.2d 1318 (1982), Snow v. State, 105 Nev. 521, at 523, 779 P.2d 96 (1989), Boatwright v. Director, Dep't of Prisons, 109 Nev. 318, at 321, 849 P.2d 274 (1993)]

Writ available to defendant admitted to bail. Writ of habeas corpus was available to defendant admitted to bail for purpose of challenging probable cause to hold him for trial, because defendant was in constructive custody by reason of bail and was subject to restraint within meaning of Nevada Revised Statutes 34.360. Jacobson v. State, 89 Nev. 197, 510 P.2d 856 (1973),

cited, *Franklin v. State*, 89 Nev. 382, at 383, 513 P.2d 1252 (1973), *Cordova v. City of Reno*, 920 F. Supp. 135, at 138 (D. Nev. 1996), see also *Sheriff, Nye County v. Davis*, 106 Nev. 145, 787 P.2d 1241 (1990)

**Constraint by Reasonable Apprehension of Force.** To justify issuance of the writ of habeas corpus, constraint need not consist of actual physical force. Conduct inducing a reasonable apprehension of force may be sufficient to restrain one of his/her liberty (*In re Rider* (1920) 50 alApp 797, 802, 195 P. 965).

Every person unlawfully imprisoned or restrained of his/her liberty, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint (Pen C Sec. 1473(a)).

**Constructive Custody.** The availability of the writ of habeas corpus does not depend on the actual detention of petitioner in prison. It is also available where petitioner is constructively in custody and subject to restraint (*In re Petersen* (1958) 51 Cal2d 177, 181, 331 P2d 24).

**Unlawful Restraint Within Lawful Custody.** The writ of habeas corpus may be sought by one lawfully in custody for the purpose of vindicating rights to which he/she is entitled even in confinement. (*In re Allison* (1967) 66 Cal2d 282, 285 57 CalRptr 593, 425 P2d 193).

Petitioner as normally bearing burden of proving facts on which claim for relief is based, but if possibility that increased or additional charges violating due process supporting charge of prosecutorial vindictiveness is at issue, petitioner as only needing to demonstrate facts giving rise to presumption of vindictiveness at which time, even on habeas corpus, burden shifts to people to rebut presumption. *In re Bower* (1985) 38 Cal3d 865, 872, 215 CalRptr 267, 700 P2d 1269.

**Strict Compliance with Statutory Prerequisites.** Where a person is committed pursuant to a statutory civil commitment proceeding which is in the nature of a special civil proceeding unknown at common law, jurisdiction to enter an order of commitment depends on strict compliance with each of the statutory prerequisites or maintenance of the proceeding, and the requirement of the statute must be at least substantially, if not strictly, followed in order to give the court hearing the proceedings jurisdiction. The lack of jurisdiction entitles the petitioner to relief by writ of habeas corpus. (*In re Raner* (1963) 59 Cal2d 635, 639, 30 CalRptr 814, 301 P2d 638).

**Broad Meaning of Jurisdiction on Habeas Corpus.** For purposes of the writ of habeas corpus, as for purposes of prohibition or certiorari, the term "jurisdiction" is not limited to its fundamental meaning, and in such proceedings judicial acts may



be restrained or annulled if they are determined to be in excess of the court's powers as defined by constitutional provision, statute, or rules developed by courts (In re Zerbe (1964) 60 Cal2d 666, 667-668, 36 CalRptr 286, 388 P2d 192).

"No person shall...be deprived of life, liberty, or property, without due process of law;..." U.S. Constitution, Amedment V.

"No officer can acquire jurisdiction by deciding he has it. The officer, whether judicial or ministerial, decides at his own peril."Middleton v. Low (1866), 30 C. 596, citing Prosser v. Secor (1849), 5 Barb.(N.Y) 607, 608.

Barratry: The offense of frequently exciting and stirring up quarrels and suits, either at law or otherwise. [State v. Batson, 220 N.C. 411, 17 S.E.2d 511, 512, 513. Black's Law Dictionary, p150]

Date: March 16, 2017.

Lisa Martin

One of the People; with power of attorney and acting on behalf of Petitioner Jason Goodwill