

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh

Case No. 2018 - 000637

John Dalen, Appellant

v.

The State, Respondent

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SC Court of Appeals

RECORD ON APPEAL

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Certification of Matter to be Included in the Record on Appeal

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)

IN THE MAGISTRATE COURT OF
WESTMINSTER

STATE OF SOUTH CAROLINA)
vs.)
JOHN DALEN,)
Defendant.)

ORDER FOR
MOTION TO DISMISS

The above referenced matter is before the court on Defendant's Motion to Dismiss filed on April 18, 2017. A hearing was held on that same day and arguments were heard from both the Defendant and the State.

In response to the motion, the Court presents the following findings of fact:

Traffic offenses are offenses against the state and therefore are criminal in nature. An individual has the same due process including the right to counsel and trial by jury as other criminal offenses.

Further, the statutory authority of Magistrate Judges to handle traffic offenses by jurisdiction is granted by SC Code Ann. 22-3-540. Magistrate judges may also impose sentences within these limits. This jurisdiction covers the countywide area that the Judge serves.

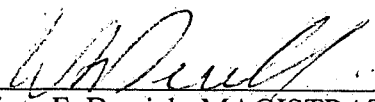
As far as the offense charged is concerned, Section 56-1-20 of the South Carolina Code explicitly states that No Person shall drive a motor vehicle upon a highway in this state unless such person has a valid motor vehicle license issued to him under this article.

THEREFORE, Defendant's Motion to Dismiss is hereby DENIED.

The Defendant shall appear at the next scheduled court date of June the 13th,
2017 at 2:00pm.

IT IS SO ORDERED!

Dated this 21th day of April, 2017.


William F. Derrick, MAGISTRATE
OCONEE COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

IN THE MAGISTRATE COURT OF
WESTMINSTER

STATE OF SOUTH CAROLINA)
)
vs.)
)
JOHN DALEN,)
)
Defendant)
_____)

ORDER FOR
MOTION FOR RECONSIDERATION

The above referenced matter was before the court on Defendant's Motion to Dismiss filed on April 18, 2017. A hearing was held on that same day and arguments were heard from both the Defendant and the State, and a decision to deny the motion to dismiss was rendered.

The Defendant now files a motion to reconsider before the Court and motion for findings of fact and conclusions of law.

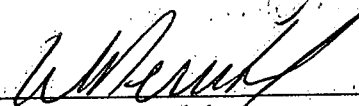
Rule 59 states that any motion for new trial (or reconsideration) may be granted 1) in which there has been a trial by jury, or 2) in an action tried without a jury. This particular case has not been heard nor decided, therefore this motion is improper.

I also further find that the second motion for findings of fact is also improper without a trial and the protections of the defendant's rights are not preserved in this manner.

THEREFORE, Defendant's Motions are hereby DENIED. The Court now enters a plea for the defendant of not guilty and hereby sets a bench trial, unless a jury trial is requested, for June 28, 2017 at 1:00pm.

IT IS SO ORDERED!

Dated this 13th day of June, 2017.



William F. Derrick,
MAGISTRATE
OCONEE COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017 CP-37-00490

JOHN DALEN
PLAINTIFF(S)

STATE OF SOUTH CAROLINA
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

MAGISTRATE IS AFFIRMED.

This order ☒ ends ☐ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2155

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT
Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Oconee Common Pleas

Case Caption: John Dalen VS State of South Carolina

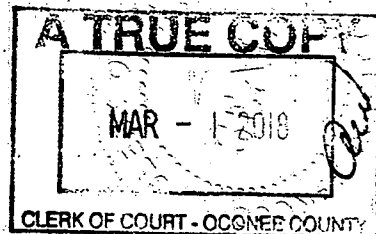
Case Number: 2017CP3700490

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R. LAWTON McINTOSH

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017 CP-37-00490

JOHN DALEN
PLAINTIFF(S)

STATE OF SOUTH CAROLINA
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

MOTION FOR RECONSIDERATION IS DENIED WITHOUT THE NECESSITY OF A HEARING.
NO FORMAL ORDER IS REQUESTED.

This order ☒ ends ☐ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
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If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2155

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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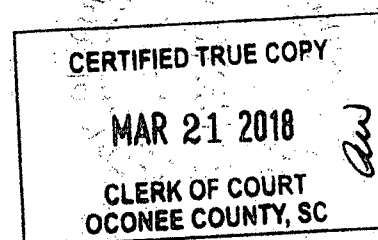
Case Number: 2017CP3700490

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

Notice to Dismiss for Lack of
Jurisdiction

John Dalen,

ACCUSED,

Summons No. 5102P0778082

Pro Per

Accused's Notice to Dismiss for Lack of Jurisdiction

The forgotten legal maxim is that free people have a right to travel on the roads which are provided by their servants for that purpose, using ordinary transportation of the day. Licensing cannot be required of free people, because taking on the restrictions of a license requires the surrender of a right. The driver's license can be required of people who use the highways for trade, commerce, or hire; that is, if they earn their living on the road, and if they use extraordinary machines on the roads. If you are not using the highways for profit, you cannot be required to have a driver's license.

BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR LACK OF JURISDICTION

NOW, comes the Accused, appearing specially and not generally or voluntarily, but under threat of arrest if he failed to do so, with this "BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR LACK OF JURISDICTION," stating as follows:

ARGUMENT

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment."

Robertson vs. Department of Public Works, 180 Wash 133, 147.

The words of Justice Tolman ring most prophetically in the ears of Citizens throughout the country today as the use of the public roads has been monopolized by the very entity which has been empowered to stand guard over our freedoms, i.e., that of state government.

RIGHTS

The "*most sacred of liberties*" of which Justice Tolman spoke was personal liberty. The definition of personal liberty is:

"Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property ... and is regarded as inalienable."

16 C.J.S., Constitutional Law, Sect.202, p.987

This concept is further amplified by the definition of personal liberty:

"Personal liberty largely consists of the Right of locomotion -- to go where and when one pleases -- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct."

II Am.Jur. (1st) Constitutional Law, Sect.329, p.1135

and further ...

"Personal liberty -- consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law."

Bovier's Law Dictionary, 1914 ed., Black's Law Dictionary, 5th ed.;

Blackstone's Commentary 134;

Hare, Constitution, Pg. 777

Justice Tolman was concerned about the State prohibiting the Citizen from the "*most sacred of his liberties*," the Right of movement, the Right of moving one's self from place to place without threat of imprisonment, the Right to use the public roads in the ordinary course of life.

When the State allows the formation of a corporation it may control its creation by establishing guidelines (statutes) for its operation (charters). Corporations who use the roads in the course of business do not use the roads in the ordinary course of life. There is a difference between a corporation and an individual. The United States Supreme Court has stated:

"...We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for examination on the suit of the State. The individual may stand upon his Constitutional Rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life, liberty, and property. His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights."

"Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose."

Hale vs. Hinkel, 201 US 43, 74-75

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit.

"...Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, infra.), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former, the legislative power is confined to regulation, as to the latter, it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege."

Hadfield vs. Lundin, 98 Wash 516

It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or "privilege." We will attempt to reach a sound conclusion as to what is a "Right to use the road" and what is a "privilege to use the road". Once reaching this determination, we shall then apply those positions to modern case decision.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda vs. Arizona, 384 US 436, 491

and ...
"The claim and exercise of a constitutional Right cannot be converted into a crime."

Miller vs. U.S., 230 F. 486, 489

and ...

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights."

Snerer vs. Cullen, 481 F. 946

Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure.

"The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived."

Chicago Motor Coach vs. Chicago, 169 NE 2271;

Ligare vs. Chicago, 28 NE 934;

Boon vs. Clark, 214 SSW 607;

25 Am. Jur. (1st) Highways Sect. 163

and ...

"The Right of the Citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is not a mere privilege which a city can prohibit or permit at will, but a common Right which he has under the right to life, liberty, and the pursuit of happiness."

Thompson vs. Smith, 154 SE 579

So we can see that a Citizen has a Right to travel upon the public highways by automobile and the Citizen cannot be rightfully deprived of his Liberty. So where does the misconception that the use of the public road is always and only a privilege come from?

"... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose, no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion."

State vs. Johnson, 243 P. 1073;
Cummins vs. Homes, 155 P. 171;
Packard vs. Banton, 44 S.Ct. 256;
Hadfield vs. Lundin, 98 Wash 516

Here the court held that a Citizen has the Right to travel upon the public highways, but that he did not have the right to conduct business upon the highways. On this point of law all authorities are unanimous.

"Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain."

Willis vs. Buck, 263 P. 1 982;
Barney vs. Board of Railroad Commissioners, 17 P.2d 82

and ...

"The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus."

State vs. City of Spokane, 186 P. 864

What is this Right of the Citizen which differs so "radically and obviously" from one who uses the highway as a place of business? Who better to enlighten us than Justice Tolman of the Supreme Court of Washington State? In State vs. City of Spokane, supra, the Court also noted a very "radical and obvious" difference, but went on to explain just what the difference is:

"The former is the usual and ordinary right of the Citizen, a common right to all, while the latter is special, unusual, and extraordinary."

and ...

"This distinction, elementary and fundamental in character, is recognized by all the authorities."

State vs. City of Spokane, supra.

This position does not hang precariously upon only a few cases, but has been proclaimed by an impressive array of cases ranging from the state courts to the federal courts.

"the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary."

Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781

and ...

"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business."

Thompson vs. Smith, supra.;

Teche Lines vs. Danforth, Miss., 12 S.2d 784

There is no dissent among various authorities as to this position. (See Am. Jur. [1st] Const. Law, 329 and corresponding Am. Jur. [2nd].)

"Personal liberty -- or the right to enjoyment of life and liberty -- is one of the fundamental or natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from nor dependent on the U.S. Constitution. ... It is one of the most sacred and valuable rights [remember the words of Justice Tolman, supra.] as sacred as the right to private property ... and is regarded as inalienable."

16 C.J.S. Const. Law, Sect.202, Pg. 987

As we can see, the distinction between a "Right" to use the public roads and a "privilege" to use the public roads is drawn upon the line of "using the road as a place of business" and the various state courts have held so. But what have the U.S. Courts held on this point?

"First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit."

Stephenson vs. Rinford, 287 US 251;

Pachard vs Banton, 264 US 140, and cases cited;

Frost and F. Trucking Co. vs. Railroad Commission, 271 US 592;

Railroad commission vs. Inter-City Forwarding Co., 57 SW.2d 290;

Parlett Cooperative vs. Tidewater Lines, 164 A. 313

So what is a privilege to use the roads? By now it should be apparent even to the "learned" that an attempt to use the road as a place of business is a privilege. The distinction must be drawn between ...

1. Travelling upon and transporting one's property upon the public roads, which is our Right; and
2. Using the public roads as a place of business or a main instrumentality of business, which is a privilege.

"[The roads] ... are constructed and maintained at public expense, and no person therefore, can insist that he has, or may acquire, a vested right to their use in carrying on a commercial business."

Ex Parte Sterling, 53 SW.2d 294;
Barney vs. Railroad Commissioners, 17 P.2d 82;
Stephenson vs. Binford, supra.

"When the public highways are made the place of business the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways."

Thompson vs. Smith, supra.

"[The state's] right to regulate such use is based upon the nature of the business and the use of the highways in connection therewith."

Ibid.

"We know of no inherent right in one to use the highways for commercial purposes. The highways are primarily for the use of the public, and in the interest of the public, the state may prohibit or regulate ... the use of the highways for gain."

Robertson vs. Dept. of Public Works, supra.

There should be considerable authority on a subject as important as this deprivation of the liberty of the individual *"using the roads in the ordinary course of life and business."* However, it should be noted that extensive research has not turned up one case or authority acknowledging the state's power to convert the individual's right to travel upon the public roads into a *"privilege."*

Therefore, it is concluded that the Citizen does have a *"Right"* to travel and transport his property upon the public highways and roads and the exercise of this Right is not a *"privilege."*

DEFINITIONS

In order to understand the correct application of the statute in question, we must first define the terms used in connection with this point of law. As will be shown, many terms used today do not, in their legal context, mean what we assume they mean, thus resulting in the misapplication of statutes in the instant case.

AUTOMOBILE AND MOTOR VEHICLE

There is a clear distinction between an automobile and a motor vehicle. An automobile has been defined as:

"The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."

American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; 95 NH 200

While the distinction is made clear between the two as the courts have stated:

"A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received."

International Motor Transit Co. vs. Seattle, 251 P. 120

The term 'motor vehicle' is different and broader than the word 'automobile.'"

City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232

The distinction is made very clear in Title 18 USC 31:

"Motor vehicle" means every description or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, or passengers and property.

"Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other considerations, or directly or indirectly in connection with any business, or other undertaking intended for profit.

Clearly, an automobile is private property in use for private purposes, while a motor vehicle is a machine which may be used upon the highways for trade, commerce, or hire.

TRAVEL

The term "travel" is a significant term and is defined as:

"The term 'travel' and 'traveler' are usually construed in their broad and general sense ... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) and who have occasion to pass over them for the purpose of business, convenience, or pleasure."

25 Am.Jur. (1st) Highways, Sect.427, Pg. 717

"Traveler -- One who passes from place to place, whether for pleasure, instruction, business, or health."

Locket vs. State, 47 Ala. 45;
Bovier's Law Dictionary, 1914 ed., Pg. 3309

"Travel -- To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey."

Century Dictionary, Pg. 2034

Therefore, the term "*travel*" or "*traveler*" refers to one who uses a conveyance to go from one place to another, and included all those who use the highways as a matter of Right.

Notice that in all these definitions, the phrase "*for hire*" never occurs. This term "*travel*" or "*traveler*" implies, by definition, one who uses the road as a means to move from one place to another.

Therefore, one who uses the road in the ordinary course of life and business for the purpose of travel and transportation is a traveler.

DRIVER

The term "*driver*" in contradistinction to "*traveler*," is defined as:

"Driver -- One employed in conducting a coach, carriage, wagon, or other vehicle ..."

Bovier's Law Dictionary, 1914 ed., Pg. 940

Notice that this definition includes one who is "*employed*" in conducting a vehicle. It should be self-evident that this individual could not be "*travelling*" on a journey, but is using the road as a place of business.

OPERATOR

Today we assume that a "*traveler*" is a "*driver*," and a "*driver*" is an "*operator*." However, this is not the case.

"It will be observed from the language of the ordinance that a distinction is to be drawn between the terms 'operator' and 'driver'; the 'operator' of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the 'driver' is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both "*operator*" and "*driver*."

Newbill vs. Union Indemnity Co., 60 SE.2d 658

To further clarify the definition of an "*operator*" the court observed that this was a vehicle "*for hire*" and that it was in the business of carrying passengers.

This definition would seem to describe a person who is using the road as a place of business, or in other words, a person engaged in the "privilege" of using the road for gain.

This definition, then, is a further clarification of the distinction mentioned earlier, and therefore:

1. Travelling upon and transporting one's property upon the public roads as a matter of Right meets the definition of a traveler.
2. Using the road as a place of business as a matter of privilege meets the definition of a driver or an operator or both.

TRAFFIC

Having defined the terms "automobile," "motor vehicle," "traveler," "driver," and "operator," the next term to define is "traffic":

"... Traffic thereon is to some extent destructive, therefore, the prevention of unnecessary duplication of auto transportation service will lengthen the life of the highways or reduce the cost of maintenance, the revenue derived by the state ... will also tend toward the public welfare by producing at the expense of those operating for private gain, some small part of the cost of repairing the wear ..."

Northern Pacific R.R. Co. vs. Schoenfeldt, 213 P. 26

Note: In the above, Justice Tolman expounded upon the key of raising revenue by taxing the "privilege" to use the public roads *"at the expense of those operating for gain."*

In this case, the word "traffic" is used in conjunction with the unnecessary Auto Transportation Service, or in other words, "vehicles for hire." The word "traffic" is another word which is to be strictly construed to the conducting of business.

"Traffic -- Commerce, trade, sale or exchange of merchandise, bills, money, or the like. The passing of goods and commodities from one person to another for an equivalent in goods or money ..."

Bovier's Law Dictionary, 1914 ed., Pg. 3307

Here again, notice that this definition refers to one "conducting business." No mention is made of one who is traveling in his automobile. This definition is of one who is engaged in the passing of a commodity or goods in exchange for money, i.e., vehicles for hire.

Furthermore, the words "traffic" and "travel" must have different meanings which the courts recognize. The difference is recognized in *Ex Parte Dickey*, supra:

"...in addition to this, cabs, hackney coaches, omnibuses, taxicabs, and hacks, when unnecessarily, numerous, interfere with the ordinary traffic and travel and obstruct them."

The court, by using both terms, signified its recognition of a distinction between the two. But, what was the distinction? We have already defined both terms, but to clear up any doubt:

"The word 'traffic' is manifestly used here in secondary sense, and has reference to the business of transportation rather than to its primary meaning of interchange of commodities."

Allen vs. City of Bellingham, 163 P. 18

Here the Supreme Court of the State of Washington has defined the word "*traffic*" (in either its primary or secondary sense) in reference to business, and not to mere travel! So it is clear that the term "*traffic*" is business related and therefore, it is a "*privilege*." The net result being that "*traffic*" is brought under the (police) power of the legislature. The term has no application to one who is not using the roads as a place of business.

LICENSE

It seems only proper to define the word "*license*," as the definition of this word will be extremely important in understanding the statutes as they are properly applied:

"The permission, by competent authority to do an act which without permission, would be illegal, a trespass, or a tort."

People vs. Henderson, 218 NW.2d 2, 4

"Leave to do a thing which licensor could prevent."

Western Electric Co. vs. Pacent Reproducer Corp., 42 F.2d 116, 118

In order for these two definitions to apply in this case, the state would have to take up the position that the exercise of a Constitutional Right to use the public roads in the ordinary course of life and business is illegal, a trespass, or a tort, which the state could then regulate or prevent.

This position, however, would raise magnitudinous Constitutional questions as this position would be diametrically opposed to fundamental Constitutional Law. (See "Conversion of a Right to a Crime," *infra*.)

In the instant case, the proper definition of a "*license*" is:

"a permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or corporation, to pursue some occupation or to carry on some business which is subject to regulation under the police power."

Rosenblatt vs. California State Board of Pharmacy, 158 P.2d 199, 203

This definition would fall more in line with the "*privilege*" of carrying on business on the streets.

Most ~~of~~ ^{is} ~~the~~ ^{imposed} by the state for the purpose of raising revenue, ~~and~~ ^{contemplated}; for when one seeks permission from ~~the state~~ ^{the state} to do something he invokes the jurisdiction of the licensor which, in this case, is the state. In essence, the licensee may well be seeking to be regulated by the licensor.

"A license fee is a charge made primarily for regulation, with the fee to cover costs and expenses of supervision or regulation."

State vs. Jackson, 60 Wisc.2d 700; 211 NW.2d 480; 487

The fee is the price; the regulation or control of the licensee is the real aim of the legislation.

Are these licenses really used to fund legitimate government, or are they nothing more than a subtle introduction of police power into every facet of our lives? Have our "enforcement agencies" been diverted from crime prevention, perhaps through no fault of their own, instead now busying themselves as they "check" our papers to see that all are properly endorsed by the state?

How much longer will it be before we are forced to get a license for our lawn mowers, or before our wives will need a license for her *blender* or *mixer*? They all have motors on them and the state can always use the revenue.

POLICE POWER

The confusion of the police power with the power of taxation usually arises in cases where the police power has affixed a penalty to a certain act, or where it requires licenses to be obtained and a certain sum be paid for certain occupations. The power used in the instant case cannot, however, be the power of taxation since an attempt to levy a tax upon a Right would be open to Constitutional objection. (See "*taxing power*," *infra*.)

Each law relating to the use of police power must ask three questions:

1. "*Is there threatened danger?*"
2. "*Does a regulation involve a Constitutional Right?*"
3. "*Is this regulation reasonable?*"

People vs. Smith, 108 Am.St.Rep. 715;
Bovier's Law Dictionary, 1914 ed., under "Police Power"

When applying these three questions to the statute in question, some very important issues emerge.

First, "*is there a threatened danger*" in the individual using his automobile on the public highways, in the ordinary course of life and business?

The answer is **No!** There is nothing inherently dangerous in the use of an automobile when it is carefully managed. Their guidance, speed, and noise are subject to a quick and easy control, under a competent and considerate manager, it is as harmless on the road as a horse and buggy.

It is the manner of managing the automobile, and that alone, which threatens the safety of the public. The ability to stop quickly and to respond quickly to guidance would seem to make the automobile one of the least dangerous conveyances. (See Yale Law Journal, December, 1905.)

"The automobile is not inherently dangerous."

Cohens vs. Meadow, 89 SE 876;
Blair vs. Broadmore, 93 SE 532

To deprive all persons of the Right to use the road in the ordinary course of life and business, because one might, in the future, become dangerous, would be a deprivation not only of the Right to travel, but also the Right to due process. (See "*Due Process*," *infra*.)

Next; *does the regulation involve a Constitutional Right?*

This question has already been addressed and answered in this brief, and need not be reinforced other than to remind this Court that this Citizen does have the Right to travel upon the public highway by automobile in the ordinary course of life and business. It can therefore be concluded that this regulation does involve a Constitutional Right.

The third question is the most important in this case. "*Is this regulation reasonable?*"

The answer is **No!** It will be shown later in "*Regulation*," *infra*., that this licensing statute is oppressive and could be effectively administered by less oppressive means.

Although the Fourteenth Amendment does not interfere with the proper exercise of the police power, in accordance with the general principle that the power must be exercised so as not to invade unreasonably the rights guaranteed by the United States Constitution, it is established beyond question that every state power, including the police power, is limited by the Fourteenth Amendment (and others) and by the inhibitions there imposed.

Moreover, the ultimate test of the propriety of police power regulations must be found in the Fourteenth Amendment, since it operates to limit the field of the police power to the extent of preventing the enforcement of statutes in denial of Rights that the Amendment protects. (See *Parks vs. State*, 64 NE 682.)

"With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority."

Connolly vs. Union Sewer Pipe Co., 184 US 540;
Lafarier vs. Grand Trunk R.R. Co., 24 A. 848;
O'Neil vs. Providence Amusement Co., 108 A. 887

"The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution."

Bacahanan vs. Wanley, 245 US 60;
Panhandle Eastern Pipeline Co. vs. State Highway Commission, 294 US 613

"It is well settled that the Constitutional Rights protected from invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions."

Tiche vs. Osborne, 131 A. 60

"As a rule, fundamental limitations of regulations under the police power are found in the spirit of the Constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language."

Mehlos vs. Milwaukee, 146 NW 882

As it applies in the instant case, the language of the Fifth Amendment is clear:

"No person shall be ... deprived of Life, Liberty, or Property without due process of law."

As has been shown, the courts at all levels have firmly established an absolute Right to travel.

In the instant case, the state, by applying commercial statutes to all entities, natural and artificial persons alike, has deprived this free and natural person of the Right of Liberty, without cause and without due process of law.

DUE PROCESS

"The essential elements of due process of law are ... Notice and The Opportunity to defend."

Simon vs. Craft, 182 US 427

Yet, not one individual has been given notice of the loss of his/her Right, let alone before signing the license (contract). Nor was the Citizen given any opportunity to defend against the loss of his/her right to travel, by automobile, on the highways, in the ordinary course of life and business. This amounts to an arbitrary deprivation of Liberty.

"There should be no arbitrary deprivation of Life or Liberty ..."

Barbour vs. Connolly, 113 US 27, 31;
Yick Wo vs. Hopkins, 118 US 356

and ...

"The right to travel is part of the Liberty of which a citizen cannot be deprived without due process of law under the Fifth Amendment. This Right was emerging as early as the Magna Carta."

Kent vs. Dulles, 357 US 116 (1958)

The focal point of this question of police power and due process must balance upon the point of making the public highways a safe place for the public to travel. If a man travels in a manner that creates actual damage, an action would lie (civilly) for recovery of damages. The state could then also proceed against the individual to deprive him of his Right to use the public highways, for cause. This process would fulfill the due process requirements of the Fifth Amendment while at

the same time insuring that Rights guaranteed by the U.S. Constitution and the state constitutions would be protected.

But unless or until harm or damage (a crime) is committed, there is no cause for interference in the private affairs or actions of a Citizen.

One of the most famous and perhaps the most quoted definitions of due process of law, is that of **Daniel Webster** in his Dartmouth College Case (4 Wheat 518), in which he declared that by due process is meant:

"a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial."

See also State vs. Strasburg, 110 P. 1020;
Dennis vs. Moses, 52 P. 333

Somewhat similar is the statement that is a rule as old as the law that:

"no one shall be personally bound (restricted) until he has had his day in court,"

by which is meant, until he has been duly cited to appear and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination; it is judicial usurpation and it is oppressive and can never be upheld where it is fairly administered. (12 Am.Jur. [1st] Const. Law, Sect. 573, Pg. 269)

Note: This sounds like the process used to deprive one of the "*privilege*" of operating a motor vehicle "for hire." It should be kept in mind, however, that we are discussing the arbitrary deprivation of the Right to use the road that all citizens have "in common."

The futility of the state's position can be most easily observed in the 1959 Washington Attorney General's opinion on a similar issue:

"The distinction between the Right of the Citizen to use the public highways for private, rather than commercial purposes is recognized: ..."

and ...

"Under its power to regulate private uses of our highways, our legislature has required that motor vehicle operators be licensed (I.C. 49-307). Undoubtedly, the primary purpose of this requirement is to insure, as far as possible, that all motor vehicle operators will be competent and qualified, thereby reducing the potential hazard or risk of harm, to which other users of the highways might otherwise be subject. But once having complied with this regulatory provision, by obtaining the required license, a motorist enjoys the privilege of travelling freely upon the highways ..."

Washington A.G.O. 59-60 No. 88, Pg. 11

This alarming opinion appears to be saying that every person using an automobile as a matter of Right, must give up the Right and convert the Right into a privilege. This is accomplished under the guise of regulation. This statement is indicative of the insensitivity, even the ignorance, of the government to the limits placed upon governments by and through the several constitutions.

This legal theory may have been able to stand in 1959; however, as of 1966, in the United States Supreme Court decision in *Miranda*, even this weak defense of the state's actions must fall.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda vs. Arizona, 384 US 436, 491

Thus the legislature does not have the power to abrogate the Citizen's Right to travel upon the public roads, by passing legislation forcing the citizen to waive his Right and convert that Right into a privilege. Furthermore, we have previously established that this "*privilege*" has been defined as applying only to those who are "*conducting business in the streets*" or "*operating for-hire vehicles*."

The legislature has attempted (by legislative fiat) to deprive the Citizen of his Right to use the roads in the ordinary course of life and business, without affording the Citizen the safeguard of *due process of law*. This has been accomplished under supposed powers of regulation.

REGULATION

"In addition to the requirement that regulations governing the use of the highways must not be violative of constitutional guarantees, the prime essentials of such regulation are reasonableness, impartiality, and definiteness or certainty."

25 Am.Jur. (1st) Highways, Sect. 260

and...

"Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance of permission."

Davis vs. Massachusetts, 167 US 43;

Pachard vs. Banton, supra.

One can say for certain that these regulations are impartial since they are being applied to all, even though they are clearly beyond the limits of the legislative powers. However, we must consider whether such regulations are reasonable and non-violative of constitutional guarantees.

First, let us consider the reasonableness of this statute requiring all persons to be licensed (presuming that we are applying this statute to all persons using the public roads). In determining the reasonableness of the statute we need only ask two questions:

1. Does the statute accomplish its stated goal?

The answer is **No!**

The attempted explanation for this regulation "*to insure the safety of the public by insuring, as much as possible, that all are competent and qualified.*"

However, one can keep his license without retesting, from the time he/she is first licensed until the day he/she dies, without regard to the competency of the person, by merely renewing said license before it expires. It is therefore possible to completely skirt the goal of this attempted regulation, thus proving that this regulation does not accomplish its goal.

Furthermore, by testing and licensing, the state gives the appearance of underwriting the competence of the licensees, and could therefore be held liable for failures, accidents, etc. caused by licensees.

2. Is the statute reasonable?

The answer is **No!**

This statute cannot be determined to be reasonable since it requires to the Citizen to give up his or her natural Right to travel unrestricted in order to accept the privilege. The purported goal of this statute could be met by much less oppressive regulations, i.e., competency tests and certificates of competency before using an automobile upon the public roads. (This is exactly the situation in the aviation sector.)

But isn't this what we have now?

The answer is **No!** The real purpose of this license is much more insidious. When one signs the license, he/she gives up his/her Constitutional Right to travel in order to accept and exercise a privilege. After signing the license, a quasi-contract, the Citizen has to give the state his/her consent to be prosecuted for constructive crimes and quasi-criminal actions where there is no harm done and no damaged property.

These prosecutions take place without affording the Citizen of their Constitutional Rights and guarantees such as the Right to a trial by jury of twelve persons and the Right to counsel, as well as the normal safeguards such as proof of intent and a corpus delicti and a grand jury indictment. These unconstitutional prosecutions take place because the Citizen is exercising a privilege and has given his/her "*implied consent*" to legislative enactments designed to control interstate commerce, a regulatable enterprise under the police power of the state.

We must now conclude that the Citizen is forced to give up Constitutional guarantees of "Right" in order to exercise his state "privilege" to travel upon the public highways in the ordinary course of life and business.

SURRENDER OF RIGHTS

A Citizen cannot be forced to give up his/her Rights in the name of regulation.

"... the only limitations found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation for compensation are (1) that the state must not exact of those it permits to use the highways for hauling for gain that they surrender any of their inherent U.S. Constitutional Rights as a condition precedent to obtaining permission for such use ..."

Riley vs. Laeson, 142 So. 619;
Stephenson vs. Binford, supra.

If one cannot be placed in a position of being forced to surrender Rights in order to exercise a privilege, how much more must this maxim of law, then, apply when one is simply exercising (putting into use) "But when the community allows the right (12) and declares it to exist, that constitution is the freest and best, which forbids the government to abolish the right, or which restrains the government from depriving a particular citizen of it. In other words, public liberty requires that private property should be protected even from the government itself."

Hoke vs. Henderson, 15 NC 9

and ...

"We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another."

Simons vs. United States, 390 US 389

Since the state requires that one give up Rights in order to exercise the privilege of driving, the regulation cannot stand under the police power, due process, or regulation; but must be exposed as a statute which is oppressive and one which has been misapplied to deprive the Citizen of Rights guaranteed by the United States Constitution and the state constitutions.

TAXING POWER

"Any claim that this statute is a taxing statute would be immediately open to severe Constitutional objections. If it could be said that the state had the power to tax a Right, this would enable the state to destroy Rights guaranteed by the constitution through the use of oppressive taxation. The question herein, is one of the state taxing the Right to travel by the ordinary modes of the day, and whether this is a legislative object of the state taxation.

The views advanced herein are neither novel nor unsupported by authority. The question of taxing power of the states has been repeatedly considered by the Supreme Court. The Right of the state to impede or embarrass the Constitutional operation of the U.S. Government or the Rights which the Citizen holds under it, has been uniformly denied."

McCulloch vs. Maryland, 4 Wheat 316

The power to tax is the power to destroy, and if the state is given the power to destroy Rights through taxation, the framers of the Constitution wrote that document in vain.

"... It may be said that a tax of one dollar for passing through the state cannot sensibly affect any function of government or deprive a Citizen of any valuable Right. But if a state can tax ... a passenger of one dollar, it can tax him a thousand dollars."

Crandall vs. Nevada, 6 Wall 35, 46

and ...

"If the Right of passing through a state by a Citizen of the United States is one guaranteed by the Constitution, it must be sacred from state taxation."

Ibid., Pg. 47

Therefore, the Right of travel must be kept sacred from all forms of state taxation and if this argument is used by the state as a defense of the enforcement of this statute, then this argument also must fail.

CONVERSION OF A RIGHT TO A CRIME

As previously demonstrated, the Citizen has the Right to travel and to transport his property upon the public highways in the ordinary course of life and business. However, if one exercises this Right to travel (without first giving up the Right and converting that Right into a privilege) the Citizen is by statute, guilty of a crime. This amounts to converting the exercise of a Constitutional Right into a crime.

Recall the Miller vs. U.S. and Snerer vs. Cullen quotes from Pg. 5, and:

"The state cannot diminish Rights of the people."

Hurtado vs. California, 110 US 516

and ...

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda, supra.

Indeed, the very purpose for creating the state under the limitations of the constitution was to protect the rights of the people from intrusion, particularly by the forces of government.

So we can see that any attempt by the legislature to make the act of using the public highways as a matter of Right into a crime, is void upon its face.

Any person who claims his Right to travel upon the highways, and so exercises that Right, cannot be tried for a crime of doing so. And yet, this Freeman stands before this court today to answer charges for the "*crime*" of exercising his Right to Liberty. As we have already shown, the term "*drive*" can only apply to those who are employed in the business of transportation for hire. It has been shown that freedom includes the Citizen's Right to use the public highways in the ordinary course of life and business without license or regulation by the police powers of the state.

CONCLUSION

It is the duty of the court to recognize the substance of things and not the mere form.

"The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty – indeed they are under a solemn duty – to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purported to have been enacted to protect ... the public safety, has no real or substantial relation to those objects or is a palpable invasion of Rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution."

Mulger vs. Kansas, 123 US 623, 661

and ...

"It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon."

Boyd vs. United States, 116 US 616

The courts are *duty bound* to recognize and stop the *stealthy encroachments* which have been made upon the Citizen's Right to travel and to use the roads to transport his property in the "*ordinary course of life and business*." (Hadfield, *supra*.)

Further, the court must recognize that the Right to travel is part of the Liberty of which a Citizen cannot be deprived without specific cause and without the *due process of law* guaranteed in the Fifth Amendment. (Kent, *supra*.)

The history of this *invasion* of the Citizen's Right to use the public highways shows clearly that the legislature simply found a heretofore untapped source of revenue, got greedy, and attempted to enforce a statute in an unconstitutional manner upon those free and natural individuals who have a Right to travel upon the highways. This was not attempted in an outright action, but in a slow, meticulous, calculated encroachment upon the Citizen's Right to travel.

This position must be accepted unless the prosecutor can show his authority for the position that the "*use of the road in the ordinary course of life and business*" is a privilege.

To rule in any other manner, without clear authority for an adverse ruling, will infringe upon fundamental and basic concepts of Constitutional law. This position, that a Right cannot be regulated under any guise, must be accepted without concern for the monetary loss of the state.

"Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interests of the public."

Slote vs. Examination, 112 ALR 660
and ...

"Economic necessity cannot justify a disregard of Constitutional guarantee."

Riley vs. Carter, 79 ALR 1018;
16 Am.Jur. (2nd), Const. Law; Sect. 81
and ...

"Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them."

Watson vs. Memphis, 375 US 526
Therefore, the Court's decision in the instant case must be made without the issue of cost to the state being taken into consideration, as that issue is irrelevant. The state cannot lose money that it never had a right to demand from the *Sovereign People*.

Finally, we come to the issue of *public policy*. It could be argued that the *licensing scheme* of all persons is a matter of public policy. However, if this argument is used, it too must fail, as:

"No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution."

16 Am.Jur. (2nd), Const. Law, Sect. 70

So even public policy cannot abrogate this Citizen's Right to travel and to use the public highways in the ordinary course of life and business. Therefore, it must be concluded that:

"We have repeatedly held that the legislature may regulate the use of the highways for carrying on business for private gain and that such regulation is a valid exercise of the police power."

Northern Pacific R.R. Co., *supra*.

and ...

"The act in question is a valid regulation, and as such is binding upon all who use the highway for the purpose of private gain."

Ibid.

Any other construction of this statute would render it unconstitutional as applied to this Citizen or any Citizen.

In addition:

Since no notice is given to people applying for driver's (or other) licenses that they have a perfect right to use the roads without any permission, and that they surrender valuable rights by taking on the regulation system of licensure, the state has committed a massive construction fraud. This occurs when any person is told that they must have a license in order to use the public roads and highways.

The license, being a legal contract under which the state is empowered with policing powers, is only valid when the licensee takes on the burdens of the contract and bargains away his or her rights knowingly, intentionally, and voluntarily.

Few know that the driver's license is a contract without which the police are powerless to regulate the people's actions or activities.

Few (if any) licensees intentionally surrender valuable rights. They are told that they must have the license. As we have seen, this is not the case.

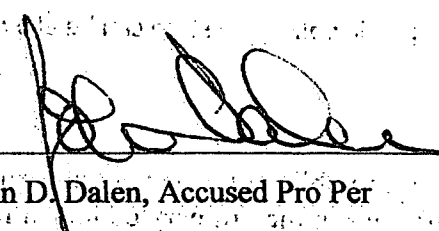
No one in their right mind voluntarily surrenders complete liberty and accepts in its place a set of regulations.

"The people never give up their liberties but under some delusion."

Edmund Burke, (1784)

WHEREFORE the accused moves this Honorable Court to dismiss this complaint brought by the State of South Carolina, with prejudice.

Respectfully submitted:



John D. Dalen, Accused Pro Per
109 Wood Valley Drive
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DATED this 24 day of March, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

State of South Carolina,

PLAINTIFF

John Dalen,

ACCUSED,

Pro Per

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

CERTIFICATE OF SERVICE

**Notice of Motion and Motion to
Reconsider**

Summons No. 5102P0778082

CERTIFICATE OF SERVICE for

Accused's Notice of Motion and Motion to Reconsider

I, John D. Dalen hereby certifies that a copy of the foregoing Notice of Motion and Motion to Reconsider was sent to Plaintiff by First Class mail addressed to:

Traffic Court

106 E. Windsor Street

Westminster, SC 29693

DATED this 1st day of May, 2017

By:


John Dalen, Accused Pro Per

OCONEE COUNTY
SUMMARY COURT

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

Notice of Motion and
Motion to Reconsider

John Dalen,

ACCUSED,

Summons No. 5102P0778082

Pro Per

NOW comes the Accused, appearing specially and not generally or voluntarily, but under threat of arrest if he failed to do so, with this NOTICE.

YOU WILL PLEASE TAKE NOTICE that John Dalen moves this court to reconsider its decision, dated April 21, 2017, to deny accused's Motion to Dismiss. John Dalen demands all of his rights at all times and does not waive any rights at any time.

- 1) The court has no subject matter jurisdiction. The State cannot convert rights into privileges and charge a fee for the exercise thereof. The Supreme Court has repeatedly ruled on this issue. John Dalen was clearly engaged in the exercise of a Constitutional right when he was unlawfully arrested by Trooper A.M. Taylor. Along with other troopers present, Trooper Taylor has engaged in a conspiracy to deny me, John Dalen my Constitutionally-protected rights, and has acted without any lawful authority.

The definitions of "person", "motor vehicle", and "drive", as well as the requirement to obtain a "license" apply only to commercial or for hire activities as the Supreme Court repeatedly ruled. I have a right to rely on the decisions of the Supreme Court. No evidence has been presented by the state that John Dalen was engaged in any commercial or for hire activity at the time of his unlawful arrest.

Under South Carolina Code of Laws, Title 16, Sec. 5, Offenses against Civil Rights, the aforementioned troopers have committed a criminal felony, by violating the rights of John Dalen. (Sec. 16-5-10). My rights constitute my property. Under Title 16, Chapter 5, (Sec. 16-5-30) it is the court's duty to take all legal means necessary for the protection of such property as is attacked or threatened to be attacked. Any constable, sheriff or magistrate that neglects or refuses to perform his/her duty, shall be liable for the damages done to such property, and shall also be deemed guilty of a misdemeanor in office.... Actions filed under this chapter do not preclude other remedies or actions that are available to the injured party.

- 2) All courts have a duty to protect the rights of the citizens. This court can do so by dismissing summons and instructing the State troopers to cease and desist violating the rights of John Dalen.

Motion is hereby respectfully made by John Dalen for this court to dismiss this ticket on the grounds that my rights to due process of law are being violated, and due to the fact that no crime has been committed, this court does not have subject matter jurisdiction. Once challenged, subject matter jurisdiction must be proven by the court; it cannot be waived. The court, in its denial of my motion to dismiss has not proven its jurisdiction, but has in fact, acknowledged its lack thereof.

Please consider the following:

- 1) *Hurtado v. California*, 110 U.S. 516, 3 Sup. Ct. 111, 292, 28 L. Ed. 232 (1884)

Due process of law is process according to the law of the land Due process of law in the latter (the Fifth Article of Amendment to the Constitution) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law.... Mr. Justice Matthews, delivering the opinion of the court....

* Note that the 14th Amendment insured that all of the above applies to the states.

- 2) An affirmance results when a judge acts in the clear absence of all jurisdiction, i.e., of authority to act officially over the subject matter in hand, the proceeding coram non judge. In such a case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for the damages resulting from his unauthorized acts. Such has been the law from the days of the case of *The Marshalsea*, 10 Coke 68. It was recognized as such in *Bradley v. Fisher*, 13 Wall. (80 U.S.) 335, 351, 20 L. Ed. 646. In *State ex rel. Egan v.*

Wolever, 127 Ind. 306, 26 N.E. 762, 732; the court said: 'The converse statement of it is also ancient. Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.' Manning v. Ketcham, 58 F.2d 948 (1932).

3) **McNutt v. GMAC, 298 US 178**

"The burden of proof of jurisdiction lies with the asserter."

4) **Wuest v. Wuest, 127 P2d 934, 937. Outboard Marine Corp. v. Thomas, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985)**

"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction."

5) **The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. U.S. v. Will, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed. 257 (1821)**

6) **"Officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America." Owen vs. City of Independence, 100 S. Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21**

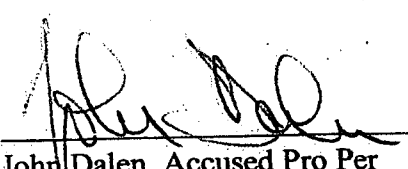
7) Rubinstein v. Collins, 20 F. 3d 160, 1990

"Failure to disclose material information necessary to prevent a statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law."

My rights to due process of law are being violated, and due to the fact that no crime has been committed, this court does not have subject matter jurisdiction. The State, and this Court is attempting to prosecute a case without authority to do so. Once challenged, subject matter jurisdiction must be proven by the court; it cannot be waived.

WHEREFORE the Accused moves this court to dismiss this action immediately and instruct state troopers that the statute in question can only be enforced upon "persons" exercising privileges and not on individuals exercising Constitutionally-protected rights.

John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705



John Dalen, Accused Pro Per
May 1, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

Motion for Findings of Facts
and Conclusions of Law

John Dalen,

ACCUSED

Pro. Per

Summons No. 5102P0778082

OCONEE COUNTY
SUMMARY COURT

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Motion for Findings of Facts and Conclusions of Law

Judge, I believe the burden of proving that the specific regulatory statutes at issue in this matter actually DO apply to the Accused rests upon the Prosecution, rather than upon the Accused to prove that they do not. It's called "the presumption of innocence."

Furthermore, the prosecution has failed to allege even a single fact in the complaint and/or charging instrument that the Accused was actively engaging in some form of commercial "transportation" activity upon the highway, which is the ONLY way that these specific regulatory statutes legally CAN apply.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial.

Further still, Section 56-1-20 regulates a specific type of business or business related activity, that of "transportation." An activity in which the Accused was NOT and never has been engaged, the allegation and proof of which is an essential required fact element that the

prosecution cannot presume to be true or legally prove due to a lack of admissible evidence relating to and proving said activity.

The prosecution is duty-bound to set forth EVERY element that is required to be proven at trial IN the complaint AND the charging instrument, AND must prove EVERY element at trial with ADMISSIBLE EVIDENCE, not hypothetical and overly ridiculous red herring arguments and contrived situations that have no relevance or bearing upon the facts of the case.

Finally, neither this court nor the prosecution may simply presume ANY required fact element of an alleged offense to be true, as that subverts the right of the Accused to the presumption of innocence of EVERY element of an alleged offense, which is fatal error, being a clear violation of the Accused's right of due process. There can be no reasonable legal debate as to whether or not the act of "transportation" is a necessary fact element of the alleged offense considering that it is the specifically stated subject matter of the very legislation that created the recodified "transportation" code and the statutes therein.

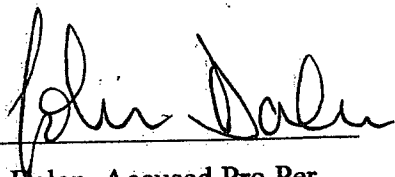
There is no such fact element alleged in the complaint and charging instrument, and the state has no admissible evidence that would serve as proof of that necessary element. This lack of admissible evidence also proves that the arresting officer could not possibly have had any "articulable" facts or evidence supporting reasonable suspicion or probable cause, thus making the warrantless detention, seizure and arrest of the Accused completely unlawful in the first instance...which, in turn, makes it more than clear that the state is attempting to unlawfully apply the "transportation" code and its regulatory statutes to a completely unrelated subject matter activity to which it simply and legally does NOT and CANNOT apply as said activity is entirely OUTSIDE of the code's subject matter jurisdiction and application.

Therefore, the state has no case, as the prosecution simply cannot prove that these statutes apply without first proving that the Accused was engaged in the regulated activity of "transportation," which is legally impossible to do using only a law enforcement officer's personal or professional opinion during testimony absent other admissible substantive evidence supporting that conclusion, as the officer is not qualified to make such legal determinations and conclusions and then offer them as factual opinion and evidence through testimony at trial.

Whereby, on these legal and constitutional grounds, I move for your immediate disqualification for bias, prejudice, and multiple violations of state law, the rules of procedure, the rules of evidence, the rules of judicial and professional conduct, and criminal offenses constituting felony violations under South Carolina Code of Laws, Title 16 Chapter 5 Offences Against Civil Rights, Section 16510, 16520, 16530.

WHEREFORE the Accused moves this court to dismiss this action immediately.

John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705

A handwritten signature in black ink, appearing to read "John D. Dalen", written over a horizontal line.

John Dalen, Accused Pro Per

June 13, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

John Dalen,

ACCUSED
Pro Per

Motion for Pretrial Hearing

Summons No. 5102P0778082

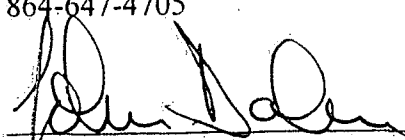
Motion for Pretrial Hearing

Your Honor, per Rule 16 of the South Carolina Rules of Civil Procedure, I hereby move the court for a pretrial hearing. Also I move for an extension of the trial date of June 28, to be determined at the hearing; I am attempting to understand the nature and the cause of the allegations against me. I believe a pretrial hearing will help to settle these issues. I also have discovery requests that I would like to present at this hearing: namely, I have a right to know what evidence the state is going to present so that I may adequately prepare for the trial.

I have contacted the Department of Motor Vehicles with questions regarding the Social Security number requirement for obtaining a "driver's license" as well as Colonel Michael Oliver of the South Carolina Department of Public Safety, in order for me to try to understand the nature and cause of the allegations. Their response to my inquiries are crucial to the preparation of my defense.

WHEREFORE the Accused moves this court to schedule a pretrial hearing.

John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705


John Dalen, Accused Pro Per
June 13, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

State of South Carolina,

PLAINTIFF

John Dalen,

ACCUSED

Pro Per

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

**Motion Challenging Constitutionality
of the Application of the SC Motor
Vehicle "Transportation" Statutes
Against the Accused**

Summons No. 5102P0778082

**Motion Challenging Constitutionality of the Application of the South Carolina Motor Vehicle
"Transportation" Statutes Against the Accused**

**I. Unconstitutional judicial alteration of Well-Established Law on the Proper Meaning and
Use of Terms of Art. Thus, Unconstitutionally Affecting Legislative Purpose and Intent While
Unlawfully Expanding the Scope of Legislation.**

The term "transportation" is a legal "term of art" having a specific meaning within the specific context of "transportation" related professions and occupations, and is not directly related to the actions and activities of the general public acting in their private common law capacities and activities. The online version of the Oxford English Dictionary defines "term of art" this way: *A word or phrase that has a precise, specialized meaning within a particular field or profession.* (Emphasis added) While the online version of West's Encyclopedia of American Law, Ed. 2, defines the phrase in this way:

A word or phrase that has special meaning in a particular context. (Emphasis added) West's

Encyclopedia of American Law then goes on to provide us with some clarity as to

exactly why this differentiation of language is important to know and fully understand,

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OCONEE COUNTY
SUMMARY COURT

as it is the precise avenue by which the perversion/corruption of our understanding of our common language use has taken place.

A term of art is a word or phrase that has a particular meaning. Terms of art abound in the law. For example, the phrase *double jeopardy* can be used in common parlance to describe any situation that poses two risks. In the law, ***Double Jeopardy*** refers specifically to an impermissible second trial of a defendant for the same offense that gave rise to the first trial.

The classification of a word or phrase as a term of art can have legal consequences. In *Molzof v. United States*, 502 U.S. 301, 112 S. Ct. 711, 116 L. Ed. 2d 731 (1992). Shirley M. Molzof brought suit against the federal government after her husband, Robert E. Molzof, suffered irreversible brain damage while under the care of government hospital workers. The federal government conceded liability, and the parties tried the issue of damages before the U.S. District Court for the Western District of Wisconsin. Molzof had brought the claim as executor of her husband's estate under the **Federal Tort Claims Act** (FTCA) (28 U.S.C.A. §§ 1346(b), 2671-2680 [1988]), which prohibits the assessment of Punitive Damages against the federal government. The court granted recovery to Molzof for her husband's injuries that resulted from the Negligence of federal employees, but it denied recovery for future medical expenses and for loss of enjoyment of life. According to the court, such damages were punitive damages, which could not be recovered against the federal government.

The U.S. Court of Appeals for the Seventh Circuit agreed with the trial court, but the U.S. Supreme Court disagreed. According to the Court, punitive damages

is a legal term of art that has a widely accepted common-law meaning under state law. Congress was aware of this meaning at the time it passed the FTCA. Under traditional common-law principles, punitive damages are designed to punish a party. Since damages for future medical expenses and for loss of enjoyment of life were meant to compensate Molzof rather than punish the government, the Court reversed the decision and remanded the case to the Seventh Circuit.

When we are interacting with it in any way, the legal system constantly and subversively presumes and construes **our** every use of language as being the same as its own legal terms of art rather than the *real* common English meaning and usage. The primary reason that there is any misunderstanding at all about this fact is because those operating professionally within the system are constantly telling the rest of us that, unless the law creates a specific definition for a given term or phrase, then, they too are *always* using regular English words and sentences in their everyday common and ordinary meaning and context, rather than legal terms and phrases of art having an entirely legal meaning and context.

But this is a lie, because they have neither the authority nor any legitimate purpose for addressing or dealing with any one of we the People except in the context of, and in relationship to, some breach of law or legal duty and any related legal process associated therewith. This is the entire reason that the system of law has developed its own language, as well as law-related dictionaries containing the definitions of its legal terms and phrases. These legal dictionaries are positive proof that a term or phrase of art actually means something different when used in relation to law, which is the only way that *our public servants and the courts* can use it, as differentiated from the common English manner that we the People use that identical word or phrase every day.

II. Unconstitutional Executive and Judicial Expansion of Legislative Intent, Purpose and Scope of Legislation.

A. Unconstitutional Executive and Judicial Expansion of Legislative Subject Matter.

(1) Unconstitutional Executive and Judicial Expansion of Legislative Intent

(2) Unconstitutional interpretation of statutes as being completely independent of the subject matter context of the legislation as a whole, thus furthering the unconstitutionally of the executive and judicial department's reading and interpretation by converting the object of the statute into isolated legislative subjects unto themselves.

(3) Unconstitutional facilitation and propagation of numerous unrebuttable legal presumptions by the courts themselves that:

(a) a known legal duty actually existed in the first instance; and

(b) the known legal duty was applicable and binding upon the accused; and

(c) the accused individual knowingly and willfully breached that known legal duty; and

(d) the unrebuttable allegation of a breach of legal duty being made by other agents of the State is actually lawfully and legally true; and

these unrebuttable legal presumptions are then used to provide the State and the court the necessary legal grounds for asserting that *in personam* jurisdiction over the accused exists simply due to the allegation of breach that is actually being made by *other* agents of the State who read and comprehend at an even lower level than the prosecutors and the courts.

(4) Unconstitutional interpretation, expansion, and application of South Carolina

"Transportation" Code to the general public effectively creates a predatory revenue system where the STATE is the predator and considers the people to be its prey. The STATE uses the South Carolina "Transportation" Code to unconstitutionally and illegally harass and prey upon those who refuse or have no desire to participate in any commercial use of the roads and highways, but are simply acting in their own private common law capacity to exercise their right to liberty through locomotion as their means and whim moves them to do. Locomotion, the right to move about as one's private needs or desires dictate, is a fundamental inherent right of liberty, and is not subject to permissive license or punitive sanction by our government simply because we choose to freely exercise and enjoy these rights as either an individual or group.

(5) Unconstitutional interpretation, expansion, and application of South Carolina

"Transportation" Code to the general public effectively converts the right to liberty through locomotion into a privilege for which the people must now "pay to play" in order to even use their own private property for its intended purpose of travel upon the public right-of-way that they have every right to access and make use of without STATE permission of any kind. The public is the rightful owner of the roads and highways, not the governmental or corporate STATE. The people never empowered their servant government to steal away their rights and convert them into privileges that we must buy back one-by-one in order to access and exercise them, but that is precisely what these unconstitutional governmental actions have done.

B. Unconstitutional Governmental Taking and Conversion of the Public Right-of-Way into a Private Revenue Source for the STATE OF SOUTH CAROLINA and Other Corporate Entities.

(1) By fraudulently converting the People's right to access and use the public right-of-way for their own private business and pleasure, THE STATE OF SOUTH CAROLINA corporation has not only unlawfully stolen a public resource rightfully belonging to the People of South Carolina, it has converted that right into a privilege held for ransom at the whim of the STATE itself. The People of South Carolina created and appointed our government as the protector of our rights, liberty, and property, both private and public. The government is nothing more than an elected and appointed caretaker of that property, *not* the rightful *owner*. The government was not given any delegated power to act or presume that its caretaking authority extended to requiring any individual member of the People to "qualify" with some governmentally devised standard before they may use what is already rightfully theirs, the public right-of-way, for its lawful intended purpose, to serve the People as a way to travel from place-to-place as their whims, desires, or needs motivated them.

(2) THE STATE OF SOUTH CAROLINA corporation has based its ransoming of the People's right to liberty through locomotion upon the coerced acceptance and obedience to all the regulatory fees and rules of the South Carolina "Transportation" Code. THE STATE OF SOUTH CAROLINA corporation, and the executive and judicial departments therein, have conspired and colluded to create the appearance to the general public that this unlawful application of a regulatory code to their private lives and activities is a legitimate use of the police power. This deception is put forth despite the

clear limitations of the legislation itself to only those using the road and highways for the commercial purpose of generating private profit or gain. This further translates into a requirement upon the People to pay THE STATE's extortive ransom in order to exercise their fundamental rights, and has been wrongfully and unlawfully ruled upon as being "constitutional" under the "police power" by the South Carolina Courts. This intentional misinterpretation and misapplication of the regulatory code is declared "constitutional" despite the readily apparent fact that every privately traveling member of the public is then compelled into an involuntary mandatory requirement to either waive, or *purchase* through licensing fees, many of their fundamentally protected rights if they wish to "pay-to-play" upon the very public right-of-way that they already have every natural right to access and use.

(3) This serves to convert the People's individual right of access and use of the public right-of-way into a licensed and revocable-at-will privilege that THE STATE OF SOUTH CAROLINA corporation may grant or revoke at its own pleasure, thus, despotically taxing, controlling, monitoring, and tracking the People's movements, as well as where they live and work.

(4) Unconstitutional interpretation, expansion, and application of the South Carolina "Transportation" Code to the general public effectively creates a total ban upon *any* private use of a car or truck upon the public right-of-way. How can this be said to be anything other than an unconstitutional governmental taking when it prohibits the rightful use of both private property and a public resource to every member of the public that lawfully purchased an automobile for private non-commercial use only? Especially when THE STATE threatens and coerces the public into accepting THE STATE's fraudulent conversion of both our private property and our public resources for its own

exclusive use as a means of generating private profit or gain by then selling our inherent fundamental right to access the public right of-way back to we the People through mandatory licensing and registration fees?

This total ban upon private personal use of the public right-of-way is an unconstitutional governmental taking and conversion of every privately owned automobile (car, truck, etc.) into a regulated "commercial/ motor/vehicle" that is then unlawfully presumed to *always* be engaged in "transportation" upon the public right-of-way, even when that private property is *not* being "used" for "transportation" to "transport" passengers, property, or goods upon the public right-of-way for the extraordinary purpose of generating private profit or gain. This unconstitutional taking not only deprives the individual property owner of the rightful intended purpose and use of that property for private noncommercial purposes, it also requires the owner to first acquire a grant of governmental permission via fee-based licensing before they can legally make any use of it at all. This willful misinterpretation and misapplication of regulatory statute unlawfully converts private property into commercial use property without full disclosure to the public or the knowing and willful consent of the private property owner, thus replacing the owner's private property interest in the automobile with the commercial revenue interests of THE STATE.

THE STATE then enforces the collection of its profits by using coercive fraud backed by threats of punishment and violence from its crooked revenue collection courts and poorly trained executive functionaries! People are being seriously injured or *killed* on an almost routine basis by executive law enforcement officers that understand little to nothing about the laws they enforce or to whom and what they properly apply, while the

courts pretend that the officer knew what do and did it properly despite the clear and damning evidence to the contrary. How can any legislative, executive, or judicial officer or body loudly and boldly proclaim with a straight face that these statutes and their enforcement are about public safety when it is *their* very own ill-advised rights destroying legislation, enforcement, and rulings that are solely responsible for injuring or killing members of that very same public by the hundreds and thousands? This is further compounded by the absolutely fraudulent and malicious refusal by every level of our South Carolina Courts to recognize the inherent fundamental right of the People to move about freely upon the public right-of-way while using their own private property (automobile), without THE STATE's permission or tracking programs interfering, or to even see and understand the entirety of the "Transportation" Code for the *commercial-only* regulatory scheme that it is. None of this is any less true even when examined as an unconstitutional taking of the Public's right to freely access and make use of the public right-of-way with that same property, which is the fundamentally intended lawful and ordinary purpose of both the property and the public resource, to serve the people individually and/or collectively in the pursuit of their own private business and pleasure.

(5) State granted privileges are fee-based favors from the government that regulate taxable commercial activities; and are, by nature and definition, discriminatory, and show an improper "respect of persons" by discriminating against and oppressing persons who are poor, homeless, elderly, handicapped, infirmed, ex-felons (non-violent, victimless crimes) who need to work and protect themselves and their families, the disenfranchised who live, work and travel in remote wilderness areas where they are at risk from predatory animal attack, those who simply want their privacy and to be let alone, and those people who

chose to remain private and not engage in commercial revenue generating (taxable) state privileges, especially upon the public right-of-way.

- (6). Only those individuals who will ignorantly waive their superior inherent unalienable fundamental non-statutory rights for the purpose of applying for and obtaining a governmental privilege, and who promises to obey the everchanging rules and regulations of THE STATE's statutory schemes, are granted access to THE STATE's "pay-to-play" system.

A system whereby the people's rightful access and use of the public right-of-way is unconstitutionally held for ransom by the threat of punitive sanctions and violent use of force, up to and including the use of deadly force, by the very same STATE actors that swore an oath to uphold and protect those very same individual rights to acquire and make use of private property for any lawful purpose for which it is designed or intended, and to have access and make use of all public property for private non-commercial purposes, including, but not limited to, the public right-of-way.

III. Unlawful Suspension of Multiple Constitutional Protections, Prohibitions and Provisions.

- A. Constitutional requirements and prohibitions cannot be waived, violated, or presumed ineffective simply by making an application for some benefit or privilege, or by contracting or consenting to waive such requirements.
- B. Neither creation nor acceptance of any "Certificate of Title" or "License" instrument can create a nexus where any of the provisions of the South Carolina Constitution, or the Bill of Rights contained therein, becomes void and of no effect.

- C. Voluntary registration of an automobile for the purpose of enrolling in state provided services relating to "theft prevention and recovery" cannot create a nexus where any of the provisions of the South Carolina Constitution, or the Bill of Rights contained therein, becomes void and of no effect.
- D. An opinion by any court that purports to remove the subject matter context of "transportation" from the adjudication of the facts and evidence of a "transportation" related offense is not simply harmless error or an innocent misinterpretation of the statutes in general. It is a knowing and willful unconstitutional attempt to judicially legislate from the bench.
- E. Such an opinion by a court would further act unconstitutionally by judicially altering the contextual character and nature of the original legislation, changing it from a collection of statutes applicable to a specific subject and context designed and intended to regulate a specific class of legal "persons" that are engaging in a specific contextually related activity, into a constitutionally and legislatively unintended collection of general laws applicable to every individual member of the public at large.
- F. Such an opinion would also serve to fundamentally alter and/or totally ignore and discard long-standing legal interpretations, subject matter expert opinions, and all relevant recognized professional and occupational standards of usage and meaning relating to the particularized subject matter context that defines "transportation" as a legal term of art encompassing only that specific class of activities involving the use of "commercial/ motor/ vehicles" upon the highways for commercial purposes intended to generate private profit or gain.

G. To apply any title, definition, section, or provision of the South Carolina "Transportation" Code to any activity or individual that is acting in their private common law capacity, outside of the specific subject matter context of "transportation," is an unconstitutional executive and judicial expansion and misapplication of the legislative intent and purpose of the statutes codified within the "Transportation" Code.

H. The failure of a trial court to make it mandatory that the State *must* allege the element of "transportation" within the charging instrument relating to any alleged offense codified within the South Carolina "Transportation" Code, and then prove that specific primary element at trial by showing admissible substantive evidence that the accused individual was actively engaging in "transportation" at the time of the alleged offense, invariably creates multiple unconstitutional instances where the accused individual's right to due process are directly violated. To wit:

- (1) In the first instance, due process is denied because the investigating/arresting officer neither reasonably has nor can reasonably develop any form of reasonable suspicion or probable cause to believe that a private noncommercial automobile is actively engaged in any activity encompassed within the subject matter context of "transportation" simply by looking at it alongside one or two *other* statutory elements pertinent to some perceived or concocted offense that is itself completely dependent upon that primary fact element already demonstrably existing. In which case, if there is no specific set of articulable facts known to an officer that would lead him/her to believe first and foremost that "transportation" is actually being engaged in, then no reasonable suspicion or probable exists to believe that any contextually related "transportation" offense was or

is being committed, making the initial warrantless stop completely unconstitutional and illegal.

(2) In the second instance, due process is denied by multiple agents of the State whose unconstitutional and wholly presumptive and unsubstantiated presumption and allegation that *in personam* jurisdiction over the accused individual actually exists under the jurisdictional umbrella of the South Carolina "Transportation" Code, and that s/he breached some known legal duty codified therein.

The unconstitutional un rebuttable presumption being that, an individual who was acting entirely within their private common law capacity, and who did not violate any common law requirement to exercise due care so as to avoid causing an unjust harm to another person or private property, and who *was not* and *is not* acting in the legal capacity of any legal "person" defined within and regulated by the South Carolina "Transportation" Code, is actually subject to, and could actually breach a legal duty associated with, the specific subject matter context of "transportation" as encompassed by said Code.

(3) In the third instance, due process is denied by the court's own failure to ensure that a probable cause determination and written order was properly made in accordance with law.

The courts of South Carolina are guilty of egregious error in their judicial determinations and opinions that directly violate the written laws of criminal procedure, while doing absolutely nothing to serve the ends of justice. These determinations and opinions arbitrarily act and serve to deny an accused individual in their due process right to a proper determination of probable cause in *any* criminal case initiated against them by a warrantless seizure and arrest of persons or property. As well as the right to have that

determination made by a neutral and detached magistrate who is acting in compliance with *all* of the proper rules and processes of the Code of Criminal Procedure. "An ordinary traffic stop by a police officer is a "seizure" within the meaning of the Fourth Amendment. *Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979); *U.S. v. Blair*, 524 F.3d 740, 748 (6th Cir. 2008)

To say that the right of a proper probable cause determination and order belongs only to those being charged with a felony level offense is a disingenuous affectation of fairness that, at its heart, actually conceals a violation of the equal application and protections clause that is shocking to the conscience.

(4) In the fourth instance, due process is denied by the prosecution's failure to both allege and prove the existence of "transportation" as the primary element of any "transportation" related offense, as this invariably creates an unconstitutional un rebuttable presumption of guilt of *the* primary essential element of any 'criminal' allegation involving "transportation."

Every accused individual is simply presumed guilty of that relevant and essential primary fact element when accused of any "transportation" related offense. An offense that is entirely dependent upon both the subject matter context of "transportation," and proof that the individual was actually engaged in some specifically identifiable act within the subject matter context of "transportation" at the time of the alleged offense. This unconstitutional presumption of guilt in relation to the primary fact element of the allegation is then used to fraudulently reinforce the State's equally false and unsubstantiated presumption and assertion that *in personam* jurisdiction over the accused individual actually exists.

(5) In the fifth instance, an un rebuttable presumption of this nature denies the fundamental requirement that an accused individual is entitled to be presumed innocent of *every single element* of an alleged offense, not just those that the State cares to allege or considers the easiest to offer evidentiary proof in support of. The constitutionally protected right of substantive and procedural due process *requires* that the State be made to prove every single fact element of the allegation being made against an individual. These un rebuttable presumptions of legal and substantive fact are unconstitutional precisely because they act in direct contradiction of these rights.

(6) In the sixth instance, an un rebuttable presumption of this nature fails to provide proper, sufficient, and timely notice of every specific element of the charge being made against the individual, thus depriving them of an affirmative defense that is naturally inherent in the statutes and their controlling subject matter context. Specifically, that the accused individual was *not* engaged in the regulated subject matter activity of "transportation" at the time of the alleged offense, and, therefore, could not have breached any known legal duty associated therewith as codified within the South Carolina "Transportation" Code.

(7) In the seventh instance, an un rebuttable presumption of this nature, unconstitutionally relieves the prosecution of having to submit lawfully obtained admissible evidence proving every individual element of the allegation to a jury or to a magistrate in a bench trial, of which "transportation" is the primary essential element, with all other elements being subjectively and contextually dependent thereon.

(8) In the eighth instance, an un rebuttable presumption of this nature unconstitutionally relieves the prosecution of having to prove that the warrantless seizure of any evidence proving the individual was actually engaged in "transportation" at the time of the alleged offense was constitutionally proper by being based upon articulable facts that would serve to establish probable cause to believe that the accused individual was actually engaged in "transportation" at the time of the alleged offense.

Absent any specific articulable facts that would provide probable cause to believe the contextual existence of "transportation" at the time of the alleged offense and the officer's initial contact, the warrantless seizure and arrest of the individual by the officer is inherently unconstitutional, and any 'evidence' found or seized under the auspices of such an arrest is to be considered inadmissible under the "fruit of the poison tree" doctrine.

(9) In the ninth instance, an un rebuttable presumption of this nature unconstitutionally relieves the State of its burden to prove probable cause and obtain an appealable probable cause determination order stating that the facts and evidence provided to the issuing magistrate supported the judicial determination that the accused individual actually *was* engaged in "transportation" at the time of the alleged offense and was also most likely guilty of all other essential elements of the alleged offense.

The facts and evidence supporting a finding of probable cause to believe that the accused individual was actively engaged in some "transportation" related activity is imperative to establishing the necessary belief that any and all of the other essential elements of some specific "transportation" related offense could even possibly be true, as there is no other legal subject matter context in which offenses relating to "transportation" may be read,

understood, and applied. Therefore, if there is no "transportation" context, there can be no "transportation" related offense, which means that there are no factual elements of such an offense upon which to base a finding of probable cause.

(10) In the tenth instance, an un rebuttable presumption of this nature unconstitutionally shifts the burden of proof to the individual by requiring him/her to prove that s/he is not guilty of that specific primary element, because s/he was not engaged in the regulated subject matter activity of "transportation" at the time of the alleged offense, and, thus, could not have breached any known legal duty so as to result in the commission of an offense under the context of the South Carolina "Transportation" Code.

(11) In the eleventh instance, an un rebuttable presumption of this nature unconstitutionally separates the underlying statutes and objects within the "transportation" code into individual subjects that are then treated by the executive and judicial branches of government as being completely independent of the subject matter context of the enacting legislation.

By unconstitutionally converting the subordinate objects of the South Carolina "Transportation" Code into completely legislation independent subjects, THE STATE, via local prosecutors and every level of court, are completely free to prosecute and adjudicate them as isolated offenses with no legal context beyond themselves and having no relevant relationship or dependency upon the specific legislatively defined subject matter context of "transportation."

IV. The Executive and Judicial Branches of South Carolina Government Are Guilty of Knowingly and Willingly Conspiring and Colluding to Engage in an Ongoing Criminal

Enterprise for the Specific Purpose of Perpetrating Fraud Through Numerous and Constitutionally Egregious Deprivations of Individual Rights Under Color of Law.

A. The Executive Departments Criminal and Civil Liability Exposed.

- (1) The officers and employees of the executive department of South Carolina government knowingly and willfully fail or intentionally miseducate and misinform local and state law enforcement personnel on the specific legal meaning and limitations of "transportation" that would serve to establish the necessary legal parameters for properly applying and enforcing the South Carolina "Transportation" Code.
- (2) Demonstrative evidence of this fact can be easily verified, and the assertion thus proven, by even the most superficial reading of any police incident report involving the allegation of virtually any "transportation" related offense.
- (3) No documentation proving that the arrested individual was ever notified of their fundamentally protected right to counsel and to remain silent, or was ever given any meaningful opportunity to exercise those rights in every possible self-protective manner without threat, duress, or coercion perpetrated by any officer on the scene.
- (4) No documentation proving that the right of the arrested individual to be free from any unreasonable search and seizure was ever recognized or considered by the arresting officer, despite the officer's complete lack of any facts or evidence providing probable cause to believe that the arrested individual was ever engaged in "transportation" at the time of the alleged offense.
- (5) No documentation proving that the arrested individual was ever notified or given any meaningful opportunity to exercise their fundamentally protected right to counsel and remain silent in every relevant and self-protective manner.

(6) Invariably, you will find the following legal deficiencies and due process violations contained within the police records:

(a) No mention of any investigative questions intended toward discovering whether or not the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

(b) No mention of any evidence having been discovered proving the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

Admissible forms of evidence proving the existence of the context of "transportation" can exist in only one or more of four specific forms:

1. Commercial log book showing that the accused individual was "on the clock" at the time of the alleged offense.

2. Passenger manifest proving a business related activity, and the actual presence of some other individual named therein as having engaged the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

3. Bill of lading proving a business related activity, and the actual presence of some property or goods named therein as being in the custody and possession of the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

4. A voluntarily signed confession that the accused individual was actively engaged in "transportation" at the time of the alleged offense.

(c) Even if such evidence is shown to have been presented at trial, there will be no evidence admitted into the record proving that the search and seizure of that evidence was

lawfully valid as it would be the fruit of a presumptively unlawful warrantless arrest --

which means that the evidence is inherently inadmissible absent supporting evidence of a

lawful arrest, search, and seizure of same, which can be proven only by a properly issued

warrant or signed order of probable cause.

B. The Judicial Departments Criminal and Civil Liability Exposed.

(1) The officers and employees of the judicial department of South Carolina government

knowingly and willfully fail or intentionally miseducate and misinform local and state

executive law enforcement officers, judicial personnel, prosecutors, and defense attorneys, on

the specific legal meaning and limitations of "transportation" that would otherwise serve to

establish the necessary legal parameters for properly applying and adjudicating all South

Carolina "Transportation" Code offenses.

(2) Demonstrative evidence of this fact can be easily verified, and the assertion thus proven,

by even the most superficial reading of any court record involving the prosecution and

adjudication of virtually any "transportation" related offense.

(3) No documentation proving that the arrested individual was ever notified of their

fundamentally protected right to counsel and to remain silent, or was ever given any

meaningful opportunity to exercise those rights in every possible self-protective manner

without threat, duress, or coercion perpetrated by any officer on the scene.

(4) No documentation proving that the right of the arrested individual to be free from any

unreasonable search and seizure was ever recognized or considered by the arresting officer,

despite the officer's complete lack of any facts or evidence providing probable cause to

believe that the arrested individual was ever engaged in "transportation" at the time of the

alleged offense.

(5) No documentation proving that the arrested individual was ever notified or given any meaningful opportunity to exercise their fundamentally protected right to counsel and remain silent in every relevant and self-protective manner.

(6) Invariably, you will find the following legal deficiencies in admissible and substantive evidence and numerous un/related due process violations contained within the court record:

(a) No mention of any investigative questions intended toward discovering whether or not the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

(b) No mention of any evidence having been discovered proving the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

Admissible forms of evidence proving the existence of the context of "transportation" can exist in only one or more of four specific forms:

1. Commercial log book showing that the accused individual was "on the clock" at the time of the alleged offense.

2. Passenger manifest proving a business related activity, and the actual presence of some other individual named therein as having engaged the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

3. Bill of lading proving a business related activity, and the actual presence of some property or goods named therein as being in the custody and possession of the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

4. A voluntarily signed confession that the accused individual was actively engaged in "transportation" at the time of the alleged offense.

(c) Even if such evidence is shown to have been presented at trial, there will be no evidence admitted into the record proving that the search and seizure of that evidence was lawfully valid as it would be the fruit of a presumptively unlawful warrantless arrest...which means that the evidence is inherently inadmissible absent supporting evidence of a lawful arrest, search, and seizure of same, which can be proven only by a properly issued warrant or signed order of probable cause.

(d) No appealable determination of probable cause or supporting order, which, if existing, would then serve to prove that an unlawful *ex parte* evidentiary proceeding took place where someone presented facts and evidence relevant to the material facts of the case without notice and opportunity of any kind being provided to the accused individual to present and oppose any facts or evidence being submitted against them.

(e) No order of appointed counsel despite there also being no knowing and voluntary signed waiver of counsel, because the language of legalese has concluded that the term "all" doesn't really always mean "every one of."

(f) Documents with dates and times that prove there were numerous proceedings in the prosecution despite there being no verified complaint and/or proper charging instrument in the form of an indictment or information having ever been filed with the court prior to such proceedings.

(g) Failure to file a proper criminal complaint and charging instrument prevents the starting of the speedy trial clock and, thus, allows all of the preliminary procedures of the

prosecution to be completed *without* speedy trial protections being afforded to the Accused, which violates the rights of the accused to a speedy trial by preventing the proper computation of time.

This also means that, if the filing of a complaint and/or information is the *minimum* requirement to properly invest a court with jurisdiction of a cause, then each and every one of those proceedings was conducted entirely *without* the court having even the *prima facie* appearance of proper jurisdiction.

(h) A factually and facially insufficient criminal complaint.

(i) No proper charging instrument in the form of an indictment or information properly invoking the subject matter and *in personam* jurisdiction of the court.

(j) No actual evidence of either the subject matter or *in personam* jurisdiction of the court having ever been constitutionally and legally invoked.

(k) No actual admissible evidence proving every element of the alleged offense.

(l) Affiant on criminal complaint against the accused is a clerk of the court adjudicating the case, and as such, is for all intents and purposes, an acting agent of the judge adjudicating the case, creating an agency problem where the court is both the accuser and the trier of fact.

(m) The clerk of the court is *also* an official custodian of the court record, within the same court, and in the same case, where the clerk is *also* acting as the criminal accuser and affiant, an employee of the adjudicating court, *and* as an agent of the judge adjudicating the case.

C. Unconstitutional Separation of Subject Matter Context from Statutory Object creates the fraudulent appearance that THE STATE has standing to prosecute Respondent for an offense that, in and of itself, creates an affirmative defense by proving that no actual standing exists.

(1) By fraudulently claiming that the Statutory Object of "driving without a license" is somehow separate and apart from the Subject Matter Context of "transportation," THE STATE creates the fraudulent appearance that it has acquired standing, subject matter, and *in personam* jurisdiction so as to pursue an action against Respondent. Furthermore, THE STATE makes this contention despite there being absolutely no evidence whatsoever that would serve to prove that Respondent was actually engaging in any activity regulated by the "Transportation" Code, which is the only source from which such standing and jurisdiction could flow.

(2) Neither the allegations made in the criminal complaint nor in any related information or indictment is based upon any actual admissible evidence. The alleged "facts" as stated are in and of themselves nothing more than the officer's mere unsubstantiated opinion founded entirely upon his own legal presumptions and conclusions as to what the law is and what it means.

(3) Neither the mere naked allegation of an offense, nor the inadmissible opinion of the officer, is, in and of itself, admissible evidence of a criminal offense allegedly committed by Respondent. One of the leading commentators on standing has written, "Even though the past law of standing is so cluttered and confused that almost every proposition has some exception, the federal courts have consistently adhered to one major proposition without exception: One who has no interest of his own at stake always lacks standing." K. Davis, Administrative Law Text 428-429 (3d ed. 1972).

(4) If Respondent was not engaged in "transportation," and THE STATE has no admissible tangible evidence proving that Respondent was so engaged, then it is legally impossible for THE STATE to have standing or jurisdiction over Respondent as a matter of law. THE STATE has

nothing in the form of actual admissible evidence, but is proceeding merely and entirely upon the wholly unsubstantiated opinion and flawed legal presumptions and conclusions of the officer.

(a) Standing is legally defined as "The position of a person in reference to his capacity to act in a particular instance - 19 Am J2d Corp § 559." Ballentine's Law Dictionary, page 1209.

(b) Arrest may be procured and complaint filed by officers for crimes committed in the presence of the officer. However, a warrantless arrest committed without any articulable facts establishing a basis for probable cause is inherently unlawful.

(c) If an officer cannot articulate specific facts that would lead a reasonable person to believe that the individual being accused of a "transportation" related offense was actually engaging in the regulated activity of "*transportation*," rather than merely exercising his or her common law right of liberty through locomotion by simply traveling down the highway for his/her own personal business or pleasure, then that officer lacks the fundamental elements necessary for articulable probable cause.

(d) Without the context and existence of "*transportation*," everything else that follows, i.e. "*commercial/ motor/ vehicle*," "*drive/ operate*" or any grammatical variation thereof, or any alleged "*transportation*" related and dependent offense, is not simply a mistake of law, it is entirely the officer's legally flawed personal opinion based solely upon his or her own factually and evidentiary unsubstantiated legal presumptions and conclusions--presumptions and conclusions that the officer is not competently and legally qualified to even make, much less testify to.

(e) The "Supreme Court" has held consistent with this principal of standing: "the duty of this court, as of every judicial tribunal, is limited to determining rights of persons or of property, which are actually controverted." (Tyler v. Judges of the Court of Registration, 179 US 405,

414 (1900)); "Courts only adjudicate justiciable controversies." (United States v. Interstate Commerce Commission, 337 US 426, 430 (1949)).

(f) "As a general principal, standing to invoke the judicial process requires an actual justiciable controversy as to which the complainant has a real interest in the ultimate adjudication because he or she has either suffered or is about to suffer an injury." (People v. Superior Court, 126 Cal.Rptr.2d 793, 103 Cal. App. 4th 409 (2002)).

(g) "In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." (Warth v. Seldin, 422 U.S. 490, 498 (1975)).

(h) "The requirement of standing, however, has a core component derived directly from the Constitution. A plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." (Allen v. Wright, 468 U.S. 737, 751 (1984))

(i) "[P]rudential standing encompasses the general prohibition on a litigant's raising another person's legal rights..." (Elk Grove Unified School District et al. v. Newdow et al., 542 U.S. 1 (2004)).

(j) So, Where do cops derive standing too prosecute cause of action on behalf of others for personal injury claim, by a disinterested alleged victim? They do it all the time.

(k) "A complaint must contain a statement of facts showing the jurisdiction of the court, ownership of a right by plaintiff, violation of that right by the defendant, injury resulting to plaintiff by such violation, justification for equitable relief where that is sought, and a demand for relief." (Pierce v. Wagner, 134 F.2d. 958). "The complaint, on its face, must show that the plaintiff has the better right." (Rogers v. Shannon 52 C. 99 (1877)).

(I) Standing consists of two absolutely essential elements:

1) violation of a legal right, and

2) personal injury. *Cas. Co. v. Certain Underwriters at Lloyd's of London*, 119 F.3d 619, 625 (8th Cir. 1997))

D. This is an inherent problem associated with allowing "statutory revision committees" to rewrite the statutes applying the underlying law while having no public responsibility or accountability to fully research the actual laws *in pari materia*. These alterations are then submitted to a legislature that fails to fully read and discuss them as mandated by the South Carolina Constitution.

By constant, potentially even willful, misinterpretation, altering of language, and obfuscating the real meaning of terms and phrases within multiple levels of intentionally obtuse language and uses of self-referencing circular logic definitions, these committees unconstitutionally alter the original legislative purpose and intent of the statutes in much the same manner the courts do by refusing to interpret and apply the law consistent with its language and the specific subject matter context of the legislative Bill that originally created it.

CONCLUSION

For all of the above reasons, a motion is made to move the court to rule the entire South Carolina Transportation Statutes to be unconstitutional as applied to a citizen's rights under the Common Law to travel upon the public highways, not for commercial gain or activity.

WHEREFORE the Accused moves this court to dismiss this complaint with prejudice.

John D. Dalen

109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705



John Dalen, Accused Pro Per
June 28, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

John Dalen,

ACCUSED

Pro Per

Accused's Motion for Offer of Plea

Summons No. 5102P0778082

Accused's Motion for Offer of Plea

Your Honor, the Accused hereby offers to enter a plea of guilty contingent upon this court establishing its jurisdiction on the record and informing me of the nature and cause of the charges leveled against me.

Discussion

I have objected to the court entering a plea on my behalf as a violation of my rights to due process. I have also noticed this court that subject matter jurisdiction is lacking in this case. And I have also filed several motions that have either not been ruled on or have been ruled on while ignoring the substantive issues that were raised. I have also requested a pretrial hearing which this court has scheduled for the day of the trial, which leaves me no time to prepare an adequate defense. Therefore, I move the court to schedule a pretrial hearing at least two weeks prior to any scheduled trial so that: 1) the complaining party, not the judge, can present evidence of jurisdiction as required by law to validate his complaint, 2) the motions for dismissal, notice of adjudicated facts, as well as this motion can be responsively addressed, and 3) that I be fully informed of the nature and cause of the charges against me so that I may prepare an adequate defense.

To date, I have seen no evidence that the statute in question applies to me. Can you confirm that the complaining party has presented facts proving the code applies and that you have jurisdiction over me? Isn't the applicability of the code an essential element of a code violation?

And, as an element of the violation, it must be proven beyond a reasonable doubt by facts from a competent witness, someone who has personal knowledge of the matter?

Conclusion

Your Honor, I demand all of my rights at all times as guaranteed to me by the United States Constitution as well as the South Carolina State Constitution and I will exercise all available, lawful remedies to which I am entitled in defense of these rights.

WHEREFORE the Accused moves this court to schedule a pretrial hearing. In the interests of justice and a fair trial by an impartial judge, the accused moves this court to schedule a pretrial hearing in advance of the trial by at least ten working days so that the accused may have answers to the questions just raised under the above discussion, and therefore be able to enter a plea and/or prepare an adequate defense. Or, in the absence of jurisdiction and the lack of evidence thereof, the accused moves this court to dismiss this action with prejudice.

John D. Dalen

109 Wood Valley Dr.

Westminster, SC 29693

864-647-4705



John Dalen, Accused Pro Per

July 10, 2017

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

**Notice of Motion and
Motion for Change of Venue**

John Dalen,

Summons No. 5102P0778082

ACCUSED,

Pro Per

Notice of Motion and Motion for Change of Venue

YOU WILL PLEASE TAKE NOTICE that John Dalen moves this court for a change of venue in the interests of justice; the accused believes that the court is acting without jurisdiction. Jurisdiction has not been proved on the record and I believe the judge in this case is biased against the accused due to filings of the accused that have upset the judge, including a Notice of Intent to Sue which names the judge as a defendant.

All courts have a duty to protect the rights of the citizens. This court can do so by granting a change of venue to eliminate even the appearance of bias in this case.

WHEREFORE the Accused moves this court to grant change of venue to the Tenth Judicial Circuit Court for the County of Oconee, or dismiss this action immediately.

John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705



John Dalen, Accused Pro Per
August 11, 2017

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2017 CP-37-00490

**Notice of Motion and
Motion for New Trial and /or
Amendment of Judgment**

DEFENDANT,

YOU WILL PLEASE TAKE NOTICE that John Dalen moves this court to amend its judgment dated March 1, 2018, which was received by the Plaintiff on March 3, 2018, or in the alternative, grant a new trial on all of the issues. This Motion is made pursuant to Rule 59, SCRCP, Rule 59(a) and Rule 59(e). Affidavit of the Plaintiff is attached.

1) The court has no subject matter jurisdiction. The State cannot convert rights into privileges and charge a fee for the exercise thereof. The Supreme Court has repeatedly ruled on this issue. John Dalen was clearly engaged in the exercise of a Constitutional right when he was unlawfully arrested by Trooper A.M. Taylor. Along with other troopers present, Trooper Taylor has engaged in a conspiracy to deny me, John Dalen my Constitutionally-protected rights, and has acted without any lawful authority.

The definitions of "person", "motor vehicle", and "drive", as well as the requirement to obtain a "license" apply only to commercial or for hire activities as the Supreme

Court repeatedly ruled. I have a right to rely on the decisions of the Supreme Court. No evidence has been presented by the state that John Dalen was engaged in any commercial or for hire activity at the time of his unlawful arrest.

Under South Carolina Code of Laws, Title 16, Sec. 5, Offenses against Civil Rights, the aforementioned troopers have committed a criminal felony, by violating the rights of John Dalen. (Sec. 16-5-10). My rights constitute my property. Under Title

16, Chapter 5, (Sec. 16-5-30) it is the court's duty to take all legal means necessary for the protection of such property as is attacked or threatened to be attacked. Any constable, sheriff or magistrate that neglects or refuses to perform his/her duty, shall be liable for the damages done to such property, and shall also be deemed guilty of a misdemeanor in office....

Actions filed under this chapter do not preclude other remedies or actions that are available to the injured party.

2) All courts have a duty to protect the rights of the citizens.

3) My rights to due process of law have been violated, and due to the fact that no crime has been committed, this court does not have subject matter jurisdiction.

Once challenged, subject matter jurisdiction must be proven on the record; it cannot be waived. The court, in its denial of my motion to dismiss has not proven its jurisdiction, but has in fact, acknowledged its lack thereof.

The following case law is applicable and relevant to the issues involved in this case:

- 1) *Hurtado v. California*, 110 U.S. 516, 3 Sup. Ct. 111, 292, 28 L. Ed. 232 (1884)

Due process of law is process according to the law of the land Due process of law in the latter (the Fifth Article of Amendment to the Constitution) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law.... Mr. Justice Matthews, delivering the opinion of the court....

* Note that the 14th Amendment insured that all of the above applies to the states.

- 2) An affirmance results when a judge acts in the clear absence of all

jurisdiction, i.e.,

of authority to act officially over the subject matter in hand, the proceeding coram non judice. In such a case the judge has lost his judicial function; has become a mere private person, and is liable as a trespasser for the damages resulting from his unauthorized acts. Such has been the law from the days of the case of *The Marshalsea*, 10 Coke 68. It was recognized as such in *Bradley v. Fisher*, 13 Wall. (80 U.S.) 335, 351, 20 L. Ed. 646. In *State ex rel. Egan v. Wolever*, 127 Ind. 306, 26 N.E. 762, 732, the court said: 'The converse statement of it is also ancient. Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.' *Manning v. Ketcham*, 58 F.2d 948 (1932).

- 3) *McNutt v. GMAC*, 298 US 178

"The burden of proof of jurisdiction lies with the asserter."

- 4) *Wuest v. Wuest*, 127 P2d 934, 937. *Outboard Marine Corp. v. Thomas*, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985)

"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction."

- 5) The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed. 257 (1821)

- 6) "Officials and judges are deemed to know the law and sworn to uphold the law;

officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America." *Owen vs. City of Independence*, 100 S. Ct. 1398; *Maine vs. Thiboutot*, 100 S. Ct. 2502; and *Hafer vs. Melo*, 502 U.S. 21

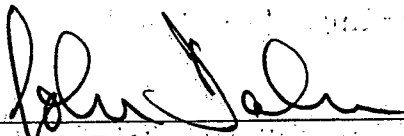
- 7) *Rubinstein v. Collins*, 20 F. 3d 160, 1990

"Failure to disclose material information necessary to prevent a statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law."

My rights to due process of law are being violated, and due to the fact that no crime has been committed, this court does not have subject matter jurisdiction. The State and this Court is attempting to prosecute a case without authority to do so. Once challenged, subject matter jurisdiction must be proven by the court on the record; it cannot be waived. The Plaintiff John Dalen repeatedly has challenged the court's jurisdiction – both personal and subject matter – on this matter and continues to do so.

WHEREFORE, John Dalen moves this court to alter or amend its judgment or in the alternative, grant a new trial. The statute in question can only be enforced upon “persons” exercising privileges and not on individuals exercising Constitutionally-protected rights.

RESPECTFULLY SUBMITTED,



John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705

Dated: March 12, 2018

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 2017 CP-37-00490

John Dalen,

PLAINTIFF,

State of South Carolina,

DEFENDANT,

Notice of Motion and
Motion for Findings of Facts and
Conclusions of Law

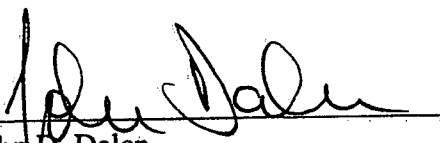
Notice of Motion and Motion for Findings of Facts and Conclusions of Law

YOU WILL PLEASE TAKE NOTICE that John Dalen moves this court to reconsider its decision to deny Plaintiff's Appeal, dated March 1, 2018, which was received by the Plaintiff on March 3, 2018. This Motion is made pursuant to Rule 52, SCRPC, Rule 52(a) and Rule 52(b).

Plaintiff John Dalen requests the Court to set forth the findings of fact and conclusions of law which constitute the grounds of its action. John Dalen believes that there is insufficient evidence in the record to support the findings of this Court.

WHEREFORE the Plaintiff, John Dalen moves this court to find the facts specially and state separately its conclusions of law thereon.

RESPECTFULLY SUBMITTED,


John D. Dalen
109 Wood Valley Dr.
Westminster, SC 29693
864-647-4705

Dated: March 12, 2018

STATE OF SOUTH CAROLINA) IN THE MUNICIPAL COURT

)

COUNTY OF OCONEE)

C.A. NO. 5102-PO-77-8082

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

VERSUS)

JOHN DALEN;)

DEFENDANT.)

* * * * *

TRANSCRIPT OF PROCEEDINGS

* * * * *

PURSUANT TO AGREEMENT, A HEARING WAS HELD ON THE 19TH
DAY OF APRIL, 2017, COMMENCING AT THE HOUR OF 2:23 AM AT
THE WESTMINSTER MUNICIPAL COURT, WESTMINSTER, SOUTH
CAROLINA.

BEFORE:

THE HONORABLE WILLIAM F. DERRICK, JR.

LEGAL EAGLE

Certified Verbatim Reporters

Post Office Box 5682

Greenville, South Carolina 29606

864-587-7050 or 864-467-1373

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APPEARANCES: JOHN DALEN, JR.

JOHN DALEN, JR.

PRO SE.

TROOPER TAYLOR

REPORTED BY: MARLA J. O'BRIEN, CVR-M, ACR

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH
MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE COURT:

2 This is case number 5102-PO-77-8082, State versus John
3 Dalen. That is you, sir? Is that correct?

4 MR. DALEN:

5 That's correct.

6 THE COURT:

7 All right, Mr. Dalen. And you have been charged with a
8 traffic violation of no South Carolina driver's
9 license. And it's my understanding that you have a
10 motion for the Court. I'll be glad to hear it.

11 MR. DALEN:

12 okay. All right, before we start on the motion, I just
13 want to reiterate that it's stated in the motion that
14 my appearance here today is under duress, and under
15 threat of incarceration. And that I object to these
16 proceedings in their entirety, that the Court lacks
17 subject matter jurisdiction, as well as personal
18 jurisdiction. And therefore, I will not be entering
19 any pleas.

20 I have the right to be informed of the nature and
21 cause of the accusations under the Fifth Amendment. I
22 do not understand the charges of the -- or, against me.
23 And that is thoroughly explained in my motion to
24 dismiss.

25 And, it is also the duty of this court to protect

1 my rights and my property. There has been no contract
2 produced, or other authority that gives you either
3 personal or subject matter jurisdiction. Under my
4 common law right to due process, I have a right to have
5 a victim or injured party in this court. I have a
6 right to a jury trial. And the Court is required to
7 prove their jurisdiction, not assume it or presume it.
8 And I'm giving this Court notice and demanding all
9 of my rights under the common law, including my right
10 to trial by jury. Again, I do not understand the
11 charges against me, based on the fact that I was not
12 engaged in any commercial activities. I was exercising
13 a right to travel. If I could, I'd like to hand out a
14 couple more documents.

15 THE COURT:

16 Sure.

17 MR. DALEN:

18 This is from American Jurisprudence. It's basically a
19 handbook for judges, and it tells you that the purpose
20 of the courts is -- the core function is the protection
21 of constitutional rights.

22 THE COURT:

23 Okay.

24 MR. DALEN:

25 And I'll give you one, also.

1 And then, also, I want to inform you of a law that
2 we have in South Carolina, Chapter 5, Offenses Against
3 Civil Rights. I'll give you a copy of that, also.

4 And it says in this law, Section 16-5-30, any
5 constable, sheriff, or magistrate, upon receipt of
6 notice from any person, that has knowledge of an
7 intention or attempt to destroy his property, shall
8 take all legal means necessary for the protection of
9 such property. My rights are also considered my
10 property. And I am informing you that under Section
11 16-5-10, the office -- the officers involved in this
12 action conspired to violate my constitutionally
13 protected rights.

14 Okay. Now we have the motion, in which I explain
15 that I have a right to travel. I think that is what I
16 was doing on the day in question.

17 Do I need to read through this whole thing, or...

18 THE COURT:

19 No, sir. You can just go over it briefly, and I'll
20 take it into consideration.

21 MR. DALEN:

22 Okay. Basically, I was exercising a right to travel
23 under the Constitution, and the Supreme Court backs
24 this up with numerous Supreme Court cases that are all
25 in this motion. That unless I am transporting property

1 for hire or otherwise engaged in commerce on the
2 highway, I have a right to travel. And my personal
3 property, which was my van that I was driving, is not
4 required -- I'm not required to have a license. Okay,
5 the definitions in here are all spelled out for you.

6 THE COURT:

7 Uh-huh.

8 MR. DALEN:

9 If you're using different definitions, I would like to
10 know what they are, because I'm following the Supreme
11 Court, and the Supreme Court tells me what these
12 definitions mean.

13 And I really don't need to read all this to you,
14 and it's all here. You can't convert a right into a
15 crime, and that's, in effect, what is happening here,
16 attempting to convert a privilege -- I mean, a right
17 into a privilege. And I am asking you what your
18 authority is to do that. And therefore, if you do not
19 have that authority, you do not have jurisdiction to
20 have this trial or detain me in any way.

21 THE COURT:

22 All right. Anything else?

23 MR. DALEN:

24 Yeah, I did have one other thing that I just wanted to
25 ask. Back in 2010, I actually had a driver's license

1 from another state. And when I went to get a South
2 Carolina license, I was told -- well, I'm going to wait
3 until you're done reading that.

4 THE COURT:

5 well, actually, I'm not going to let you. Obviously,
6 you're challenging the jurisdiction of the Court. Any
7 facts regarding the case, I'm not going to let you go
8 into at this point, because it might affect your
9 constitutional rights.

10 If I find for your motion, obviously, that would
11 end the case at that point. But if I find against it,
12 anything you may say regarding the actual ticket may
13 threaten that case for you. And I don't want you to
14 violate your rights, or your right to remain silent as
15 far as that's concerned.

16 MR. DALEN:

17 okay.

18 THE COURT:

19 so that would be my concern in you doing that. What
20 I'm going to do as far as your motion for lack of
21 jurisdiction is take it into consideration. I do want
22 to read through it, and everything you presented. I
23 will then make a decision on that and mail it out to
24 you.

25 MR. DALEN:

1 Okay.

2 MR. DALEN:

3 At that point, depending on how I rule -- obviously, if
4 I rule for you, the case will be over. If I do not,
5 then I will give you a date and time. I will actually
6 enter into you a plea of not guilty for you, and a jury
7 trial request, which you may change at any time. And
8 we will go from there. Okay?

9 MR. DALEN:

10 Okay with everything there except the entering of a
11 plea for me. I would object to that.

12 THE COURT:

13 Well, at this time, I am not.

14 MR. DALEN:

15 I understand that.

16 THE COURT:

17 If I find against you in this motion, then obviously,
18 there has to be a plea entered. And until you decide
19 differently, that plea will be not guilty to protect
20 your right. Obviously, I'm not going to enter a plea
21 of guilty for you. So it would automatically be a plea
22 of not guilty, and a jury trial request. And we'll go
23 forward at that point, if needed.

24 MR. DALEN:

25 Okay.

1 THE COURT:

2 All right. Thank y'all very much.

3 MR. DALEN:

4 Thank you.

5 THE COURT:

6 I'm sorry. Anything, Trooper Taylor, in response to
7 his motion?

8 TROOPER TAYLOR:

9 No, Your Honor.

10 THE COURT:

11 Okay. Thank you very much.

12 (There being nothing further at this time, the hearing was
13 concluded at 3:34 PM)

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1 CERTIFICATE OF REPORTER
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3 I, Marla J. O'Brien, a Notary Public in and for the
4 State of South Carolina, do hereby certify that the
5 foregoing 10 pages represents a true and accurate transcript
6 of the hearing in the above-referenced matter, which was
7 taken by me on the 19th day of April, 2017.

8 That I am not related to nor the employee of any of the
9 parties hereto, nor related to or employed by any attorney
10 or counsel employed by the parties hereto, nor interested in
11 the outcome of this action.

12
13 

14 MARLA J. O'BRIEN, CVR, ACR

15 NOTARY PUBLIC FOR S.C.

16 COMMISSION EXPIRES: 8-12-2021
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STATE OF SOUTH CAROLINA,) IN THE MUNICIPAL COURT

COUNTY OF OCONEE) SUMMONS NO. 5102P0778082

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

VERSUS)

JOHN DALEN,)

DEFENDANT.)

 **COPY**

TRANSCRIPT OF PROCEEDINGS

A MOTION HEARING WAS HELD ON THE 13TH DAY OF JUNE, 2017, COMMENCING AT THE HOUR OF 2:01 P.M., IN THE WESTMINSTER MUNICIPAL COURT, 106 EAST WINDSOR STREET, WESTMINSTER, SOUTH CAROLINA.

BEFORE: THE HONORABLE WILL F. DERRICK, JR.

REPORTED BY: LISA M. NOWELL, VERBATIM REPORTER

LEGAL EAGLE

Certified Verbatim Reporters

Post Office Box 5682

Greenville, South Carolina 29606

864-587-7050 or 864-467-1373

depos@legaleagleinc.com

APPEARANCES:

JOHN DALEN

PRO SE,

TROOPER TAYLOR.

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 JUDGE DERRICK:

2 This is the case of the State of South Carolina versus
3 John Dalen. Just for the record, this is a charge for
4 no South Carolina driver's license. Mr. Dalen, on May
5 the 1st of this year, you served the Court with -- and
6 the officer with a Notice of Motion and Motion to
7 Reconsider on an earlier decision. You've also today
8 filed with the Court Motion for Findings of Facts and
9 Conclusions of Law. If there's anything you'd like to
10 add to those two motions without -- I mean, I don't
11 feel you need to go through them. I've read them both.

12 MR. DALEN:

13 Okay.

14 JUDGE DERRICK:

15 But if there's anything you'd like to add before I make
16 a decision on those, I'll be glad to hear it.

17 MR. DALEN:

18 Okay. First, actually, I'd like to comment on your
19 order for Motion to Dismiss. You have a couple of
20 terms in there, "no person", "drive", "motor vehicle",
21 "in the state". I want the Court to know that I object
22 to the use of those terms. They have not been
23 introduced as evidence. The legal meaning of those
24 terms has not been introduced as evidence. Without a
25 proper definition and understanding of the legal

1 implications and semantics of those definitions, it is
2 nothing more than a legal conclusion made by an
3 unqualified individual capable of making that
4 conclusion. And I'm referring to the prosecutor and/or
5 the officer. So I object to the use of those terms
6 without a proper definition. Also -- okay, so I do
7 have the two motions before the Court. I really would
8 appreciate the Court give that proper consideration
9 before you make a decision, and then I'd like to make a
10 statement today.

11 JUDGE DERRICK: Go ahead.

12 Go ahead.

13 MR. DALEN:

14 Okay. I'm here under duress, and I did not consent to
15 these proceedings. I do not understand the cause and
16 nature of the charges and proceedings against me.
17 Therefore, I will not be entering any plea to charges
18 that I do not understand the cause and nature of. The
19 6th Amendment to the Constitution protects my right to
20 be informed of both the nature and the cause of the
21 charges and the proceedings against me. Entering a
22 plea for me against my wishes is a violation of due
23 process of law. Discussion and discovery come before
24 entering a plea in the proper order of due process.
25 There has been no discussion or discovery which would

1 prove standing in corpus delicti. There are three
2 elements for a valid cause of action under corpus
3 delicti. Number one is a violation of a legal right;
4 number two, damage or injury; and number three,
5 redressability by the Court. For the record, no one's
6 legal rights have been violated, other than mine, which
7 is the essence of a criminal act. And I have a
8 question for the judge. Does corpus delicti apply in
9 this case?

10 JUDGE DERRICK:

11 I'm not here to answer your questions. I'm here to
12 answer your motions, Mr. Dalen.

13 MR. DALEN:

14 Okay. All right. Well, can I ask the prosecution a
15 question?

16 JUDGE DERRICK:

17 You may not. This is not a trial.

18 MR. DALEN:

19 Okay. All right. Well, my statement continues with
20 the State cannot be the injured party because the
21 government itself, through numerous cases, has ruled
22 that the government is not obligated to protect the
23 public. This is because the government wishes to be
24 protected from lawsuits when they fail to protect, even
25 in cases where there was a restraining order. The

1 Constitution lays out why we have a government, which
2 is to protect and maintain individual rights. That is
3 what the courts and the police are limited to.
4 Anything beyond this is ultra vires, which is outside
5 the scope of the authority. I guess that's it for
6 today. That's all I have to say.

7 JUDGE DERRICK:

8 Trooper Taylor, do you have anything?

9 TROOPER TAYLOR:

10 No, sir.

11 JUDGE DERRICK:

12 Thank you very much. All right. For the record -- and
13 a little of this is repetitive, but I do want to
14 preserve the record for you, Mr. Dalen, and for Trooper
15 Taylor.

16 MR. DALEN:

17 Okay.

18 JUDGE DERRICK:

19 The above-referenced matter which was before the Court
20 on the defendant's Motion to Dismiss filed on April the
21 18th, a hearing was held on that date and arguments
22 were heard from both the defendant and the State and a
23 decision to deny the Motion to Dismiss was rendered.
24 The defendant now files a Motion to Reconsider before
25 the Court and Motion for Findings of Fact and

1 Conclusions of Law. Rule 59 states that any motion for
2 a new trial or reconsideration may be granted, one, in
3 which there has been a trial by jury, or two, in an
4 action tried without a jury. This particular case has
5 not been heard or decided, and therefore I find this
6 motion is improper. I also further find that the
7 second motion for findings of fact in the case, which
8 is the ticket, is also improper without a trial, and
9 the protections of the defendant's rights are not
10 preserved in this matter. Therefore, defendant's
11 motions are hereby denied. The Court now enters a plea
12 for the defendant of not guilty to protect his rights
13 only and sets a bench trial, unless a jury trial is
14 requested by the defendant, for June the 28th at 1:00.
15 I do have copies of this for both of you. Thank you
16 very much.

17 MR. DALEN:

18 Your Honor, I have requested a jury trial.

19 JUDGE DERRICK:

20 Okay. If you would --

21 MR. DALEN:

22 Do I have to do that again?

23 JUDGE DERRICK:

24 Yeah, you just did. And what we'll do is get a jury --
25 for that day, we will do the jury selection. If you

1 wish to have representation from an attorney, make sure
 2 he's here that day. But we will have everything set up
 3 to select a jury on that day and not have a bench
 4 trial.

5 MR. DALEN: Yes, sir. Thank you very much.
 6 Okay.

7 JUDGE DERRICK: Thank you very much.
 8 Thank you very much.

9 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
 10 2:07 P.M.)

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1 CERTIFICATE OF REPORTER

2
3 I, LISA M. NOWELL, A NOTARY PUBLIC IN AND FOR THE STATE
4 OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING 9
5 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE
6 HEARING, WHICH WAS TAKEN BY ME ON THE 13TH DAY OF JUNE,
7 2017.

8 THAT I AM NOT RELATED TO NOR THE EMPLOYEE OF ANY OF THE
9 PARTIES HERETO, NOR RELATED TO OR EMPLOYED BY ANY ATTORNEY
10 OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN
11 THE OUTCOME OF THIS ACTION.

12 *Lisa M. Nowell*

13
14 LISA M. NOWELL, REPORTER

15 NOTARY PUBLIC FOR S.C.

16 COMMISSION EXPIRES: 11-22-2023
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STATE OF SOUTH CAROLINA) IN THE MUNICIPAL COURT
COUNTY OF OCONEE) C.A. NO. 5102-PO-77-8082

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

VERSUS)

JOHN DALEN,)

DEFENDANT.)

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS

* * * * *

PURSUANT TO AGREEMENT, A VOIR DIRE WAS HELD ON THE
28TH DAY OF JUNE, 2017, COMMENCING AT THE HOUR OF 1:09 PM
AT THE WESTMINSTER MUNICIPAL COURT, WESTMINSTER, SOUTH
CAROLINA.

BEFORE:

THE HONORABLE WILLIAM F. DERRICK, JR.

LEGAL EAGLE
Certified Verbatim Reporters
Post Office Box 5682
Greenville, South Carolina 29606
864-587-7050 or 864-467-1373
depos@legaleagleinc.com

APPEARANCES:

JOHN DALEN,

PRO SE.

TROOPER TAYLOR.

REPORTED BY: MARLA J. O'BRIEN, CVR-M, ACR

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1 THE COURT:

2 This is case number 5102-PO-77-8082, State versus John
3 Dalen. Mr. Dalen, you've requested a jury trial in
4 this matter, and we are here today for a jury
5 selection.

6 We'll just let you know how that process will go.
7 I have a random strike sheet in front of me, and you
8 both have the list in alphabetical order. These are
9 drawn at random by the computer, and that is the list
10 that I have.

11 Once I call a name, the State will have the
12 opportunity to present or strike the juror. If they
13 present the juror, you will then have the opportunity
14 to present the juror or strike.

15 We will pick six primary jurors, and then nine
16 alternates. And then, at the end, we will select a
17 date for the jury trial.

18 Mr. Dalen, it's my understanding that you have
19 presented another motion to the court; is that correct?

20 MR. DALEN: Yes.

21 Two motions.

22 THE COURT: Yes.

23 I'll be glad to hear those now.

24 MR. DALEN: Yes.

25 Okay. Well, one is for a pre-trial hearing.

1 THE COURT:

2 That's what we're doing.

3 MR. DALEN: Yes, that's what I'm doing.

4 Okay. Well, I believe that, if we can have this pre-
5 trial hearing, which I'm not ready to do today, because

6 I sent letters out to certain government officials.

7 I'd like to get a response back from them so that we
8 can discuss their responses.

9 THE COURT: All right, we will postpone that to a later date.

10 We will postpone that to a later date, then.

11 MR. DALEN: Yes, that's what I would like to do.

12 Okay. Well, that's what I would like on that. I'd

13 like to make a statement, as I always do at these

14 hearings, if that's okay.

15 THE COURT: All right, you may go ahead.

16 Go ahead.

17 MR. DALEN:

18 Okay. I'm here by special appearance. And I'm also

19 here under duress, and I do not consent to these

20 proceedings. I do not understand the cause and nature

21 of the charges and the proceedings against me. I have

22 not entered a plea, and I do not understand how --

23 THE COURT: All right, you may go ahead.

24 Take your hat off for me, please.

25 MR. DALEN: Yes, that's what I would like to do.

1 I'm sorry, sir. I forgot I had it on.

2 The 6th Amendment protects my right to be informed
3 of both the nature and cause of the charges and
4 proceedings against me. One of them reasons I sent
5 these letters out is to try and determine the nature
6 and cause, since this court has not informed me of
7 such.

8 Entering a plea for me against my wishes is a
9 violation of due process of law. Discussion and
10 discovery come before entering a plea in the proper
11 order of due process. And there has been no discussion
12 or discovery which would prove standing or corpus
13 delicti.

14 Corpus delicti is -- contains three elements for a
15 valid cause of action. A violation of a legal right,
16 damage or injury, and redressability by the court. As
17 far as I understand, no one's legal rights have been
18 violated.

19 I believe I asked you this at the last hearing,
20 and I'm asking again. Does corpus delicti apply in
21 this case?

22 THE COURT:

23 I have ruled on every motion that you've made, Mr.
24 Dalen. We're not going to revisit those.

25 MR. DALEN:

1 okay. So I can't ask any questions?

2 THE COURT:

3 No, sir.

4 MR. DALEN:

5 okay. The state cannot be an injured party, becau

6 se

7 e

8 the government itself, doing endless cases, has ruled

9 that the government is not obligated to protect the

10 public. This is because the government wishes to be

11 protected from lawsuits when they fail to protect, even

12 in cases where there was a serious (indiscernible).

13 And the Constitution lays out why we have a government,

14 which is to protect and maintain individual right. And

15 this is what the courts and the police are limited to.

16 Anything beyond that is ultra vires.

17 There are seven elements of jurisdiction.

18 THE COURT:

19 I've already ruled on jurisdiction, Mr. Dalen. Move

20 on.

21 MR. DALEN:

22 I object to that, Your Honor. I don't believe we've

23 addressed the issues.

24 THE COURT:

25 Objection noted. You have several motions on

1 jurisdiction, which I have ruled on.

2 MR. DALEN:

3 All right. Okay, I also had some motions that you just
4 dismissed. One is the motion of finding of facts.

5 THE COURT:

6 We are not here on motions that I've already ruled on.
7 If you have any new motions --

8 MR. DALEN:

9 Well --

10 THE COURT:

11 -- you would like to make today, that would be fine.

12 MR. DALEN:

13 -- you cited Rule 59, and neither one of these motions
14 are under Rule 59.

15 THE COURT:

16 Mr. Dalen, I am not here to rehash old motions.

17 MR. DALEN:

18 Okay. All right. I would -- I'd just like to know
19 what rules we're under so that I can properly prepare
20 my defense. I don't know what rules this court is
21 operating under.

22 THE COURT:

23 We are operating under the Rules of Criminal Procedure
24 as outlined in the Code of Laws, particularly in the
25 nature of charges that you say you have not been

1 notified of, you were, in fact, given a ticket for no
2 South Carolina driver's license. That is the nature of
3 the charge. That section code is 56-120. And we will
4 be operating under the criminal traffic jury process.

5 MR. DALEN:

6 Okay. But that doesn't -- that's not --

7 THE COURT:

8 I'm not going to argue with you about it.

9 MR. DALEN:

10 Okay.

11 THE COURT:

12 That is exactly what we're operating under.

13 MR. DALEN:

14 All right. It still doesn't appear to be the nature
15 and cause. That's just a conclusion, it's legal
16 conclusions.

17 THE COURT:

18 All right, Mr. Dalen. Thank you very much.

19 MR. DALEN:

20 I just have a few more, if you don't mind.

21 THE COURT:

22 I do mind, but I'm going to allow you to make them.

23 MR. DALEN:

24 Okay.

25 THE COURT:

1 If you have made them in the past, I'm going to stop

2 you. You're going to have to prove it to me.

3 MR. DALEN: I've got to prove it to you.

4 Okay. I appreciate that.

5 well, that's going to be difficult. You're going

6 to just have to tell me if you've heard this before:

7 My accuser has not proven jurisdiction. It's --

8 THE COURT:

9 That one, we've heard and addressed. Jurisdiction --

10 anything you have on jurisdiction has been addressed.

11 MR. DALEN:

12 I haven't heard it from the accuser, and that's who is
13 supposed to do it.

14 In order to have a fair trial, Your Honor, I have
15 to have an impartial judge that is not making decisions
16 for the prosecution, or answering for the prosecution.
17 It is the person claiming jurisdiction that's required
18 to prove jurisdiction, not the court. The court is
19 simply here to make sure that everything is handled in
20 a proper manner.

21 THE COURT:

22 well, if we ever get to the point where you actually
23 have a trial and those rights of yours kick into place,
24 then I will certainly enforce those. But you haven't
25 let us get to that point yet.

1 MR. DALEN: I would like to introduce some evidence.

2 well, it's not that I haven't -- I'm trying to
3 understand the nature and the cause. I sent a letter
4 to Senator Alexander, and I have copies of the letters
5 that I sent. I'd like to introduce them into evidence.

6 THE COURT: And you're going to introduce them now.

7 No, sir, this is not a trial for you to introduce
8 evidence --

9 MR. DALEN: I would like to introduce them now.

10 Okay. You can't do that until we get to the jury.

11 THE COURT:

12 --at this point. We'll go back to the jury.

13 MR. DALEN: I would like to introduce them now.

14 All right. You can't do that until we get to the jury.

15 THE COURT: We'll go back to the jury.

16 All right, we're going to proceed now with the jury

17 selection, because at the last motion hearing, you

18 actually, on record, did request a jury trial, and

19 that's why we're here today.

20 MR. DALEN: I would like to introduce them now.

21 Okay.

22 THE COURT: We'll go back to the jury.

23 So if you'll have a seat.

24 MR. DALEN: I would like to introduce them now.

25 All right. Thank you.

1 THE COURT:

2 All right. The first name on the random strike list is
3 Patricia Flores. And I'll give just a second for each
4 side to look that up on your list.

5 Any voir dire that you would like to give these
6 jurors before we start the trial, there will be
7 opportunity to do that. Obviously, all you have is
8 address and particulars on each juror. If you have any
9 voir dire for this particular charge, I will allow you
10 to do that before the trial begins.

11 First is Patricia Flores. What says the state?

12 TROOPER TAYLOR:

13 Present.

14 THE COURT:

15 Mr. Dalen?

16 MR. DALEN:

17 I'm looking for that. Where is that?

18 THE COURT:

19 It's in alphabetical order.

20 MR. DALEN:

21 Okay, you're just --

22 THE COURT:

23 you will need to present or strike for cause. You
24 cannot strike because of gender, race -- obviously,
25 religion doesn't fall into place here because you don't

1 know the religion. But you have to have an actual
2 cause to strike. Just for example, if you were to know
3 the person, or had any dealings with the person and
4 feel they can't be fair and impartial, then you would
5 have the right to strike them.

6 MR. DALEN:

7 Okay. What was the name, again?

8 THE COURT:

9 Patricia Flores.

10 MR. DALEN:

11 You know, I don't understand how I can make a decision
12 if I don't -- you know, all I have is a name and an
13 address.

14 THE COURT:

15 I understand that, and that is all the State has, as
16 well.

17 MR. DALEN:

18 Well, if I -- if I say strike, how do I -- how do I
19 justify striking --

20 THE COURT:

21 well, unless he has a reason that you're striking for a
22 gender or a racial bias, then he can make an objection.
23 Otherwise, then I would allow you to make that strike.

24 MR. DALEN:

25 Okay, I'm going to strike.

1 THE COURT:

2 Okay. You have six strikes on the primary jury list.
3 I'll let you know that.

4 The next name is Alvin Browning. State?

5 TROOPER TAYLOR:

6 Present.

7 THE COURT:

8 Mr. Dalen?

9 MR. DALEN:

10 I will accept that one.

11 THE COURT:

12 Beverly Bryson?

13 TROOPER TAYLOR:

14 Present.

15 MR. DALEN:

16 I will accept that one.

17 THE COURT:

18 Autry L. Bailey, Jr.

19 TROOPER TAYLOR:

20 Present.

21 MR. DALEN:

22 I'll strike that one.

23 THE COURT:

24 Steven Koules, K-O-U-L-E-S.

25 TROOPER TAYLOR:

1 Present.

2 MR. DALEN:

3 Was that a K?

4 THE COURT:

5 Yes, sir.

6 MR. DALEN:

7 I'm sorry, I'm not seeing that. Okay, Steven Koules.

8 Okay, we'll accept that one, too.

9 THE COURT:

10 Jeremy Head, H-E-A-D.

11 TROOPER TAYLOR:

12 Present.

13 MR. DALEN:

14 I'd like to strike that one, also.

15 THE COURT:

16 Lauren Gossett, G-O-S-S-E-T-T.

17 TROOPER TAYLOR:

18 Strike.

19 THE COURT:

20 Mckenzie Fletcher?

21 TROOPER TAYLOR:

22 Present.

23 MR. DALEN:

24 Strike that one, also, please.

25 THE COURT:

1 Julie Gibson?

2 TROOPER TAYLOR:

3 Present.

4 MR. DALEN:

5 I'll accept that one.

6 THE COURT:

7 Kathy Woodland.

8 TROOPER TAYLOR:

9 Present.

10 MR. DALEN:

11 I would like to strike that one.

12 THE COURT:

13 Jenny Cassick, C-A-S-S-I-C-K.

14 TROOPER TAYLOR:

15 Present.

16 MR. DALEN:

17 I'd like to strike that one.

18 THE COURT:

19 All right, Mr. Dalen, that is your six strikes on the
20 primaries. So for the next two primary jurors, it will
21 just be the State answering.

22 MR. DALEN:

23 Okay.

24 THE COURT:

25 Lester Haley, Jr.?

1 TROOPER TAYLOR:

2 Present.

3 THE COURT:

4 Charles R. Bowen?

5 TROOPER TAYLOR:

6 Present.

7 THE COURT:

8 Okay, those will be our six primary jurors. We will
9 now pick nine alternates due to the fact that, since it
10 is such a small jury area, some have moved, some have
11 no forwarding address, or some may actually be
12 deceased. So we will pick 15 total, just to protect
13 the jury pool. And I will allow three strikes on
14 these.

15 The first one is Joseph Mason.

16 TROOPER TAYLOR:

17 Present.

18 MR. DALEN:

19 Yes, I'm going to strike that one.

20 THE COURT: Kathy Bramlett?

21 Kathy Bramlett?

22 TROOPER TAYLOR:

23 Present.

24 MR. DALEN:

25 I'll accept that one.

1 THE COURT:

2 Jennifer Sanchez?

3 TROOPER TAYLOR:

4 Present.

5 MR. DALEN:

6 I'm going to strike that.

7 THE COURT:

8 Gary Grant?

9 TROOPER TAYLOR:

10 Strike.

11 THE COURT:

12 Sennah Honea, H-O-N-E-A?

13 TROOPER TAYLOR:

14 Present.

15 MR. DALEN:

16 I'll accept that.

17 THE COURT:

18 Holly Thene, T-H-E-N-E?

19 TROOPER TAYLOR:

20 Present.

21 MR. DALEN:

22 Sorry, I'm not seeing that.

23 THE COURT:

24 It is T-H-E-N-E.

25 TROOPER TAYLOR:

1 The back page.

2 MR. DALEN:

3 That way?

4 TROOPER TAYLOR:

5 Yeah.

6 MR. DALEN:

7 Okay. Thene. I would like to strike that one, also.

8 THE COURT:

9 That is your third strike, so the State will present or
10 strike from now on for the remaining alternates.

11 Jonathan Lopez?

12 TROOPER TAYLOR:

13 Present.

14 THE COURT:

15 Laverne Stamey?

16 TROOPER TAYLOR:

17 Present.

18 THE COURT:

19 Chadrick Watts?

20 TROOPER TAYLOR:

21 Present.

22 THE COURT:

23 Tricia Long?

24 TROOPER TAYLOR:

25 Present.

1 THE COURT:

2 Terry Nations?

3 TROOPER TAYLOR: Present.

4 Present.

5 THE COURT:

6 Sabrenna Gardiner?

7 TROOPER TAYLOR: Present.

8 Strike.

9 THE COURT:

10 I believe that's your second strike.

11 TROOPER TAYLOR: Yes.

12 Yes.

13 THE COURT: Sandra Rodriguez?

14 Sandra Rodriguez?

15 TROOPER TAYLOR: Present.

16 Present.

17 THE COURT: Eunice Rowland?

18 Eunice Rowland?

19 TROOPER TAYLOR: Present.

20 Present.

21 THE COURT:

22 All right, those will be our nine alternates. Any
23 objection from the State as to the selection of the
24 jury?

25 TROOPER TAYLOR:

1 No, sir.

2 THE COURT:

3 Any objection, Mr. Dalen, to the selection of the jury?
4 other than your objection earlier of just what you've
5 got?

6 MR. DALEN:

7 I have two of the -- according to the Rules of Criminal
8 Procedure, I thought there were 12 jurors.

9 THE COURT:

10 That is in General Sessions or Court of Common Pleas,
11 not in Magistrate's Court.

12 MR. DALEN:

13 Okay. And I will have an opportunity to question?

14 THE COURT:

15 If you have appropriate voir dire as to the charge
16 only, I will allow you to present those before trial so
17 I can make a decision as to which questions are
18 acceptable, and then I will allow you to ask any of
19 those questions to the jury panel, yes.

20 MR. DALEN:

21 Okay.

22 THE COURT:

23 -- before we select the actual six.

24 MR. DALEN:

25 All right.

1 THE COURT:

2 All right, thank you very much. If y'all would check
3 in at the front, and we will pick a day for the actual
4 trial to begin.

5 Just for the record, Mr. Dalen, to protect your
6 rights, as earlier, I am going to suggest to you that
7 you do obtain legal counsel to help you with these
8 matters. I will also make the same suggestion to the
9 State, that you do the best you can to have legal
10 representation, if there's going to be these motions
11 and matters before trial, to help you in the
12 prosecution or defense of your case.

13 Thank you very much.

14 MR. DALEN:

15 Okay. And then you are going to schedule a hearing
16 prior to trial?

17 THE COURT:

18 If there is a motion hearing that needs to be held, I
19 will have it 30 to 45 minutes before the actual voir
20 dire of the jury.

21 MR. DALEN:

22 Okay.

23 THE COURT:

24 It will not be a different date.

25 MR. DALEN:

1 okay.

2 **THE COURT:**

3 Thank you very much.

4 (There being nothing further at this time, the voir dire was
5 concluded at 1:29 PM)

6 I will now call the first juror to the stand.

7 I will ask you to stand and answer the questions.

8 I will ask you to stand and answer the questions.

9 I will ask you to stand and answer the questions.

10 I will ask you to stand and answer the questions.

11 I will ask you to stand and answer the questions.

12 I will ask you to stand and answer the questions.

13 I will ask you to stand and answer the questions.

14 I will ask you to stand and answer the questions.

15 I will ask you to stand and answer the questions.

16 I will ask you to stand and answer the questions.

17 I will ask you to stand and answer the questions.

18 I will ask you to stand and answer the questions.

19 I will ask you to stand and answer the questions.

20 I will ask you to stand and answer the questions.

21 I will ask you to stand and answer the questions.

22 I will ask you to stand and answer the questions.

23 I will ask you to stand and answer the questions.

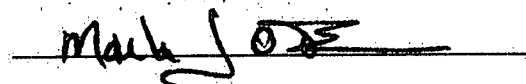
24 I will ask you to stand and answer the questions.

25 I will ask you to stand and answer the questions.

1 CERTIFICATE OF REPORTER
2

3 I, Marla J. O'Brien, a Notary Public in and for the
4 State of South Carolina, do hereby certify that the
5 foregoing 23 pages represents a true and accurate transcript
6 of the hearing in the above-referenced matter, which was
7 taken by me on the 28th day of June, 2017.

8 That I am not related to nor the employee of any of the
9 parties hereto, nor related to or employed by any attorney
10 or counsel employed by the parties hereto, nor interested in
11 the outcome of this action.
12

13 

14 MARLA J. O'BRIEN, CVR, ACR

15 NOTARY PUBLIC FOR S.C.

16 COMMISSION EXPIRES: 8-12-2021
17
18
19
20
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25

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE) SUMMONS NO. 5102P0778082

State of South Carolina,

Plaintiffs,

Versus

John Dalen,

Defendant.

COPY

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

A jury trial was held on the 17th day of August, 2017, commencing at the hour of 10:02 a.m., in the Westminster Municipal Court, 106 East Windsor Street, Westminster, South Carolina.

BEFORE THE HONORABLE WILL F. DERRICK, JR.

REPORTED BY: Rosalind Poole Walters, CVR-M

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Note: All exhibits were marked and retained by Judge
Derrick.

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH
MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 JUDGE DERRICK:

2 This is Case Number 5102P0778082, The State versus
3 John Dalen. Mr. Dalen, you have requested a jury trial
4 in this, just for the record. All the motions you've
5 been made have been noted for the record and the
6 decisions on those motions, and we are going forward
7 today. Is there anything you have before we get
8 started?

9 MR. DALEN:

10 Well, I did file a motion for change of venue.

11 JUDGE DERRICK:

12 Yes, sir, and that motion has been denied. You
13 have to show some sort of bias by the Court, and I
14 don't see any. I don't hold any bias or prejudice
15 towards you at all. In fact, I'm not going to be the
16 one making the decision today. It will be the jury.
17 So we will go forward today.

18 MR. DALEN:

19 Okay.

20 JUDGE DERRICK:

21 Anything from the State?

22 MR. DALEN:

23 I wasn't finished, sir.

24 TROOPER TAYLOR:

25 No, Your Honor.

1 JUDGE DERRICK:

2 Yes, ma'am? I mean yes, sir?

3 MR. DALEN:

4 Can I say a little bit more?

5 JUDGE DERRICK:

6 Yes, sir.

7 MR. DALEN:

8 would you agree that I'm entitled to a fair trial?

9 JUDGE DERRICK:

10 I am not here to -- I am not a witness in this
11 case. If you have any motions to make that you have
12 not already made, you may make them now.

13 MR. DALEN:

14 well, can I get a fair trial if there's a conflict
15 of interest?

16 JUDGE DERRICK:

17 Absolutely you can get a fair trial here. That's
18 why we're here. We're going to follow your
19 constitutional rights and the laws of the state in
20 regards to your jury trial, and we're going to follow
21 that procedure here today.

22 MR. DALEN:

23 Okay, but it's my contention that there are no
24 facts to back up the charges leveled against me.

25 JUDGE DERRICK:

1 And you may ask the officer that when he
2 testifies.

3 MR. DALEN:

4 Well, You know, how can I get a fair trial here or
5 how can---

6 JUDGE DERRICK:

7 I'm not here to discuss it with you. You're
8 getting ready to have your fair trial.

9 MR. DALEN:

10 I'm asking you---

11 JUDGE DERRICK:

12 I'm not going to argue with you today. Do you
13 understand me?

14 MR. DALEN:

15 Yes, sir.

16 JUDGE DERRICK:

17 Have a seat. Call in the jury, please. All
18 right, ladies and gentlemen, thank you for being here.
19 For those of you that do not know me, my name is Will
20 Derrick, and I am a Magistrate here in Oconee County.
21 We have three. And you have been summoned for jury
22 duty here today, and I know you could not be happier
23 about being here and there's absolutely nowhere else
24 you'd rather be. All kidding aside, I know there's a
25 hundred other things that y'all need to be doing, and I

1 know it's the first day of school for some of you and
2 you may have grandkids or children that are involved
3 with that. So I do appreciate you being here. You
4 will hear in the testimony that this case has been
5 going on for a little while, and we could not resolve
6 this without you. So you have my heartfelt thanks.
7 Thank you for being here today. We're not going to
8 keep you any longer than we have to. The good news is
9 I think it's to be the hottest day of the year, so I'm
10 sparing you from that.

11 Having said that, a little point of order. It's
12 going to get warm in here. It's a small courtroom. If
13 you are appalled at how small it is or how warm it
14 gets, please contact your local senator and your County
15 Council. We are working on trying to get a bigger
16 space and have been for quite some time. It's just
17 kind of tough to do with everything they've got going
18 on, but I like to make that disclaimer in case you feel
19 inclined to call someone.

20 There are some things I do need to go over with
21 you to make sure you are certified and can serve on
22 this jury. These are some questions I need to ask you
23 that are not meaning to pry into your personal life at
24 all, but they are questions that under our Constitution
25 and Code of Laws have to be asked just to make sure you

1 can be fair and impartial, because we do want to
2 protect that.

3 Each of you has been summoned as a juror in this
4 case, and this is the case of The State of South
5 Carolina versus John Dalen. And Mr. Dalen is seated
6 directly across from me, and it charges or alleges that
7 the Defendant on February 16 of this year did violate
8 South Carolina Code 56-1-20, which is a crime of --
9 it's actually a traffic charge of no South Carolina
10 driver's license. To this charge the Defendant has
11 entered a plea of not guilty, which is his right. Both
12 the State and the Defendant are entitled to an
13 impartial jury to decide this case, and that's why
14 you're here.

15 Before we begin I must ask you some questions to
16 determine if you are qualified to serve as a juror.
17 Representing the State here today is Trooper Avery
18 Taylor with the South Carolina Highway Patrol, who is
19 seated to my left, and, of course, I've already
20 introduced the Defendant. Do any of you know either
21 one of these parties? [No verbal response] Has this
22 police officer ever charged you or anyone you know in
23 any case? [No verbal response] Is there any member of
24 the jury panel -- well, there are no attorneys here
25 today, so we don't have to worry about that one. This

1 alleged crime is to have occurred in Seneca here in
2 Oconee County. Does anybody have any knowledge of this
3 case? [No verbal response] Is there any juror who is
4 related by blood or marriage to the police officer, the
5 defendant or another person having authority to enforce
6 laws of this state, county, or city? [No verbal
7 response] Is there any member of the jury panel or any
8 member of your immediate family who has ever worked for
9 any law enforcement agency or had the power and
10 authority to arrest in this city, county, state, or any
11 other state? I usually get one there. Yes, ma'am?

12 JUROR:

13 well, mine is questionable. My son works for the
14 Anderson County Sheriff's Department.

15 JUDGE DERRICK:

16 presently?

17 JUROR:

18 Yes.

19 JUDGE DERRICK:

20 would that in any way affect your ability to be
21 fair and impartial in this?

22 JUROR:

23 No.

24 JUDGE DERRICK:

25 what's your name, ma'am?

1 JUROR: I am the only one who has ever been

2 Kathy Bramlett. I am the only one who has

3 JUDGE DERRICK:

4 All right, Ms. Bramlett, thank you very much.

5 JUROR:

6 My cousin is a state police officer.

7 JUDGE DERRICK:

8 Where is that?

9 JUROR:

10 In Illinois.

11 JUDGE DERRICK:

12 Would that affect your ability to be fair and
13 impartial in this case?

14 JUROR:

15 No.

16 JUDGE DERRICK:

17 Thank you very much. And what was your name, sir?

18 JUROR:

19 Steve (inaudible).

20 JUDGE DERRICK:

21 Is there any member of the jury panel who believes
22 that a defendant must prove his innocence in a case?
23 [No verbal response] Is there any member of the jury
24 panel who for any reason does not feel that he or she
25 can render a fair and impartial verdict for the State

1 or on the Defendant based on the testimony that you
 2 hear? [No verbal response] Thank you very much. Ms.
 3 Honea?

4 JUROR: Yes, sir.

5 Yes.

6 JUDGE DERRICK: You are free to go.

7 You are free to go.

8 JUROR: Thank you.

9 Thank you.

10 JUDGE DERRICK:

11 You were going to be my alternate, and we don't
 12 anticipate needing an alternater in the case. So I'm
 13 going to let you go. I believe you had -- I hope you
 14 didn't already change it.

15 JUROR:

16 No, I didn't.

17 JUDGE DERRICK: I know you had appointment that's pretty

18 I know you had appointment that's pretty
 19 important. So I'm going to let you be the alternate
 20 and excuse you.

21 JUROR: Thank you, sir.

22 Thank you, sir.

23 JUDGE DERRICK: Thank you very much.

24 Thank you very much.

25 MR. DALEN: Thank you very much.

1 Excuse me, Your Honor. Do I get to ask questions?

2 JUDGE DERRICK:

3 No, sir.

4 MR. DALEN:

5 I don't get to ask the jury any questions?

6 JUDGE DERRICK:

7 No, SIR. Mr. Haley?

8 JUROR:

9 Yes.

10 JUDGE DERRICK:

11 Mr. Haley, I am going to let you be Foreperson.

12 JUROR:

13 what does that mean?

14 JUDGE DERRICK:

15 That means that you have absolutely no additional
16 responsibility whatsoever; however, at the end of the
17 trial -- and I will go over the verdict form with you,
18 any evidence that's presented and show you exactly how
19 you're going to deliberate and where you're going to
20 deliberate and that kind of thing. That's the only
21 responsibility that you have. So as for right now
22 don't worry about it.

23 JUROR:

24 Okay.

25 JUDGE DERRICK:

1 And I'll go over it with you later. Now Mr. Dalen
2 or Officer Taylor, if you have any relevant questions
3 for the jury as a whole, I will allow you to ask that.

4 TROOPER TAYLOR:

5 No.

6 JUDGE DERRICK:

7 Thank you. Mr. Dalen?

8 MR. DALEN:

9 Okay. Yes, I do. I have a right to ask jurors
10 questions to determine whether there might be any bias.
11 Correct?

12 JUDGE DERRICK:

13 Yes. They have to be relevant questions.

14 MR. DALEN:

15 All right. Do you think you would have any bias
16 against me because the judge forced you to be here
17 under threat of jail? [No verbal response] would you
18 be if you weren't forced to be here? [No verbal
19 response], would you have come if there was no threat
20 of jail if you didn't show up?

21 JUROR:

22 No, because I would be working.

23 MR. DALEN:

24 You wouldn't have come. Right?

25 JUROR:

1 No.

2 MR. DALEN:

3 Do you mind being forced to be here? [No verbal
4 response] Are you intimidated by the judge? [No verbal
5 response]

6 JUROR:

7 No.

8 MR. DALEN:

9 All right. This is my most important question.
10 Did you bring your own sense of what is right and wrong
11 to the court or will you rely on what the judge tells
12 you? I'll give you an example what that means. Rosa
13 Parks was accused---

14 JUDGE DERRICK:

15 You may only ask questions, Mr. Dalen.

16 MR. DALEN:

17 well, they---

18 JUDGE DERRICK:

19 Mr. Dalen, I'm not arguing with you.

20 MR. DALEN:

21 Do you understand the question I'm asking you?

22 JUROR:

23 Yes.

24 MR. DALEN:

25 would you be willing to render a decision that

1 conflicts with the judge's instructions or orders if
2 you believed that it was just, that your decision was
3 just even if it conflicted with what the judge
4 instructs you to do as a jury? Would you be willing to
5 not follow the judge's instructions in order to render
6 a verdict that you believe is just?

7 JUROR:

8 Can I ask a question?

9 JUDGE DERRICK:

10 Understand, ladies and gentlemen of the jury, that
11 you will be making a decision in this case based on the
12 evidence presented. I will not be instructing you on
13 how to make a decision in this case.

14 JUROR:

15 Okay.

16 JUROR:

17 I have my own sense of right and wrong.

18 MR. DALEN:

19 And that's what I'm asking. Thank you. Okay.

20 would you -- do you believe all laws should be blindly
21 complied with because it's a law? [No verbal response]
22 If someone tells you it's the law and you believe that
23 it's wrong, do you believe that you should comply with
24 it as in Rosa Parks, she can't sit in the front of the
25 bus? [No verbal response] Are you not understanding?

1 JUROR:

2 Due to the circumstances.

3 MR. DALEN:

4 Huh?

5 JUROR:

6 It's due to the circumstances.

7 MR. DALEN:

8 Okay. I mean, you would be willing to not comply
9 with such a law that you believe violated your
10 religious beliefs maybe?

11 JUROR:

12 Under the circumstances.

13 MR. DALEN:

14 All right. And does your model of the world
15 require subjection in following orders? [No verbal
16 response] It does? Okay. Do you think people not
17 accused of hurting anyone should be punished just
18 because politicians say so?

19 JUDGE DERRICK:

20 All right, that's not a relevant question to this
21 case. I'm not going to allow that.

22 MR. DALEN:

23 Well, that was the last one.

24 JUDGE DERRICK:

25 All right. Thank you very much.

1 MR. DALEN:

2 Thank you.

3 JUDGE DERRICK:

4 All right, ladies and gentlemen, if you would
5 raise your right hand for me, please? Do each of you
6 swear or affirm to render a fair and impartial decision
7 based only upon the evidence presented in this case, so
8 help you God? I will?

9 ALL JURORS:

10 I will.

11 JUDGE DERRICK:

12 Thank you very much. There are some things I
13 would like to go over with you before we begin the
14 testimony in case you're not familiar with trial
15 proceedings. As jurors, it is your duty to decide the
16 facts of this case from the evidence that is presented
17 during the trial. I know little about this case, but
18 it doesn't matter since it is you, the jury, that must
19 decide the facts based upon the evidence presented from
20 the witness stand. There will probably be some
21 conflicts in the testimony. So I ask you to pay
22 careful attention to the witnesses as they testify,
23 because it is you who will have to determine which
24 witnesses are telling the truth for you to decide the
25 facts of the case.

1 The ticket charging the Defendant with the crime
2 of no South Carolina driver's license is not evidence
3 against the Defendant. It is only the charging
4 document and the means of bringing this matter before
5 you for trial. The Defendant has in fact entered a
6 plea of not guilty. Anyone accused of a crime can
7 plead not guilty and, having done so, the State then
8 has the burden of proving his guilt beyond a reasonable
9 doubt. Anyone accused of a crime is presumed to be not
10 guilty, and that presumption must remain with the
11 accused until his guilt has been proven to you beyond
12 that reasonable doubt. Each side will have the
13 opportunity to address you and explain their position
14 as to the charge, and then the Defendant, if he
15 desires, may present evidence. When all the evidence
16 is in, each side will again have the opportunity to
17 argue their case, and then I will explain to you the
18 law that applies. Understand that opening and closing
19 arguments are not evidence, as well. The evidence and
20 testimony only comes to you from the principal case in
21 chief that you will hear between those two situations.
22 When all the evidence is in, I will explain to you
23 the law that applies in this state and the law that the
24 Defendant has been charged with. It will then be up to
25 you and only you to determine the facts of the case,

1 apply the law that I explain to you, and then you will
2 determine the guilt or innocence of the Defendant.
3 State law doesn't allow you to take notes or ask
4 questions. You will notice that I may ask questions
5 for clarification. You will notice that I may take
6 notes, and what I'm doing is preserving the record.
7 Obviously, I'm recording everything that happens here
8 today in case we need that for a future purpose, but if
9 there's something we need to refer back to without
10 having to replay everything, that's why I take notes,
11 so we can just go ahead and look at that. There also
12 may be times that I need to confer with both parties
13 outside of your presence to make sure that both parties
14 receive a fair trial under the laws and rules of
15 evidence. During this time it is inappropriate for you
16 to talk to anyone, even among your other jurors, about
17 this case. If anyone attempts to talk to you about the
18 case, please report it to me immediately. It will also
19 be improper of you to form an opinion about the case
20 before all the evidence has been presented and I have
21 explained the law that applies. Remember, you swore to
22 be fair and impartial to both the State and the
23 Defendant, and I know you will do just that. I will
24 allow a brief opening statement from each party.
25 officer Taylor?

1 TROOPER TAYLOR:

2 Just like the judge said, I want to thank y'all
3 for coming today. Like he said, I'm sure there was a
4 thousand other things that you could have been doing
5 that may have been more important to you, but we really
6 do thank y'all for coming today. Like he said, we are
7 speaking on a case of no South Carolina driver's
8 license. Okay? We'll do that later, because this is
9 not the time for that. But I just want to say thank
10 y'all for coming, and I really appreciate you.

11 JUDGE DERRICK:

12 Thank you very much. Mr. Dalen?

13 MR. DALEN:

14 I get really emotional about this sometimes. So
15 if I get a little choked up, I hope y'all understand.
16 I hope to show you in this trial that there is no
17 criminal intent on my part to violate the law, which is
18 a necessary element for conviction. I have made a
19 study of this, and I do not believe I am violating the
20 law. I believe the law is being routinely misapplied.
21 In addition, I'd like to thank you for being here.

22 My name is John Dalen. I'm a husband and a father
23 of one son, and I am very proud of him. Following the
24 economic collapse of 2008, like many Americans, I
25 became increasingly concerned about how our government

1 operates. I decided to get off the fence and do
2 something about it. I began studying history, law, and
3 government, and I entered my first race for public
4 office as a Constitution party candidate for Congress
5 in 2010. I followed that in 2012 with a run for the
6 State House as a Republican, and then in 2016 I ran for
7 County Council, once again as a Republican. All of
8 these attempts to get elected to public office were not
9 because I needed a job, but because I wanted to put
10 government back on its proper footing, and that is for
11 the protection of persons and property, the only
12 legitimate purpose of government.

13 And one thing I learned in my study of the law and
14 it's important that you know, words used in the law do
15 not necessarily have the same definitions as commonly
16 understood. In legal terms these words are called
17 terms of art and they have specific meanings even in
18 contradiction to their common usage. An example of
19 this, words used in the food industry, natural and no
20 fat. Natural in the legal sense can include artificial
21 ingredients, and no fat can actually include a certain
22 percentage of fat. The same is true in this case for
23 the words person, driver, automobile, et cetera. Also,
24 in my study I came to see that many of our rights have
25 been gradually converted to privileges, but before I

1 explain more in detail about that I'd like to tell you
2 more about me and how personal this is for me.

3 I can recall when I was 10 years old and I was
4 watching civil rights marches on TV. Even at that age
5 I was appalled to see people pulled from the march and
6 beaten just because they were demanding their God-given
7 rights, the right not to be discriminated against
8 because of the color of their skin. But this case is
9 about the right to travel. There are numerous Supreme
10 Court decisions that affirm Americans have a right to
11 travel on the public highways and that government can
12 only regulate the use of highways for commercial
13 purposes, and I'll say more on that later. I've also
14 been very concerned that the driver's license is
15 becoming a national ID. You may have heard the term
16 Real ID. I believe this idea is a precursor to the
17 mark of the beast as mentioned in the Bible. The chip
18 that is on your driver's license will eventually be
19 required to be inserted into your hand just as the
20 Bible prophecy predicts. And I'm conducting a Bible
21 study on the mark of the beast at Toxaway Baptist.
22 Anybody interested, you're welcome to come on Wednesday
23 nights at seven.

24 okay, an interesting thing happened to me on my
25 second political race. You may recall that all the

1 challengers were kicked off the ballot due to a
2 technicality on their filing papers. All the
3 challengers to the incumbents, including all for
4 sheriff's candidates, were removed from the ballot. We
5 all banded together to help each other gather the
6 signatures necessary to requalify for the ballot. That
7 is, all the challengers helped all the sheriffs, and
8 all the sheriffs helped all the challengers. And this
9 is how I got to know Mike Crenshaw, who is also a
10 Christian; and it felt natural to pay him a visit to
11 discuss my case with him. I gave him all the filings
12 and related documents that I had already sent to the
13 colonel at the Department of Public Safety. Mike told
14 me that he would follow up with the solicitor's office
15 in Greenville and try to get an informed legal opinion
16 and get back with me to address my concerns. He said
17 he was also concerned about the Real ID and the
18 possibility of a national ID and even the possibility
19 of a chip implant. And I asked him how a Christian
20 might enforce such a law that obviously violates God's
21 law commanding his people not to accept the mark,
22 because that, ladies and gentlemen, is what this is all
23 about.
24 And here is where I begin to explain my
25 understanding of the law. I really don't believe the

1 judge should have proceeded to trial on this case as I
2 have not committed any crime. One of the elements for
3 a conviction is that the accused knew what the law was
4 and intended to violate it. My study of the law has
5 shown me that the Supreme Court has ruled repeatedly
6 that travel upon the public highways is a right and
7 that the State cannot issue a license or charge a fee
8 or a tax for the exercise of that right. The State's
9 only authority to regulate travel on the highways is
10 when you act in a commercial capacity for hire. Every
11 other license the State issues is for people acting for
12 hire, such as a plumber versus a homeowner working on
13 his own property. The State can require the plumber to
14 get a license, but the State cannot force the homeowner
15 to have a license to unclog their kitchen sink.

16 Also, I believe the driver's license is turning
17 into a national ID and it's being sold to the public as
18 a way to protect the people. It is, however, a way to
19 control them. At some point -- and this is already
20 true for air travel -- you will not be able to buy or
21 sell without this ID card, and eventually the chip on
22 this card will be implanted in your hand, and I
23 recently saw a news report of a company in Wisconsin
24 which is doing just that. I believe this is the mark
25 of the beast mentioned in the Bible, and I believe

1 there is plenty of evidence to support that belief as
2 well as plenty of evidence to support the belief that
3 the right to travel is a constitutionally protected
4 right.

5 All law originates from God's law. The
6 Constitution of the United States is based on the
7 common law which is derived from God's law, and it's
8 also known as natural law. Where man's law deviates
9 from God's law, God's law must prevail. A prime
10 example of this is an infamous Supreme Court decision
11 known as the Dred Scott decision. A man named Dred
12 Scott was a black slave who escaped from his owner, a
13 Mr. Sanford, and he made it to a free state where he
14 obtained a lawyer and attempted to sue for his freedom.
15 The court followed the letter of the law, but, as most
16 scholars agree, the law was in opposition to God's law
17 and resulted in an unjust decision in denying Mr. Dred
18 his freedom. He was returned to his slave owner. And
19 let me tell you about a case in history in which---

20 JUDGE DERRICK:

21 Mr. Dalen---

22 MR. DALEN:

23 I'm just almost done, sir.

24 JUDGE DERRICK:

25 I'm going to give you a lot of leeway here because

1 this is just an opening argument. I'm going to ask you
2 to stick to the relevance of this case. We're not
3 going to have a history lesson here. So I need you to
4 start tying some things in. Thank you very much.

5 MR. DALEN:

6 Okay, I'm going to wrap up. Thank you, sir. I'm
7 talking about the Rosa Parks case where the law
8 required her to sit at the back of the bus. She
9 challenged that law knowing that it was immoral and
10 even against God's law, and, as a result of her
11 courage, the law was changed. The Civil Rights Act was
12 passed which forces government to not discriminate.

13 In essence and in summation, there is no crime if
14 there is no intent to commit a crime. A person's
15 belief is sufficient to overcome the charge of willful
16 intent even if that belief is erroneous. That's
17 supported by a Supreme Court case, Cheeks versus United
18 States. And I am going to introduce into evidence
19 letters to various government officials that I have
20 written to requesting a review of the Supreme Court
21 cases that I believe support my contention that
22 citizens have a right to travel without a license. To
23 date I have not received any responses from any
24 government agency that I have written to. And the
25 Supreme Court has also ruled that the government's

1 failure to answer a citizen's reasonable request
2 results in an affirmance of those positions. It means
3 that I can assume that I'm correct, because they didn't
4 answer.

5 Okay, so the main points, in conclusion, the State
6 only has authority to regulate commercial for-hire
7 transportation activities, and I have a strong
8 religious belief that the driver's license is a
9 precursor to the mark from the Bible. And if I have
10 not convinced you of the validity of my position,
11 here's one final point. In order to obtain a driver's
12 license you must provide some evidence of your Social
13 Security number, not just the number but a document
14 proving that you are registered with the Social
15 Security Administration. More than 40 years ago I
16 informed the Social Security Administration that I did
17 not want to participate in what I believe is a Ponzi
18 scheme and a scheme to number the people, which
19 violates my religious beliefs. Because participation
20 in the Social Security system is voluntary and not
21 mandatory by law and is only required if you wish to
22 receive government benefits, which I do not, I chose
23 not to participate. Therefore, I am unable to qualify
24 for a driver's license.

25 One of the exhibits I have included for you to

1 look at is a letter to the South Carolina DMV asking
2 them if I could obtain a license without the number. I
3 had previously visited the Seneca office and was told
4 there was no exception, you have to provide the number
5 or you don't get the license. And I have not received
6 any response to my letter. So ladies and gentlemen,
7 where is the crime? Am I to be denied my right to
8 travel because I do not participate in a voluntary
9 system that violates my religious beliefs? Thank you
10 for your patience and listening to all of that.

11 (Plaintiff's Exhibit Number 1 marked)

12 JUDGE DERRICK:

13 Thank you very much. Officer Taylor, call your
14 first witness, please, sir.

15 TROOPER TAYLOR:

16 I'll call myself.

17 JUDGE DERRICK:

18 All right. If you would raise your right hand,
19 do you swear to tell the truth; the whole truth, and
20 nothing but the truth, so help you God?

21 TROOPER TAYLOR:

22 Yes, sir.

23 JUDGE DERRICK:

24 If you would come up. You can't obviously
25 question yourself. So if you'll just testify to

1 whatever relevant information you need to say.

2 TROOPER TAYLOR: Yes, sir. One-to-one with me, please.

3 Yes, sir. One-to-one with me, please.

4 JUDGE DERRICK: All right. Trooper Taylor, please introduce yourself, please.

5 Introduce yourself, please.

6 TROOPER TAYLOR: Yes, sir. My name is Avery Taylor.

7 I am Trooper Taylor, Avery Taylor, with the South

8 Carolina Highway Patrol. I work in this county out of

9 this troop office, which is in Central. I work both

10 Oconee County and Pickens Counties... Okay? But

11 regarding the case, on February 16, 2017 at

12 approximately 3:30 in the afternoon, me and a few of

13 the other troopers that I work with, we were conducting

14 a checkpoint, a license checkpoint on Sitton Mill Road

15 in Seneca, South Carolina, in this county, which is why

16 we're at this court. When we were conducting that

17 safety checkpoint, which we do checkpoints for reasons

18 of to get drunk drivers off the road, protect property,

19 personal property and other peoples' vehicles, as well,

20 for reckless drivers, suspended licensed drivers,

21 nonlicensed drivers, and just any other thing. We

22 don't really -- we check every car that comes through

23 for license and insurance. We do that with every

24 vehicle. We don't pick and choose which vehicles that

25 we stop and talk to. We stand in the middle of the

1 road with our vests, our hats, and our flashlights if
2 it's at night to be seen, and we stop every vehicle and
3 ask for a driver's license and insurance and
4 registration.

5 But on that date, February 16, I observed a white
6 utility vehicle, a van coming my way. I then had the
7 van stop. I made contact with the driver, which is Mr.
8 John Dalen.

9 MR. DALEN:

10 Your Honor, I object to the use of the terms.
11 They assume facts not in evidence. They're not
12 previously agreed to, and they require a legal
13 conclusion by the fact witness.

14 JUDGE DERRICK:

15 objection noted and overruled.

16 TROOPER TAYLOR:

17 Okay. I made contact with the operator of the
18 vehicle, which means who was ever in control of the
19 vehicle, which was Mr. John Dalen. He was sitting in
20 the driver's seat. I then started asking Mr. Dalen for
21 his license, his registration, and his insurance card.
22 And at that point he told me that he did not have to
23 give me any information, and after that time he said
24 that he could travel freely just like you heard in his
25 opening statements. That's what we heard on the side

1 of the road. But then I did obtain a name and a date
2 of birth from him, which I got John Dalen, 4/30/1957.
3 I then checked with my dispatch, who is out of
4 Greenville, I checked with them and on the South
5 Carolina Department of Motor Vehicles online that we
6 have on our website. We can go in there and check for
7 driver's license and vehicle records, as well. I then
8 checked with them and the dispatch, and it come back
9 the he did not have a driver's license in the state of
10 South Carolina. I then asked them to run it
11 regionally, which means you run it nationally, as well.
12 Okay? You can check all the states with that name and
13 that date of birth, and nothing came back. We then --
14 I then charged him with the ticket, as he said.

15 I summonsed him with section 56-1-20, which is
16 driving with no South Carolina driver's license. We
17 then had him pull to the side of the road and let him
18 call his wife and his son to come pick him and his
19 passenger in his vehicle up. That way we didn't have
20 to tow his vehicle. That way we could help him out by
21 not having to do a tow fee or anything like that. We
22 let him make a phone call and get somebody to come pick
23 him up, and then his wife and son did come pick him and
24 the vehicles up. And then we're here today.

25 JUDGE DERRICK:

1 Anything else?

2 TROOPER TAYLOR:

3 No, sir.

4 JUDGE DERRICK:

5 Answer any questions Mr. Dalen may have. Mr.

6 Dalen, I would caution you that you may only cross

7 examine on things that he testified to.

8 EXAMINATION BY MR. DALEN:

9 Q. Are you the primary fact witness for the State in this
10 matter? There's no other witnesses?

11 A. What---

12 Q. I'm asking you if you are the primary fact witness in
13 this matter.

14 A. Are you asking if I'm the only trooper there?

15 Q. No. Is any other trooper going to show up and appear
16 to be a witness?

17 A. No.

18 Q. You're the only witness?

19 A. I'm the only one showed.

20 Q. You're the only witness, okay. And you testified that
21 you work for the State of South Carolina Department of
22 Public Safety. Correct?

23 A. Yes.

24 Q. And you get paid to work for the South Carolina
25 Department of Public Safety?

1 A. What's the relevance to the case?

2 JUDGE DERRICK:

3 Don't ask questions back. Just answer the
4 question.

5 EXAMINATION RESUMED BY MR. DALEN:

6 Q. It's simple.

7 A. Yes.

8 Q. Obviously you do, okay. Thank you. And is writing
9 transportation citations part of what you get paid to
10 do?

11 A. Say that again?

12 Q. Writing tickets, that's what you get paid to do?

13 A. Yes, I write traffic violation tickets.

14 Q. Okay. And so part of what you get paid to do in your
15 job is accuse people of violating the transportation
16 code. Is that correct?

17 A. I don't accuse. I have facts to back up what I do.

18 Q. Okay. I don't see any facts in evidence, but all---

19 JUDGE DERRICK:

20 Do not argue with the witness. You may only ask
21 questions, and the witness may only answer them.

22 EXAMINATION RESUMED BY MR. DALEN:

23 Q. Okay. When you stopped the accused, me, did you ever
24 inform me that I was under arrest and not free to
25 leave?

1 A. You were legally detained at that point, not arrested.

2 Q. But I wasn't free to leave, was I?

3 A. No, sir.

4 Q. But you never informed me that I was under arrest?

5 A. You were never under arrest.

6 Q. I was never under arrest? Then I was free to leave?

7 A. No, sir. You were legally detained.

8 Q. All right. Did I ever ask you if I was under arrest?

9 A. Yes, sir, and we advised you that you were legally
10 detained.

11 Q. So, in other words, I could have left?

12 A. No, sir. You were legally detained.

13 Q. All right. You told me I was under investigative
14 detention---

15 JUDGE DERRICK:

16 That's not a question.

17 EXAMINATION RESUMED BY MR. DALEN:

18 Q. Are you aware that transportation stops constitute a
19 custodial arrest, according to the Supreme Court?

20 A. Explain.

21 Q. When you stop someone and they're not free to leave,
22 the Supreme Court considers that an arrest.

23 A. What is the question?

24 Q. I'm asking. Are you aware that the Supreme Court
25 considers that an arrest?

1 A. NO.

2 Q. well, they do. did I invoke my fundamentally protected
3 rights, including the right to remain silent and the
4 right to assistance of counsel?

5 A. No.

6 Q. I didn't tell you I had a right to remain silent?

7 A. You never said you wanted counsel.

8 Q. But I did tell you I wanted the right to remain silent?

9 A. Yes, sir.

10 Q. That I didn't have to talk to you?

11 A. You didn't have to.

12 Q. And then you told me that I would not be allowed to
13 leave until I talked to you.

14 A. No, sir. We would not let you leave without giving us
15 a name and a date of birth.

16 Q. Okay, same thing. Did you attempt in any way to get me
17 to waive my rights?

18 A. NO.

19 Q. By telling me that I couldn't leave?

20 A. We told you you were legally detained but not arrested.

21 Q. So you never asked me to produce a driver's license or
22 produce proof of financial responsibility?

23 A. We asked you for your license and registration and
24 insurance card.

25 Q. Could any of the---

1 A. Your driver's license.

2 Q. Could any of the information or documents that you
3 demanded potentially be used against me in a court of
4 law?

5 A. Your driver's license? Explain what you're saying.

6 Q. Well, what if the thing was expired? Could you use
7 that against me in a court of law?

8 A. Yes.

9 Q. Yes, you could, okay? So you never informed me that
10 the information that you were asking for could be used
11 against me in a court of law?

12 A. No, sir.

13 Q. In other words, you never read me my rights?

14 A. You were never arrested.

15 Q. When you wrote the ticket was I arrested?

16 A. Yes, sir. That is a form of an arrest, but not a
17 custodial arrest.

18 Q. So did you inform me -- you're not required to inform
19 me of my rights when you write a ticket?

20 A. No, sir, only when I take you into custody.

21 Q. Did you at any time -- could you please explain for the
22 record and benefit of the jury just how failing or
23 refusing to inform someone that he is under arrest
24 while intentionally failing to read him his rights is
25 not a violation of the accused's rights to due process?

1 A. Explain what you're asking.

2 Q. By not informing me of my rights and arresting me --

3 A. You were never under arrest.

4 Q. -- you violated -- when you wrote the ticket I was
5 under arrest technically. It says it right on the

6 ticket.

7 A. Okay. Well, that---

8 Q. It says it right on the ticket.

9 A. You wasn't taken into custody.

10 Q. What's the difference between being arrested and taken
11 into custody? If you're under arrest---

12 TROOPER TAYLOR:

13 Objection, Your Honor. What's the relevance to
14 the ticket?

15 JUDGE DERRICK:

16 I'm going to allow it, but be careful, Mr. Dalen,
17 it's already been asked and answered several times.

18 MR. DALEN:

19 I'm just trying to determine whether my rights to
20 due process were violated, because I was never read my
21 rights and I was in fact arrested.

22 JUDGE DERRICK:

23 But he explained. He's already answered that
24 question on one, two, three occasions; that you were
25 not under custodial arrest.

1 EXAMINATION RESUMED BY MR. DALEN:

2 Q. Okay. Do you believe that a law can rightfully require
3 the accused to waive fundamentally protected rights
4 against his will in order to comply with the law and
5 your demands?

6 JUDGE DERRICK:

7 All right, that was not -- that's not covered
8 under cross-examination. He didn't testify to any of
9 that, and under cross-examination you can only ask
10 questions that he testified to.

11 EXAMINATION RESUMED BY MR. DALEN:

12 Q. Did you threaten the accused with prolonged detention
13 and incarceration or jail if I did not produce the
14 information and documents that you demanded?

15 A. No, sir. We never said we were taking you to jail or
16 put our hands on you.

17 Q. No, but did you not tell me that I would sit there all
18 day?

19 A. No, sir.

20 Q. I asked you if I was free to leave and you said---

21 JUDGE DERRICK:

22 That's not a question.

23 EXAMINATION RESUMED BY MR. DALEN:

24 Q. So you're saying you did not tell me that I was not
25 free to leave?

1 A. We told you that you were not arrested, that you were
2 legally detained and you were not free to leave.

3 Q. And that I would be detained until I produced the
4 required---

5 A. Yes.

6 Q. Okay. That's what I asked. At any time during your
7 alleged investigation did you discover, obtain, or
8 otherwise receive from me a bill of lading?

9 TROOPER TAYLOR:

10 Objection, Your Honor. What's the relevance to
11 this case?

12 JUDGE DERRICK:

13 I will allow that.

14 EXAMINATION RESUMED BY MR. DALEN:

15 A. No, sir.

16 Q. Did you attempt at any time to determine if I was
17 transporting goods or property for compensation or
18 hire?

19 A. No.

20 Q. At any time during your alleged investigation did you
21 discover, obtain, or otherwise receive from me a
22 passenger manifest?

23 A. No.

24 Q. Did you attempt at any time to determine if I was
25 transporting passengers for compensation or hire?

1 JUDGE DERRICK:

2 Already asked.

3 EXAMINATION RESUMED BY MR. DALEN:

4 Q. When you stopped me did you attempt at any time to
5 determine if I was actually engaging in business as a
6 private, common, or commercial carrier or, quotes,
7 driver that was, quote, operating, quote, a motor
8 vehicle for compensation or hire?

9 A. No.

10 Q. And did you at any time have any reasonable suspicion
11 or facts leading you to believe that I was engaging in
12 any kind of commercial business use of the highway for
13 compensation or hire?

14 A. No.

15 Q. So is it correct to summarize your testimony by saying
16 that you never conducted any actual investigation
17 whatsoever intended to discover facts or evidence that
18 would prove that I was engaged in a regulable
19 commercial activity related to transportation?

20 A. No.

21 Q. It's not correct?

22 A. Explain what you're saying.

23 Q. I'm asking you if it's correct to summarize that you
24 never conducted any actual investigation into whether -
25 - into any facts that would prove that I was engaged in

1 a regulable commercial activity.

2 A. No. We asked you if you had a driver's license in the
3 state of South Carolina.

4 Q. But you never tried to determine if I was engaged in a
5 commercial activity?

6 A. No. We asked you if you had a driver's license in the
7 state of South Carolina.

8 Q. Okay. Are you qualified and competent to make binding
9 legal conclusions and determinations relating to
10 matters of law and facts of this case?

11 A. Yes.

12 MR. DALEN:

13 You know, at this time I would like to move the
14 court to enter a ruling on this issue. Is---

15 JUDGE DERRICK:

16 This is your time to cross-examine the witnesses.
17 It's not the time for that right now.

18 MR. DALEN:

19 I'm trying to determine if the witness is
20 qualified, Your Honor. So I have other questions that
21 I would ask.

22 JUDGE DERRICK:

23 well, he's not being qualified as an expert. He's
24 testifying as to the facts of why he wrote the ticket.
25 so there's no need to qualify the witness.

1 MR. DALEN:

2 Well, the---

3 JUDGE DERRICK:

4 I'm not going to argue with you. This is your
5 time to cross-examine him on what he testified to.

6 That is it.

7 MR. DALEN:

8 well, all right. Your Honor, it's my contention
9 that he is not a qualified fact witness.

10 JUDGE DERRICK:

11 That's not a question for the witness. Do you
12 have any further questions for this witness?

13 MR. DALEN:

14 Yes, I do.

15 EXAMINATION RESUMED BY MR. DALEN:

16 Q. I want to show you a copy of the ticket, which is the
17 one you handed me. Can you identify the signature on
18 that document? Is that your signature?

19 A. Where? What signature?

20 Q. It is signed by you as a complaint, is it not?

21 A. I never signed it.

22 Q. You never signed the ticket? So there's---

23 A. We put our -- we print our initials and last name and
24 our rank.

25 Q. So you didn't sign the document? There's no signature

1 on the document?

2 A. No. We put our rank, our initials, and our last name
3 in the block that says Name and Rank of Arresting
4 officer.

5 Q. And is that considered a criminal complaint?

6 A. This is the traffic uniform ticket.

7 Q. So there's no criminal complaint in this case?

8 A. This is a uniform traffic ticket.

9 Q. Okay, but it's not a complaint?

10 JUDGE DERRICK:

11 That was asked and answered. Move on.

12 EXAMINATION RESUMED BY MR. DALEN:

13 Q. Criminal complaints must be signed and verified under
14 penalty---

15 JUDGE DERRICK: That is not a question.

16 That is not a question.

17 EXAMINATION RESUMED BY MR. DALEN:

18 Q. Did you sign -- or since you didn't sign it, there's no
19 penalty of perjury for you to bring that accusation, is
20 there? In other words---

21 A. We put our name and rank of arresting officer, like I
22 just said.

23 Q. Okay, but you don't have to -- you don't have to swear
24 under penalty of perjury that what you put on there is
25 correct? There's nothing on that document that says---

1 A. It has my name on it---

2 Q. There's nothing on the document that says there's
3 penalty of perjury if it's not true? I don't believe
4 there is.

5 A. Okay. So what's the question?

6 Q. Okay. Did you conclude that I was engaged in a
7 regulable business activity involving transportation-
8 for hire?

9 JUDGE DERRICK:

10 Again, asked and answered.

11 MR. DALEN:

12 Your Honor, this is not a valid complaint if it's
13 not signed by the person---

14 JUDGE DERRICK:

15 Again, this is not your time to argue with the
16 court. I'm trying --

17 MR. DALEN:

18 I'm not---

19 JUDGE DERRICK:

20 --to protect your constitutional rights, Mr.
21 Dalen, and if I allow you to make summations, that
22 possibly could hurt you in this case. This is the time
23 for you to cross-examine this witness only.

24 MR. DALEN:

25 All right. I'm sorry. I'm just trying to learn

1 the procedures here. I guess I'm going to end
2 questioning at this point.

3 JUDGE DERRICK: Thank you very much. You may step down. Anything

4 further from the State?

6 TROOPER TAYLOR: Yes, sir.

7 JUDGE DERRICK: All right. The State rests?

8 TROOPER TAYLOR: Yes, sir.

10 JUDGE DERRICK: Thank you very much. Let's take a break. We'll

11 take about five minutes. Please remain seated while

12 the jury exits, please. [Jury exits] Anything further

13 from the State before we proceed?

14 TROOPER TAYLOR: No, sir.

15 JUDGE DERRICK: All right. Mr. Dalen, do you have anything?

16 MR. DALEN: Well, I'd like to present evidence. I'm not sure

17 when that's appropriate.

18 JUDGE DERRICK: Well, that was going to be my next question, is it

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1 wanted to go over that with you. Understand that in
2 any criminal or traffic trial that you have the right
3 to testify. You also have the right not to testify,
4 and if you choose not to testify in this case, then I
5 must instruct the jury they in no way can hold that
6 against you. Do you understand that?

7 MR. DALEN:

8 Yes.

9 JUDGE DERRICK:

10 Now, knowing that, do you wish to testify in this
11 case?

12 MR. DALEN:

13 well, I'd like to just submit some evidence for
14 the jury to review.

15 JUDGE DERRICK:

16 Well, you have to testify to submit evidence. You
17 can't just submit things randomly for the jury to
18 review. There's a procedure and a foundation you have
19 to lay, and it has to be relevant evidence. So if
20 you're not going to testify, you're not going to be
21 allowed to present evidence. If you testify, then you
22 can present anything relevant, but you have to lay a
23 foundation for that under the law and then present that
24 into evidence.

25 MR. DALEN:

1 Okay. Well, yeah, I guess I will testify then.

2 JUDGE DERRICK:

3 All right. Thank you very much. Let's take about
4 a five-minute break. You're not to discuss anything in
5 front of the jury, and then we will resume.

6 (Off the Record; 10:49 -- 10:55 a.m.)

7 JUDGE DERRICK:

8 All right, ladies and gentlemen of the jury, the
9 state has rested, and we will now proceed with the
10 defense. Mr. Dalen, do you wish to testify in this
11 case?

12 MR. DALEN:

13 Yes, sir.

14 JUDGE DERRICK:

15 If you would raise your right hand for me, please,
16 sir. Do you swear to tell the truth, the whole truth,
17 and nothing but the truth, so help you God?

18 MR. DALEN:

19 I don't swear. I affirm.

20 JUDGE DERRICK:

21 Thank you very much. Let the record reflect that
22 the Defendant has affirmed to tell the truth. Mr.
23 Dalen, if you would come up, please. And, as with
24 Trooper Taylor, obviously there's no counsel here. So
25 you may testify to anything relevant, and then Trooper

1 Taylor can cross-examine on anything that he has
2 testified to. Thank you very much.

3 MR. DALEN:

4 well, to keep this brief, I would -- I'd basically
5 just like my opening statement to be my testimony, and
6 I have documents that I referred to in my opening
7 statement that I'd like the jury to be able to see,
8 including the brief that I filed which lists numerous
9 Supreme Court decisions regarding my belief that we
10 have a right to travel and it's not a privilege.

11 JUDGE DERRICK:

12 Any objection to that, Officer Taylor?

13 TROOPER TAYLOR:

14 No, sir.

15 JUDGE DERRICK:

16 If you'll let me mark those, I'll just mark them
17 as a grouping as Defense Exhibit Number 1.

18 (Defendant's Exhibit Number 1 marked)

19 MR. DALEN:

20 I have two copies here.

21 JUDGE DERRICK:

22 I just need one copy, thank you, since it's in
23 evidence. If you would like to refer to those or
24 testify to anything else, you are welcome to do so.

25 MR. DALEN:

1 okay. well, just basically what I've already said
2 is I have a firm belief that this licensing is not a
3 privilege -- licenses are a privilege, and Americans
4 have rights. we don't have privileges. Our government
5 does not have authority to convert rights into
6 privileges for any reason whether, you know, they think
7 it's for your safety or not. You might recall Benjamin
8 Franklin saying that people that give up their rights
9 for a little security will end up having neither rights
10 or security, and I firmly believe that. And my
11 religious beliefs, I firmly believe those also, that
12 this is a precursor to the mark of the beast. You're
13 going to have that chip implanted in your hand whether
14 you like it or not.

15 TROOPER TAYLOR:

16 objection, Your Honor.

17 MR. DALEN:

18 unless you refuse.

19 JUDGE DERRICK:

20 It's been referred to.

21 MR. DALEN:

22 okay. So basically that's it. I had no intent of
23 violating any law. I've been a law-abiding citizen for
24 many years, and I'm basing my decision on Supreme Court
25 decisions, and I have a right, as you do, to rely on

1 decisions of the Supreme Court. So I hope you'll read
2 the documents that I've included. And, also, the fact
3 that I've tried to contact government officials,
4 including Senator Thomas Alexander, to get an
5 explanation. If I'm wrong, then tell me I'm wrong.
6 But no one is telling me I'm wrong. They're just
7 refusing to answer. Okay, that's my testimony.

8 JUDGE DERRICK:

9 Thank you very much. Officer Taylor, do you have
10 any questions for Mr. Dalen?

11 TROOPER TAYLOR:

12 No, sir, I do not.

13 JUDGE DERRICK:

14 You may step down. Thank you very much.

15 MR. DALEN:

16 Oh, could I say one more thing?

17 JUDGE DERRICK:

18 No, sir.

19 MR. DALEN:

20 It's just that I have no --

21 JUDGE DERRICK:

22 No, sir.

23 MR. DALEN:

24 -- animosity to anyone here.

25 JUDGE DERRICK:

1 You can cover that -- I'm going to let you have a
2 closing argument.

3 MR. DALEN:

4 Okay.

5 JUDGE DERRICK:

6 All right. Trooper Taylor, since the Defendant
7 did testify, you have the right to open and then close.
8 You can open on the law if you wish to, or you may
9 waive that before your final closing argument.

10 TROOPER TAYLOR:

11 I'll waive that, Your Honor.

12 JUDGE DERRICK:

13 Thank you very much. Mr. Dalen, any closing
14 argument that you wish to make, please, sir?

15 MR. DALEN:

16 Okay. I just want to state that I have no
17 animosity towards the judge or the officers. I
18 appreciate the job that law enforcement does. I'm
19 simply exercising my constitutional right to challenge
20 the law, and I believe that I have plenty of evidence
21 to suggest that I am correct. And when government does
22 not respond when you ask them a question and they don't
23 respond, you have a right to believe that you are
24 correct in your assertions. They had opportunity. I
25 filed -- I mailed these letters back in June. No

1 response from the government. So I believe that I am
2 correct in my assertions. So I firmly believe I
3 haven't violated the law. I'm under no obligation to
4 comply with the statute in question. And, finally, in
5 order to obtain a license I'd have to give a number
6 that I'm not required to have. So that can't possibly
7 be a requirement for me to have a license. They can't
8 take -- you can't force someone to exchange one right
9 in order to enjoy another. That's pretty much all I
10 have to say.

11 JUDGE DERRICK: Thank you very much, Officer Taylor?

12 Thank you very much, Officer Taylor?

13 TROOPER TAYLOR: Again, I want to say thank y'all for coming. Like

14 Again, I want to say thank y'all for coming. Like
15 I said, we are here on a charge of no driver's license
16 in the state of South Carolina like I've already
17 testified. And I've already checked again. He still
18 does not have a driver's license in the state of South
19 Carolina nor a driver's license in the United States of
20 America in any state, and he was operating and driving
21 a vehicle in South Carolina. I mean, I don't know
22 about y'all, but I have a driver's license. I'm sure
23 y'all have a driver's license, and this man does not
24 have a driver's license. He thinks he doesn't have to
25 have a driver's license, so he thinks that -- he may

1 think he's better than y'all and that he doesn't have
2 to have one. Okay? We've all had to take the time to
3 acquire a driver's license, take the time to go get it,
4 keep it issued, keep it up-to-date, and he does not
5 think he has to have one. Okay? Again, I want to say
6 thank y'all for y'all's time, and I thank you, Judge.

7 JUDGE DERRICK: Thank you very much. Ladies and gentlemen, you
8 listened to the proceedings and evidence in this case,
9 and now it is my legal duty to instruct you as to the
10 law which applies to the facts. I am not permitted to
11 indicate how I may feel about the testimony and
12 evidence which has been presented, and throughout this
13 trial I've intended to be fair and impartial toward all
14 the parties involved. Nothing I may have said or done
15 during the course of this trial has been in any way
16 intended to express, suggest a view of the case or an
17 opinion as to any of the facts, the weight of the
18 evidence or the credibility of any witness. If any of
19 my actions or words has indicated that, please
20 disregard it and form your own opinion as to these
21 matters.
22 As you well know, this trial is very important to
23 both the State and the Defendant. You the jury have
24 sworn to see that both the State and Defendant have a

1 fair and impartial trial, and you are not to be
2 governed by sympathy, prejudice, or public opinion. It
3 is for you to determine which witness or witnesses are
4 recalling or truthfully relating what transpired at the
5 time of the alleged commission of the crime. You may
6 believe or disbelieve all or any part of the testimony
7 of any witness. You may believe the testimony of a
8 single witness against that of many or just the
9 opposite. Of course, you don't determine the truth
10 merely by counting witnesses presented by each side.
11 In determining the facts of this case you should treat
12 the evidence presented by the witnesses as any
13 reasonable person would treat any question presented to
14 him or her. Use your common sense. Consider the
15 evidence in the case for only the purpose for which it
16 was admitted. Give it a reasonable and fair
17 construction, drawing such reasonable doubts as you
18 feel are justified in the light of your own personal
19 experience.

20 Now, the Defendant has entered a plea of not
21 guilty. The effect of the Defendant's plea of not
22 guilty is to place upon the State of South Carolina the
23 burden of proof, and this proof must be beyond a
24 reasonable doubt. The law presumes the Defendant to be
25 innocent of a crime; thus, the Defendant, although

1 accused, begins the trial with a clean slate with no
2 evidence presented before the jury to be considered in
3 support of any charge against the accused. So the
4 inference of innocence alone is sufficient to acquit
5 the Defendant unless you, the jurors, are satisfied
6 beyond a reasonable doubt of the Defendant's guilt
7 after careful and impartial consideration of all the
8 evidence in the case.

9 The State does have that burden of proving the
10 Defendant guilty beyond a reasonable doubt. Some of
11 you may have served as jurors in a civil case where
12 you're told it's only necessary to prove the fact more
13 likely true than not, such as a greater weight or
14 preponderance of the evidence. In criminal cases the
15 State's proof is more powerful than that. It must be
16 beyond a reasonable doubt, which is defined as: A
17 reasonable doubt is the kind of doubt that would cause
18 a reasonable person to hesitate to act. Ladies and
19 gentlemen, proof beyond a reasonable doubt is proof
20 that leaves you firmly convinced of the Defendant's
21 guilt. There are very few things in this world we know
22 with absolute certainty, and in criminal cases the law
23 does not require proof that overcomes every possible
24 doubt.

25 The Defendant in this case has been charged with

1 no South Carolina driver's license, which in our Code
2 of Laws is section 56-1-20 which reads: No person
3 except as expressly exempted in this article shall
4 drive a motor vehicle upon a highway in this state
5 unless such person has a valid motor vehicle driver's
6 license issued to him under the provisions of this
7 Article. No person shall receive a motor vehicle
8 driver's license unless and until he surrenders to the
9 Department of Motor Vehicles all valid operator's
10 license in his possession issued to him by any other
11 state. No person shall be permitted to have more than
12 one valid motor vehicle driver's license or operator's
13 license at any time. Under our Constitution and Code
14 of Laws, only you, the jury, can make the findings of
15 fact in this case.

16 The same Constitution and laws which designate and
17 make you finders of the facts as I just explained make
18 me the instructor of the law. You must accept the law
19 as I have given it to you. This means you should not
20 be concerned with what you think the law should be, but
21 only what I have instructed you the law is at this
22 time. We have now arrived at the point of the trial
23 for each of you to consider and weigh all of the
24 evidence to determine, if you can, the question of the
25 guilt or innocence of the Defendant. I charge you, you

1 must try this case according to the evidence that you
2 have heard come from the lips of the witnesses under
3 oath and apply the law as I have given it to you. When
4 you have reached your verdict under your oath to be a
5 true verdict no one can criticize you as to whatever
6 that verdict may be. Mr. Foreman, this must be a
7 unanimous verdict and all six of you must agree. What
8 I have done is, in order -- not necessarily in order,
9 but I have laid out for you what the Defendant has
10 presented as evidence, the charging document, and a
11 verdict form. Mr. Foreman, when the jury reaches a
12 verdict, please record it by striking out the statement
13 that does not reflect your decision. I would also add
14 that you circle the one that you want. After having
15 done this, please sign your name under the verdict to
16 signify that the statement reflects the verdict of the
17 jury, and the rest of your jurors will sign under your
18 name. I have spaces for each of you.

19 For the convenience of the jury I have listed
20 below the possible verdicts in this case. Attach no
21 significance to the order in which I set them out.
22 Obviously one has to be first, one has to be second.
23 When you've reached a verdict and have recorded it,
24 please notify us by knocking on the door. We do have a
25 jury room, which you may have seen when we got water.

1 You won't fit in there. So what we do is we're going
2 to exit with all our documentation and everything that
3 we have. Madame Court Reporter, you may leave your
4 stuff if you need to. And then we will go out. Y'all
5 may use the courtroom as your jury room so you don't
6 suffocate. If you need to take a break, the only thing
7 I would ask, that if you do that, stop your
8 deliberations until everyone has reconvened. We want
9 all of you together for the deliberations. If you have
10 any questions or anything comes up, if anything needs
11 to be played back or if there's a question that I can
12 answer for you, then just knock on the door and I'll
13 answer your question, see what your question is. If we
14 need to reconvene for your question and put it on the
15 record, we'll do that. All right? If everyone would
16 please exit the courtroom, please.

17 (Off the Record; 11:08 -- 11:18 a.m.)

18 JUDGE DERRICK:

19 We are back on the record. Mr. Foreman, it is my
20 understating that you have reached a verdict in this
21 case. Is that correct?

22 MR. FOREMAN:

23 Yes, sir.

24 JUDGE DERRICK:

25 If you would, read your verdict for the courtroom,

1 please, sir.

2 MR. FOREMAN:

3 we find the Defendant guilty.

4 JUDGE DERRICK:

5 Thank you very much. If you would hand that up.

6 And, once again, I want to thank you. I know both
7 parties have. And, obviously, you've heard from the
8 facts, this case is roughly six months old. So you
9 have helped us resolve it. I hope you feel good about
10 it, feel like you've done the County a service, because
11 I certainly think you have. Obviously, we could not
12 have resolved it without you. Don't spend your checks
13 in one place.

14 JUROR:

15 We probably won't have enough to spend it in one
16 place.

17 JUDGE DERRICK:

18 We do ask that once you do get the check, if you
19 would do something with it, whatever you want to do
20 with it within 90 days; otherwise, the County does void
21 those. So thank you very much. You are free to go.

22 JUROR:

23 okay. Thank you.

24 JUDGE DERRICK:

25 Everyone else stay seated, please.

1 JUROR:

2 Thank you so much. [Jury exits]

3 JUDGE DERRICK:

4 All right. Anything else from the State?

5 TROOPER TAYLOR:

6 No, Your Honor.

7 JUDGE DERRICK:

8 Anything from the Defendant?

9 MR. DALEN:

10 Only, Your Honor, that I have no intent to violate
11 laws. I am simply exercising my constitutional rights
12 to challenge those laws.

13 JUDGE DERRICK:

14 Absolutely, and I certainly respect that, Mr.
15 Dalen. Unfortunately, the jury has found you guilty.
16 We'll go on with sentencing now. The sentence of the
17 court is 30 days or a fine of 232.50. Mr. Dalen, I
18 will allow you till 1 o'clock, let's say 1:30 to pay
19 that if you don't have it with you right now, or,
20 otherwise, the 30 days will have to go into effect. So
21 have that paid by 1:30 today, please, sir.

22 MR. DALEN:

23 And I also want to notify the court that I intend
24 to appeal.

25 JUDGE DERRICK:

1 okay.

2 MR. DALEN:

3 Is there any chance that the court will stay their
4 judgment until--

5 JUDGE DERRICK:

6 No, sir. You would have to file an appeal bond,
7 which would be the amount of the fine. If you wish to
8 do that, that would stay the jail time, but that would
9 be the only thing. And you would file that appeal at
10 the courthouse in Walhalla.

11 MR. DALEN:

12 Not here?

13 JUDGE DERRICK:

14 Not here, no, sir. We will get a copy of it and
15 file the return, but you do have to file it at the
16 courthouse.

17 MR. DALEN:

18 Well, can I ask you another question?

19 JUDGE DERRICK:

20 Yes, sir.

21 MR. DALEN:

22 I don't know if this is a new thing, appeal

23 directly to the Appeals Court in Columbia?

24 JUDGE DERRICK:

25 No, sir. You have to go through the county level

1 first. So it would be the Circuit Court.

2 MR. DALEN:

3 well, it's called the Uniform Post-Conviction
4 Procedure Act. It's Section 17-27-10. And it's
5 persons who may---

6 JUDGE DERRICK:

7 Yes, sir, I'm aware of it, but you have to go
8 through -- you have to file that at the courthouse in
9 the county that you were convicted first.

10 MR. DALEN:

11 Okay. All right. Thank you.

12 JUDGE DERRICK:

13 Thank you very much. We are adjourned.

14 (There being nothing further, the trial concluded at 11:21
15 a.m.)

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CERTIFICATE OF REPORTER

I, ROSALIND POOLE WALTERS, a Notary Public in and for the state of South Carolina, do hereby certify that the foregoing 62 pages represents a true and accurate transcript of the jury trial which was taken by me on the 17th day of August, 2017.

That all witnesses were first duly sworn to tell the truth, the whole truth and nothing but the truth of their own knowledge concerning this matter.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Rosalind Walters

Rosalind Poole Walters, CVR-M

Notary Public for South Carolina

Commission Expires: 4/29/26

STATE OF SOUTH CAROLINA)

COURT OF COMMON PLEAS

COUNTY OF OCONEE)

John Dalen,)

Plaintiff,)

v.)

Case No. 17-CP-37-00490

State of South Carolina,)

Defendant.)

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on February 26, 2018, before The Honorable R. Lawton McIntosh in the Court of Common Pleas for Oconee County; attended by counsel as follows:

APPEARANCES:

John Dalen

... Appearing *Pro Se*

Bethany Blundy, Esq.

... Appearing for State of South Carolina

Vivian H. Cross

Circuit Court Reporter - 10th Judicial Circuit

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THE COURT: Dalen versus the State of South Carolina. You're here, you're ready to proceed?

MR. DALEN: Sure.

THE COURT: Come on around.

MR. DALEN: (Complies).

THE COURT: You have the return, do we have a return on that?

CLERK: Yes, all of these have returns on them.

THE COURT: Okay. So Mr. Dalen, is this your appeal?

MR. DALEN: Yes, sir.

THE COURT: All right, I will be glad to hear from you. Go ahead.

MR. DALEN: First I want to make sure that you have all the documents that I have in this.

THE COURT: At this juncture, I do not have any documents in front of me. They should be in my queue. I'll look them up and read them, but I don't have them in front of me as we speak.

MR. DALEN: Okay. All right, can I add

1 a few things to that?

2 THE COURT: You're appealing from the
3 magistrate, so your record of the case is
4 what you made in the court below and you
5 can't add to it.

6 MR. DALEN: What I've got is the
7 transcript, which I didn't have---

8 THE COURT: Oh, sure. If it's the
9 transcript of the hearing, -- have you given
10 a copy to Ms. Blundy?

11 MR. DALEN: I just assumed that
12 everybody would have one. I'm not sure if I
13 have two copies, let me see if I have another
14 copy -- (reviewing files).

15 THE COURT: While you're doing that,
16 let me go get my computer. I'll be right
17 back.

18 (JUDGE EXITS AND RE-ENTERS COURTROOM)

19 COURT REPORTER: Mr. Dalen, you've got
20 your computer bag open and it is blocking my
21 recorder.

22 MR. DALEN: I'm sorry, (closes computer
23 bag).

24 COURT REPORTER: Now your paperwork is
25 on it.

1 MR. DALEN: Sorry, (removes paperwork).

2 Your Honor, the yellow document is a page
3 from the South Carolina Municipal Handbook.

4 THE COURT: It's a case?

5 MR. DALEN: Well, it goes along with my
6 argument. It is a page from the American
7 Jurisprudence, (tendering copies to defense
8 counsel and Judge McIntosh).

9 THE COURT: All right. This is your
10 appeal. Give me some background on it,
11 please, Mr. Dalen. What the issues are on
12 appeal?

13 MR. DALEN: This is also a copy, I'd
14 like it in the record.

15 THE COURT: Sure.

16 MR. DALEN: (Tendering copy to defense
17 counsel and Judge McIntosh). Are we ready?

18 THE COURT: Yes, sir.

19 MR. DALEN: In the trial that was held
20 in the municipal court, I believe that my
21 constitutional rights were violated and that
22 Judge Ballard violated his oath of office and
23 that due process was violated.

24 At no time did the State ---

25 THE COURT: I don't mean to interrupt

1 you but please go back and give me the
2 background of -- obviously you were
3 criminally charged, so what were the charges
4 you were ---

5 MR. DALEN: Yes, I was criminally
6 charged with driving without a South Carolina
7 driver's license. I believe that the statute
8 in question applies to people who are driving
9 for hire, commercial activity. There's been
10 a lot of court cases, the Supreme Court as
11 well as lower courts that back up that
12 contention.

13 At no time did the State or anybody else,
14 even the Judge, offer any rebuttal to
15 anything that I presented.

16 THE COURT: The judge never offers
17 rebuttal. He just ---

18 MR. DALEN: Well, when I made Motions
19 he basically ---

20 THE COURT: Do you have a license --
21 did you have a license at all?

22 MR. DALEN: No, sir, I did not.

23 THE COURT: You didn't have a license
24 at all, from any State?

25 MR. DALEN: No.

1 THE COURT: When you were arrested or
2 when you were charged, where were you
3 driving?

4 MR. DALEN: Well, they claim that I
5 wasn't arrested, but I got stopped at a
6 checkpoint.

7 THE COURT: Okay, sir. You were issued
8 a citation at that point?

9 MR. DALEN: A citation, yes. I was
10 threatened with arrest and I was threatened
11 to have my property towed if I didn't comply
12 in full, not to drive away in the vehicle.

13 THE COURT: So it is your contention
14 that you do not have to have a driver's
15 license?

16 MR. DALEN: Right. Based on the United
17 States Supreme Court's decision and what --
18 what the main issue here is rights versus
19 privileges. The Supreme Court says that I
20 have a right to travel. The State has
21 converted that right to a privilege and is
22 unlawful. The only way that the statute
23 could be lawful or Constitutional is if it's
24 applied to people engaged for hire,
25 commercial activity. Otherwise they are

1 trampling on a constitutionally protected
2 right. The State does have a right to
3 regulated fundamentally-protected rights.
4 But they do not have the right to convert it
5 to a privilege. So once they convert it to a
6 privilege, it no longer applies to an
7 individual that is not engaged in commercial
8 activity. And all the evidence that I've put
9 in the record supports that. The State did
10 not put any evidence in the record.

11 THE COURT: Was this a bench trial or a
12 jury trial?

13 MR. DALEN: It was a jury trial.

14 THE COURT: A jury trial?

15 MR. DALEN: A jury of six. I demanded
16 my rights under common law and common law
17 requires a jury of twelve.

18 Common law also requires that there be a
19 victim, that the State cannot be a victim.

20 And common law also requires that there
21 be willful intent.

22 I think all the evidence that I've
23 presented disproves any willful intent to
24 violate any law. I have plenty of evidence
25 to show that I believe what I believe, and I

1 have good reason to believe that.

2 Unless the State can show how they can
3 convert a right into a privilege, then they
4 have no case.

5 THE COURT: So essentially you came to
6 a checkpoint, did not have a license from
7 state that allows you to drive. You were
8 charged with driving without a license and
9 your argument is that you have the right to
10 freely travel throughout various states.
11 That it is a right and not a privilege.

12 MR. DALEN: That's right. It is a
13 constitutionally-protected right, it's a
14 three part rule that it is a fundamental
15 right and a state cannot convert it to a
16 privilege.

17 Just like under the gun laws, they are
18 not claiming that the second amendment is a
19 privilege, it's a right. They're trying to
20 regulate that right, but they're not claiming
21 it is a privilege.

22 The same with travel. They State could
23 argue that they are trying to regulate a
24 right, but they are not. They're arguing
25 that they can convert it to a privilege.

1 Once a state can grant privileges, they
2 can take privileges away. They cannot take
3 rights away.

4 THE COURT: All right, sir. Anything
5 further on your argument?

6 MR. DALEN: I guess that's about it.
7 That covers everything.

8 THE COURT: All right. Ms. Blundy?

9 MS. BLUNDY: Thank you, Your Honor. I
10 want to commend Mr. Dalen on --- is that how
11 you pronounce your name?

12 MR. DALEN: That's correct.

13 MS. BLUNDY: --- his analysis, I found
14 it to be very interesting. I actually read
15 through each one of his documents that he
16 provided. But we have a significant
17 difference in our understanding of the law.

18 I had to go back over my Constitutional
19 law notes that I've had from years ago, uh,
20 but when I did look at it, I looked at how
21 the government has come up with fundamental
22 rights. And if you'll recall, Your Honor,
23 the enumerated rights come from the Bill of
24 Rights, the first ten amendments.

25 Then there's un-enumerated rights which

1 the courts have determined that we have a
2 right to; such as privacy, things of that
3 nature. They did voting -- and political
4 association. They did determine there to be
5 an un-enumerated right to interstate travel.
6 We are looking at entrusting traffic. Two
7 totally different issues.

8 Intrastate is within the state's borders.
9 Interstate is between states' borders.

10 Now, the other thing that Mr. Dalen
11 didn't consider is the mode of that travel.
12 I don't think the Court specifically said you
13 have a right to use a car for that mode and
14 means of travel.

15 So we're looking at an abridged right
16 that is un-enumerated, so then we have to do
17 a substantive due process analysis; which is,
18 uh, you know, what is the government's ends
19 and what are the means to accomplish those
20 ends and what kind of level of review,
21 Constitutional review is applied to that and
22 its rational basis for this un-enumerated
23 right that he is claiming.

24 Certainly it's easy to say that the
25 government has an interest to protect people

1 out on the roads and to require them to have
2 a driver's license if they are using a motor
3 vehicle.

4 THE COURT: Thank you very much. Mr.
5 Dalen, anything further?

6 MR. DALEN: Yes, sir. You know, the
7 State could have argued this at the trial and
8 didn't. So for me to have to defend argue
9 here, that's -- I don't think that's fair.

10 They shouldn't be able to enter anything
11 that wasn't at the trial. This is an appeal,
12 not a trial here. None of this was brought
13 up.

14 I wrote letters to the State, I got zero
15 responses. That's in the evidence that I
16 presented to the Court. I wrote to the
17 Highway Patrol, I wrote to the Department of
18 Motor Vehicles, I wrote to Congressman
19 Alexander. No one responded.

20 The Supreme Court says that if I ask the
21 State some questions and they don't respond,
22 then I have the right to assume I'm correct.
23 So that's how I based my decision to do this.
24 No one bothered to tell me that I was wrong,
25 no one bothered to present any of this. I

1 disagree with her totally because the issue
2 is still a fundamental right versus a
3 privilege. The State cannot convert it to a
4 privilege. And the statute that I am charged
5 under clearly states that it is a privilege.
6 They can't do that. That is unconstitu-
7 tional.

8 The only way that it could be a privilege
9 is if I'm engaged in commercial activity.
10 There are plenty of cases in my Motion to
11 dismiss that back that up, Supreme Court
12 cases.

13 Also willful intent, there was no willful
14 intent to violate any law. I have plenty of
15 reason to believe what I believe. And unless
16 the State can show me how that convert a
17 right into a privilege, they have no case.

18 THE COURT: Thank you. I'll read your
19 submissions and I will issue an Order as soon
20 as I get through them.

21 MS. BLUNDY: Thank you, Your Honor.

22 MR. DALEN: Thank you. May I approach
23 the court reporter?

24 THE COURT: What is it that you want to
25 say?

1 MR. DALEN: I just need to know how I
2 get a transcript.

3 THE COURT: Oh, go right again.

4 (HEARING CONCLUDED)

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STATE OF SOUTH CAROLINA)

) CERTIFICATE

COUNTY OF GREENVILLE)

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 13th Judicial
Circuit, hereby certify that the foregoing is a
complete and accurate transcript of the hearing
held in the within action on February 26th, 2018,
before The Honorable R. Lawton McIntosh as prepared
from the audio notes of Vivian H. Cross, assigned
court reporter;

I further certify that I am neither kin nor
counsel to any of the parties and have no interest
in the outcome of this action.

Deborah Garrison

Deborah Garrison

STATE OF SOUTH CAROLINA
PUBLIC CONTACT / WARNING

AGENCY NAME: **SP02 SC HIGHWAY PATROL TROOP 2** COUNTY OF: **CLONEE**
 FIRST NAME: **JOHN** M.I.: **DALEN** LAST NAME: **DALEN**
 ST. LICENSED DRIVER'S LICENSE NO.: **NA**
 RACE / ETHN: **W** GENDER: **M** DATE OF BIRTH: **04-30-1957** LATITUDE: **34 47.04**
 LONGITUDE: **82 56 47.96**
 HT. TYPE: **RT. # / NAME**
 CITY: **CLONEE** DATE: **02-16-2017** TIME: **1530**
 VEH. LICENSE NO.: **SC** STATE: **SC** VEH. MAKE: **CHEV** YEAR: **1994** CMV: ☐
 ISSUED BY: **TAYLOR A M** RANK: **TRP** SIGNATURE: **1/29-6/11**

NATURE OF CONTACT

- | | |
|---|--|
| ☐ SPEEDING | ☐ DISREGARDING TRAFFIC SIGNAL |
| ☐ CONTACT ONLY | ☐ FOLLOWING TOO CLOSE |
| ☐ IMPROPER LANE USE | ☐ CHANGING LANES UNLAWFULLY |
| ☐ FAILURE TO DIM LIGHTS | ☐ NO RIGHT OF WAY |
| ☐ IMPROPER BACKING | ☐ DEFECTIVE EQUIPMENT |
| ☐ IMPROPER LIGHTS | ☐ IMPROPER PASSING |
| ☐ IMPROPER TURN | ☐ DRIVERS LICENSE VIOLATION |
| ☐ DISREGARDING STOP SIGN | ☐ VEHICLE LICENSE VIOLATION |
| ☐ SEAT BELT VIOLATION | ☐ PEDESTRIAN |
| ☐ TEXTING VIOLATION | ☐ IMMIGRATION STOP |
| | OTHER (SPECIFY): |



In comply with South Carolina code of laws 56-5-6560 (A): Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, the officer who initiated the stop must complete a data collection form. Data must include information regarding the age, gender, and race or ethnicity of the driver.

IP0071296711170216145257

UNOFFICIAL COPY

Form 15-0070 06/2014

Form 9-438
Rev. 08/2014

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA
VERSUS

FIRST NAME: John		MIDDLE NAME: DALEN		LAST NAME: DALEN	
STREET: 109 Wood Valley Dr					
CITY: Westminster		STATE: SC		ZIP CODE: 29693	
DL STATE: NA	DRIVERS LICENSE NO.: NA		CLASS: NA	CDL: NO	
RACE: W	SEX: M	BIRTH DATE: 4/30/57	HGT.: 600	WGT.: 200	HAIR: BRN
VEH. LIC. NO.: SCF 867	STATE: SC	MAKE OF VEH.: CHEV	YEAR: 94	REPORTED: NO	VEH. TYPE: TRUCK
VEHICLE OWNER FIRST NAME: Jodie		MIDDLE NAME: Ann		LAST NAME: DALEN	
OWNER STREET: Westminster		CITY: SC		ZIP CODE: 29693	

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT: Traffic		STREET: 1016 E. Winchester ST			
DATE OF TRIAL: 4/18/17	TIME OF TRIAL: 08:00pm	CITY: Westminster		STATE: SC	
VIOLATION SECTION NO.: 56-1-20		VIOLATION - COURT APPEARANCE REQUIRED: YES (NO)			
DATE OF VIOLATION: 4/16/17		TIME OF VIOLATION: 1530		SO POINTS: -	B.A. LEVEL: -
VIOLATION LOCATION: 56654					
LAT: 34 36 47.04		LONG: 82 56 47.96		CITY: Seneca	
NAME AND RANK OF ARRESTING OFFICER: TRP A M Taylor					
BAIL DEPOSITED: NONE		DATE OF ARREST: 2/16/17		BOND AMOUNT REQUESTED: 7189.6713	
BOND AMOUNT REQUESTED: \$232.00					

PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

BE SURE YOU UNDERSTAND FROM THE ARRESTING OFFICER THE EXACT TIME AND BEFORE WHOM YOU ARE TO APPEAR. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. POINTS FOR OUT OF STATE VIOLATOR WILL BE ASSESSED BY YOUR HOME STATE LICENSING AUTHORITY AND MAY DIFFER FROM STATE TO STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVER'S LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET.

VIOLATOR'S COPY **TICKET# 5102P0778082**

CITY/COUNTY OF: **CLONEE**

INCIDENT NO.:

ASSIGNMENT NO.: **11013**

Opening Statement by John Dalen
August 17, 2017

2017.08.31.490

OPENING STATEMENT

Ladies and gentlemen,

I hope to show you in this trial that there is no criminal intent on my part to violate the law. I have made a study of this and I do not believe I am violating the law. I believe the law is being routinely misapplied. In addition, I'd like to thank you for being here. I am John Dalen. I am a husband and father of one son we are very proud of.

Following the economic collapse of 2008, like many Americans, I became increasingly concerned about how our government operates. I decided to "get off the fence" and do something. I began studying history, law and government, and I entered my first race for public office as a Constitution Party candidate for Congress in 2010. I followed that in 2012 with a run for State House as a Republican. Then in 2016, I ran for County Council, once again as a Republican. All of these attempts to get elected to public office were not because I needed a job, but because I wanted to put government back on its proper footing, and that is for protection of persons and property – the only legitimate purpose of government.

One thing I learned in my study of the law and it's important that you know -- words used in the law do not necessarily have the same definitions as is commonly understood. In legal terms, these words are called "terms of art" and they have specific meanings, even in contradiction to their common usage. An example of this: words used in the food industry... such as "natural" and "no fat". Natural in the legal sense can include artificial ingredients and "no fat" can actually include a certain percentage of fat. The same is true in this case for the words "person," "driver," "automobile" and others.

And also in my years of study, I came to see that many of our rights have been gradually converted to privileges. But before I explain more in detail about that, I'd like to tell you more about me and how personal this is for me. I can recall when I was ten years old and I was watching civil rights marches on tv. Even at that age I was appalled to see people pulled from the march and beaten just because they were demanding their God-given rights--the right not to be discriminated against because of skin color.

But this case is about the right to travel. There are numerous Supreme Court decisions that affirm Americans have a right to travel upon the public highways, and that government can only regulate the use of the highways for commercial purposes. More on that later as well....

I have also become very concerned that the driver's license is becoming a national ID – you may have heard the term “Real ID.” I believe this ID is a precursor to the mark of the beast as mentioned in the Bible. The chip that is on your driver's license will eventually be required to be inserted into your hand, just as Bible prophecy predicts.

By the way, an interesting thing happened in my second political race – all the challengers were kicked off the ballots due to a technicality with filing papers. All of the challengers to the incumbents, including all four sheriff candidates, were forced to gather petition signatures to re-qualify for the ballot. We all banded together to help each other gather the signatures necessary. That is, all the challengers helped all the sheriffs and all the sheriff candidates helped all the other petition candidates. So anyway, recently, knowing that our sheriff, Mike Crenshaw is also a Christian, it felt natural to pay him a visit to discuss my case with him. I gave him all the filings and related documents that I had already sent to the Colonel at the Dep't of Public Safety. Mike told me that he would follow up with the solicitor's office in Greenville and try to get an informed legal opinion and get back with me to address my concerns. He said that he was also concerned about the Real ID and the possibility of a national ID, and even the possibility of a chip implant. I asked him how a Christian might enforce such a law that obviously violates God's law commanding His people not to accept the mark. Because that, ladies and gentlemen is what this is all about –

Here is where I begin to explain my understanding of the law. I really don't believe the judge should have proceeded to trial on this case as I have not committed any crime. One of the elements for a conviction is that the accused knew what the law was and intended to violate it. My study of the law had shown me that the Supreme Court has ruled repeatedly that travel upon the public highways is a right and that the state cannot issue a license or charge a fee or a tax for the exercise of that right. The state's only authority to regulate travel on the highways is when you act in a commercial capacity, for hire. Every other license the state issues is for people acting for hire, such as a plumber, versus a homeowner performing work on his own property. The state can require the plumber to get a license but the state cannot force the homeowner to have a license to work at unclogging the kitchen sink.

Also, I believe that the driver's license is turning into a national ID that is being sold to the public as a way to protect the people.... It is, however, a way to control them. At some point--and this is already true for air travel--you will not be able to buy or sell without this ID card. Eventually, the chip on this card will be implanted in your hand. I recently saw a news report of a company in Wisconsin which is doing just that. I believe

this is the mark of the beast mentioned in the Bible, and I believe there is plenty of evidence to support that belief, as well as plenty of evidence to support the belief that the right to travel is a Constitutionally-protected right.

All law originates from "God's law." The Constitution of the United States is based on the Common Law which is derived from God's law, aka natural law. Where man's law deviates from God's law, God's law must prevail. A prime example of this is an infamous Supreme Court decision known as the Dredd Scott decision. A man named Dredd Scott was a black slave who escaped from his owner, Sanford, and made it to a free state where he obtained a lawyer and attempted to sue for his freedom. The court followed the letter of the law, but as most scholars agree, the law was in opposition to God's law, and resulted in an unjust decision in denying Mr. Dredd his freedom.

Let me tell you about a case in history in which a woman was charged with violating a law that required her to sit at the back of the bus. You might recall her name was Rosa Parks. Would it be proper to convict her of this violation, knowing that it's immoral, unjust and even against God's law? As a result of her courage, the law was changed. The Civil Rights Act was passed which forces government to not discriminate based on color or race.

In essence, in summation, there is no crime if there is no intent to commit a crime. A person's belief is sufficient to overcome the charge of willful intent, even if that belief is erroneous. This is supported by a Supreme Court case: Cheeks vs. United States. I have introduced into evidence letters to various government officials requesting a review of the Supreme Court cases that I believe support my contention that citizens have a right to travel without a license, and to date I have not received any responses. The Supreme Court has also ruled that the government's failure to answer a citizen's reasonable questions results in an affirmance.

So let me touch again on the main points:

- 1) The state only has authority to regulate commercial, for hire transportation activities.
- 2) I have a strong religious belief that the driver's license is the precursor to the mark from the Bible.

If I have not yet convinced you of the validity of my position, here's one more point:

In order to obtain a driver's license, you must provide some evidence of your social security number—not just the number but a document proving that you are registered with the social security administration. More than forty years ago, I informed the Social Security administration that I did not want to participate in what I believe is a ponzi scheme and a scheme to number the people which violates my religious beliefs. And because participation in the Soc. Sec. system is voluntary and not mandatory by law, and is only required if you wish to receive government benefits (which I do not), I chose not to participate. Therefore, I am unable to qualify for a driver's license! One of my exhibits that I have included for you to look at is a letter to the SCDMV, asking them if I could obtain a license without the number. I had previously visited the Seneca office of the SCDMV and was told there was no exception. I have not received a response to my letter.

So, ladies and gentlemen, where is the crime? Am I to be denied my right to travel because I do not participate in a voluntary system that violates my religious beliefs?

STATE OF SOUTH CAROLINA
PUBLIC CONTACT / WARNING

AGENCY NAME: HP02 SC HIGHWAY PATROL TRNP 2 CITY: COUNTY OF OCEANE
 FIRST NAME: JOHN M.I.: DALEN LAST NAME: DALEN
 ST. LICENSED DRIVER'S LICENSE NO.: NA
 RACE / ETHN: W GENDER: M DATE OF BIRTH: 04-30-1957 LATITUDE: 34 47.04
 LONGITUDE: 82 56 47.96
 HT. TYPE: HT. / NAME
 CITY: 17 DATE: 07-16-2017 TIME: 1530
 VEH. LICENSE NO.: WOF267 STATE: SC VEH. MAKE: CHEV YEAR: 1994 CMV: ☐
 ISSUED BY: TAYLOR A M RANK: TRP SCJIA #: 1129-6211

NATURE OF CONTACT

☒ SPEEDING	☐ DISREGARDING TRAFFIC SIGNAL
☒ CONTACT ONLY	☐ FOLLOWING TOO CLOSE
☒ IMPROPER LANE USE	☐ CHANGING LANES UNLAWFULLY
☒ FAILURE TO DIM LIGHTS	☐ NO RIGHT OF WAY
☒ IMPROPER BACKING	☐ DEFECTIVE EQUIPMENT
☒ IMPROPER LIGHTS	☐ IMPROPER PASSING
☒ IMPROPER TURN	☐ DRIVER'S LICENSE VIOLATION
☒ DISREGARDING STOP SIGN	☐ VEHICLE LICENSE VIOLATION
☒ SEAT BELT VIOLATION	☐ PEDESTRIAN
☒ TEXTING VIOLATION	☐ IMMIGRATION STOP
	OTHER (SPECIFY):



In comply with South Carolina code of laws 56-5-6560 (A) Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, the officer who initiated the stop must complete a data collection form. Data must include information regarding the age, gender, and race or ethnicity of the driver

HP02 / 1129671 / 1170216145257

DRIVER COPY

FORM 13-2 (REV. 06/2014)

Form S-438
Rev. 06/2014

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA
VERSUS

FIRST NAME: John MIDDLE NAME: DALEN LAST NAME: DALEN
 STREET: 109 Wood Valley Dr CITY: Westminster STATE: SC ZIP CODE: 29693
 DL STATE: NA DRIVER'S LICENSE NO.: NA CLASS: NA CDL: ☐ YES ☒ NO
 RACE: W SEX: M BIRTH DATE: 4/30/57 HGT.: 6000 WGT.: 200 HAIR: BRO EYES: BRO
 VEH. LIC. NO.: WOF267 STATE: SC MAKE OF VEH.: CHEV YEAR: 94 MOTORCYCL: ☐ AUTO: ☒ BIPOLE: ☐ COMB: ☐ COMM. VEH.: ☐
 VEHICLE OWNER FIRST NAME: Talie MIDDLE NAME: Ann LAST NAME: DALEN
 OWNER STREET: Westminster CITY: SC STATE: SC ZIP CODE: 29693
 YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT
 NAME OF TRIAL COURT: Traffic STREET: 106 E. Winchester St CITY: Westminster STATE: SC ZIP CODE: 29693
 DATE OF TRIAL: 4/18/17 TIME OF TRIAL: 02:00pm VIOLATION SECTION NO.: 56-1-20 VIOLATION - COURT APPEARANCE REQUIRED: YES (NO)
 DATE OF VIOLATION: 4/16/17 TIME OF VIOL: 1630 SC POINTS: NO SC DL B.A. LEVEL: —
 VIOLATION LOCATION: SC 64 COUNTY: Oceane CITY: Seneca
 LAT: 34 36 47.04 LONG: 82 56 47.96 NAME AND RANK OF ARRESTING OFFICER: TRP A M Taylor SCJIA OFFICER NUMBER: 71896713
 BAIL DEPOSITED: NONE DATE OF ARREST: 2/16/17 BOND AMOUNT REQUESTED: \$232.00
 PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE
 BE SURE YOU UNDERSTAND FROM THE ARRESTING OFFICER THE EXACT TIME AND BEFORE WHOM YOU ARE TO APPEAR. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. POINTS FOR OUT OF STATE VIOLATOR WILL BE ASSESSED BY YOUR HOME STATE LICENSING AUTHORITY AND MAY DIFFER FROM STATE TO STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVER'S LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.
 SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET.
 VIOLATOR'S COPY TICKET# **5102P0778082**

CITY/COUNTY OF: Oceane

INCIDENT NO.:

AGENCY/INVOICE #

2017-07-27-410

NOTICE

THE PRIMARY AIM OF TRAFFIC LAW ENFORCEMENT IS TO REDUCE TRAFFIC ACCIDENTS, INJURIES AND DEATHS THROUGH FAIR, IMPARTIAL, AND REASONABLE ENFORCEMENT OF THE LAWS.

You must settle the case hereby made against you in one of the following ways:

- 1) You must appear in court at the appointed time with your South Carolina drivers license if indicated in the violation block on the front side of this summons.
- 2) You may post a cash bond with the appropriate trial court prior to the assigned date of trial. If you decide to mail in your bond rather than go to the office, MAIL MONEY ORDER, CASHIER'S CHECK OR CERTIFIED CHECK DIRECTLY TO THE TRIAL COURT OFFICE BEFORE WHOM YOU ARE SUMMONED TO APPEAR. The trial court name and address shown on the front side of this summons. DO NOT MAIL CASH OR PERSONAL CHECK. Be sure to enclose with the bond the arresting officer's name and the summons number.
- 3) If a court appearance is not mandatory, you may pay your fine online with a credit card for citations issued in participating counties.
Go to <http://sc.gov/OnlineServices/Pages/CourtPayments.aspx> to determine if online payments are available in the county the citation was issued.
- 4) You may appear in court on the assigned date and time and have a trial conducted by the Trial Judge.

THE POSTING OF BOND BEFORE YOUR ASSIGNED TRIAL DATE IN NO WAY AFFECTS YOUR RIGHT TO HAVE A FAIR TRIAL BY THE JUDGE OR, IF YOU MAKE A WRITTEN REQUEST BEFORE YOUR SCHEDULED TRIAL BY JURY.

However, if you are NOT required to appear in court on the assigned trial date and have previously posted bond and do not appear on the trial date, your bond may be forfeited unless the judge has agreed to have your case heard at another time.

If you fail to post bond or personally appear in court on the assigned trial date, you will be tried in your absence and, if convicted, your home state's Motor Vehicle Division will be notified to suspend your license until you have cleared this matter with the trial court. Additionally, a willful failure to appear or post bond is punishable as a separate offense by a fine of up to \$200.00 or imprisonment of up to 30 days.

John Dalen 2017.08.31.4910

864.647.4705
jonndalen@gmail.com

109 Wood Valley Drive
Westminster, SC 29693

June 22, 2017

Senator Thomas Alexander
313 Gressette Bldg.
Columbia, SC 29201

Re: Pending Court Action

Dear Mr. Alexander:

Please see the enclosed *Notice to Dismiss* that I filed with the Westminster Municipal Court, which the judge denied without any discussion of the issues raised. This concerns a charge of driving without a license. I received this citation at a checkpoint, something I believe is antithetical to the Constitution and to the sensibilities of a free people. Also, I've enclosed a letter which I wrote to the SCDMV, and as well a letter to Col. Michael Oliver, head of the Dep't. of Public Safety.

I don't believe I will receive a fair trial in this case. I am concerned that the judge in this case is simply an administrative judge, an employee of the state who believes his job is to enforce state statutes, regardless of the Constitution and Supreme Court rulings on this issue. I believe my right to due process of law is being violated.

Furthermore, I visited a local DMV and was told that a license cannot be issued without the applicant providing a social security number. The Social Security law does not require anyone to obtain a number unless they wish to receive government "benefits", which I do not. Therefore I do not participate in the Social Security system, and I will not provide them with a number, as this violates my religious beliefs. If there is no exemption regarding the SS #, then apparently the law is requiring me to waive one right in order to exercise another, which is unconstitutional. As I see it, the law itself is Constitutional, but only as applied to commercial activity. My understanding of the "transportation" statute in this state applies only to persons or entities engaged in commercial activities. I am awaiting a response to the above-mentioned letters. I would appreciate it if you would review the enclosures and possibly comment on your understanding of the statutes involved?

I believe the law is being misapplied in this case as I was not, and have not engaged in any commercial activities on the public highways. Any attempt to apply the law to persons exercising their right to travel is a violation of my Constitutional rights. Your thoughts would be appreciated! Also, I am wondering if you could contact the State Attorney General and ask for his opinion on this matter, as he will not respond to a citizen making such a request.

Sincerely,


John Dalen

Enc.: Legal brief filed with Westminster Municipal Court
Letters to Dept of Public Safety and Dept of Motor Vehicles

208 of 344
Pg 208 of 244

John Dalen

864.647.4705
johndalen@gmail.com

109 Wood Valley Drive
Westminster, SC 29693

June 15, 2017

Colonel Michael Oliver
South Carolina Department of Public Safety
103111 Wilson Blvd.
P. O. Box 1993
Blythewood, SC 29016

Re: Pending Court Action

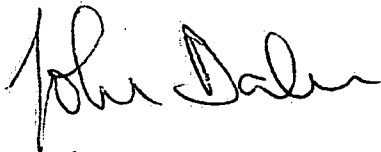
Dear Col. Oliver:

First, I'd like to introduce myself -- my name is John Dalen. I am a husband, a father, and a Christian. For the record, I am *not* against government, not a threat to any government officials, including peace officers. I have the highest respect for our nation's law enforcement. I also believe that, as an American, it is my duty (as well as *every* American's duty) to preserve and protect the Constitution of these United States. To that end, I have run for office locally here in Oconee County as well as for State and Federal offices because I have become increasingly concerned that government at all levels is overstepping its Constitutional authority.

I am attaching a brief that I filed with the Westminster Municipal Court which concerns the charge that I am facing... "driving without a license". I received this citation at a checkpoint. I am particularly concerned that the United States Supreme Court has repeatedly ruled that traveling on the nation's highways in any mode of conveyance is a Constitutionally-protected fundamental right that somehow has been converted by the State(s) into a "privilege". It is also my belief that the "transportation" statutes only apply to "persons engaged in commercial activity".

Please review the attached brief. Again, I support law enforcement and our government, but as the Founder's believed: government is a necessary evil and it is the duty of the people to keep it in check. And also, with regard to many of the arguments I hear from law enforcement about protecting our safety, Benjamin Franklin once said that a people willing to sacrifice their freedom for safety will have neither freedom nor safety. Your comments are appreciated. I look forward to hearing from you.

Sincerely,



John Dalen

Enc.: Legal brief filed with Westminster Municipal Court
Copy of Citation

John Dalen

864.647.4705

johndalen@gmail.com

109 Wood Valley Drive
Westminster, SC 29693

June 15, 2017

South Carolina Department of Motor Vehicles
10311 Wilson Blvd., Building C
P. O. Box 1498
Blythewood, SC 29016

Re: Requirement for Social Security Number

To Whom it May Concern:

Please advise as to your requirement(s) that an applicant for a Driver's License must provide a Social Security number or proof thereof.

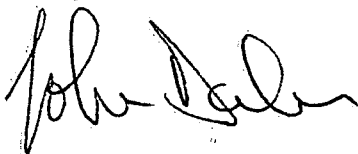
- 1) Are there any exemptions whereby an individual may obtain a driver's license without providing a social security number?
- 2) I, John Dalen, was issued a social security number many years ago at the age of 16. I do not consider this a valid contract – I was a minor/child at the time. Thereafter I rescinded that number and will not acknowledge the validity of that number...it violates my religious beliefs to be part of such a numbering system. Further, when the social security number system was implemented, it was *not* intended to be used for identification.

Also, I have since learned that there is no legal requirement that mandates anyone obtain a social security number; it is only required if an individual wishes to receive government benefits, which I do not. I do not participate in the social security system, and have not for many years. I was told by the local DMV office that, if a number had been issued, then I would be required to provide it in order to obtain a license. Is this a true requirement, or are there any exemptions to this rule?

- 3) In recent years, the DMV computer data bases have been hacked and many licensed drivers had their information compromised, i.e. hackers obtained social security numbers. What protections are afforded to applicants?

Your comments are appreciated. I look forward to hearing from you.

Sincerely,



John Dalen



South Carolina Department of Public Safety
S.C. Highway Patrol

June 29, 2017

Mr. John Dalen
109 Wood Valley Drive
Westminster, SC 29693

Dear Mr. Dalen,

Thank you for your recent letter dated June 15, 2017 regarding a Pending Court Action - Driving Without A License.

I have reviewed your letter and forwarded it to our Office of General Counsel (OGC) for their review and handling.

Sincerely,

Michael R. Oliver
Colonel

MRO/djg

cc: Major Melvin Warren

Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016

211 of 244

Difference between 'individual rights' and 'privileges'

OCTOBER 28, 2013 9:00 PM • KEVIN EGGERS

Understanding the difference between "individual rights" and government-provided "privileges" is as important as understanding the difference between freedom and slavery.

It's simple to understand: We own our "individual rights," such as our Bill of Rights. The government owns the "privilege" that the government provides, such as public welfare, public housing, public education, driving, etc. Nearly everything that the government subsidizes is a privilege that the government owns.

Individual rights are essential for freedom. Some privileges are essential for the safety of citizens.

What concerns me is bureaucrats (and citizens) referring to our individual rights as government-provided privileges, and vice versa.

As an example, Sen. Dianne Feinstein recently referred to the First Amendment in our Bill of Rights as a "special privilege." Also, people often refer to different forms of government-provided welfare (such as health care) as an "individual right" when they are really privileges.

To add to the confusion, some educators refer to our individual rights as "negative rights," while referring to government-provided privileges as "positive rights." They claim negative rights interfere with the positive rights the government is trying to provide. Just remember, if we as individuals own the "right," it's our individual right. If the government owns (or controls) the "right," it's really a privilege.

Our Declaration of Independence recognizes that every individual is born with certain "unalienable rights," which come from our creator, not from government. Every individual has a force field of individual rights around us (including our Bill of Rights), which protects us from each other and from the government itself.

Our Founding Fathers recognized that if citizens believed individual rights came from government (not from our creator), then our rights would become a worthless "special privilege," as Feinstein refers to them. There would be no protection from a government with unlimited power to distribute, modify and rescind privileges.

In a system of excessive privileges, "freedom" of individual rights (and individual responsibility) is replaced by the perceived "safety" of government-provided privileges. Citizens become slaves of government in the form of excessive debt (and taxes) to pay for the privileges, and by conforming to the excessive requirements of the privileges. Modern-day totalitarian systems, such as the Nazi, Soviet and current worldwide "communitarian" system, are collectivist systems of privileges without individual rights. Everything, including all life, is considered a "special privilege" owned by government. The cream of corruption rises to the top, as the most selfish individuals gain government control over the privileges of fellow citizens for their own personal agendas.

In the Nazi and Soviet systems, millions of citizens were murdered by their own governments, because citizens had only their worthless "special privilege" to protect them from government.

The United Nations is a system of privileges without individual rights. The United Nations' "Universal Declaration of Human Rights" should be called the "Universal Declaration of Human Privileges." Every "human right" is a privilege owned by the

United Nations. Article 29 states, "These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations."

Imagine our Bill of Rights stating, "All Bill of Rights may in no case be exercised contrary to the purposes and principles of government." Our Bill of Rights would be a worthless "special privilege" with no protection from government.

Today, most countries (including the U.S.) function under communitarianism ideology and communitarian policies (such as Agenda 21, "Sustainable Development").

Everything, including all life, within the local and international "community" is considered a "special privilege" owned by government.

Written into our Napa County General Plan is the definition of communitarianism, calling for "balancing the rights of the individual with the rights of the community." The "rights of the community" include government privileges and policies.

When the government believes it can "balance" our individual rights with their privileges and policies, government implies ownership over individual rights. You can't "balance" what you don't own, meaning individual rights are considered a "special privilege" owned by government.

On March 21, 2012, I discussed communitarianism with Napa County Sheriff John Robertson. He stated, "As you know, you surrender some of your rights to live in the community." He said the only way to protect individual rights was to join government.

On Aug. 10, 2012, I discussed communitarianism with Napa Mayor Jill Techel. She asked, "Don't we elect representatives to balance rights?"

I replied, "Where does the power end, if government believes it can balance individual rights?"

In most communities (including Napa), it's no longer a question of privileges versus individual rights; it's a question of who within government controls the "special privilege" now called "individual rights."

Bottom line, without citizens understanding the difference between their individual rights and government-provided privileges, the U.S. is destined to become a nation of government-owned slaves.

Eggers lives in Napa.

STATE OF SOUTH CAROLINA
OCONEE COUNTY

IN THE CITY OF WESTMINSTER
MUNICIPAL COURT

State of South Carolina,

PLAINTIFF

Notice to Dismiss for Lack of
Jurisdiction

John Dalen,

Summons No. 5102P077808

ACCUSED,

Pro Per

Accused's Notice to Dismiss for Lack of Jurisdiction

The forgotten legal maxim is that free people have a right to travel on the roads which are provided by their servants for that purpose, using ordinary transportation of the day. Licensing cannot be required of free people, because taking on the restrictions of a license requires the surrender of a right. The driver's license can be required of people who use the highways for trade, commerce, or hire; that is, if they earn their living on the road, and if they use extraordinary machines on the roads. If you are not using the highways for profit, you cannot be required to have a driver's license.

**BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR
LACK OF JURISDICTION**

NOW, comes the Accused, appearing specially and not generally or voluntarily, but under threat of arrest if he failed to do so, with this "BRIEF IN SUPPORT OF NOTICE FOR DISMISSAL FOR LACK OF JURISDICTION," stating as follows:

ARGUMENT

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid

enclosure 3
2017 APR 18

Robertson vs. Department of Public Works, 180 Wash 133, 147.

OCONEE COUNTY
SUMMARY COURT

State of South Carolina Municipal Court Handbook

2011

Sources of the Law

The Constitution

The constitutions of the United States and South Carolina provide the fundamental law of the judicial system. All other laws, regardless of their source, must not conflict with the U.S. Constitution. All state laws, regulations and ordinances must not conflict with the state constitution.

All summary court judges must strictly heed the provisions of both constitutions. The two constitutions are printed in Volume 21 of the S.C. Code of Laws.

The South Carolina Code of Laws

The South Carolina Code of Laws is the basic authority for all state courts and is of particular importance to municipal courts. The Code is the collection of the laws enacted by the S.C. General Assembly. It also includes the United States and South Carolina constitutions, rules of court, and administrative rules and regulations.

Each statute (law) has a specific title, chapter and section number and is usually written by using numbers and letters separated by hyphens. For example, Title 1, Chapter 1, Section 10 is written "S.C. Code Ann. § 1-1-10." To find a particular statute, this series of numbers (a citation) is used.

The Code is annotated. This means that below each statutory provision are brief summaries of certain court opinions which interpret and apply the statute to particular cases. These opinions are binding upon a municipal judge in a similar case. Because these case notes may report a case that has been overruled or distinguished by a more recent case or by an amendment to the statute it interprets, the municipal judge must exercise caution in applying these cases. A case note is intended to be used as a research tool and not as final authority. The case note should not be relied upon as a complete and accurate restatement of the case. Therefore, the case itself should be read in its entirety prior to application.

Municipal clerks of court should note the Code is supplemented by pocket parts which bring the statutes up-to-date by including any changes in the law. Each time a statute is researched, the municipal judge or clerk of court should check the pocket part to ensure the law has not been amended or repealed.

An "A to Z" general index is contained in two soft-cover volumes. Every municipal clerk of court should develop a good working knowledge of this index.

American Jurisprudence, Second Edition
Database updated September 2008

Constitutional Law

Donald T. Kramer, J.D.

VII. Departmental Separation of Governmental Powers [§§ 246-312]

C. Judicial Powers [§§ 259-274]

1. In General [§§ 259-263]

Topic Summary Correlation Table References

§ 260. Judicial functions, generally

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The federal and state constitutions are the common sources of the power and authority of every court, and all questions concerning the jurisdiction of a court must be determined by those instruments.[38] with the exception of certain inherent powers which of right belong to all courts.[39] Therefore, unless the power or authority of a court to perform a contemplated act can be found in the constitution or the laws enacted thereunder, it is without jurisdiction and its acts are invalid.[40] At least in the absence of a textually demonstrable constitutional commitment of an issue to a coordinate political department, it is presumed by the United States Supreme Court that justiciable constitutional rights are to be enforced through the courts.[41]

Various tests have been suggested for determining what are or what are not judicial powers. The protection of constitutional rights is a core function of the judiciary.[42] It is, of course, the ultimate prerogative of the judiciary to determine whether an act of Congress is consistent with the United States Constitution.[43] or to determine whether an act of a state legislature is consistent with the state's constitution.[44] and the power, under certain circumstances, to review decisions of the separate departments of government—judicial review—is an exclusive power of the judiciary.[45] Clearly and unarguably, the construction and interpretation of a constitution is a judicial function.[46]

Sentencing those who violate criminal laws is an important function of the judiciary.[47] The separation of powers doctrine also inherently places responsibility for regulating the practice of law in the state supreme courts.[48] The judiciary has exclusive power and responsibility over court records[49] and court personnel.[50] And it is peculiarly and exclusively the judiciary's function to determine whether a jury award in a civil case exceeds an amount that the state and federal constitutions will allow without violating the due process rights guaranteed to all citizens of the state and the United States.[51]

Where the inquiry to be made involves questions of law as well as fact, where it affects a legal right, and where the decision may result in terminating or destroying that right, the powers to be exercised and the duties to be discharged are essentially judicial.[52] Thus, where the facts out of which a moral or legal obligation is claimed to arise are disputed, the contention falls within the province of the courts, under the distribution of governmental powers

Unconstitutional Official Acts

16 Am Jur 2d, Sec 177 late 2d. Sec 256:

The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid; one must prevail. This is succinctly stated as follows:

The General rule is that an unconstitutional statute, though having the form and name of law is in reality no law, but is wholly void, and ineffective for any purpose, since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it.... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.

No one is bound to obey an unconstitutional law and no courts are bound to enforce it.

Jon Roland:

Strictly speaking, an unconstitutional statute is not a "law", and should not be called a "law", even if it is sustained by a court, for a finding that a statute or other official act is constitutional does not make it so, or confer any authority to anyone to enforce it.

All citizens and legal residents of the United States, by their presence on the territory of the United States, are subject to the militia duty, the duty of the social compact that creates the society, which requires that each, alone and in concert with others, not only obey the Constitution and constitutional official acts, but help enforce them, if necessary, at the risk of one's life.

Any unconstitutional act of an official will at least be a violation of the oath of that official to execute the duties of his office, and therefore grounds for his removal from office. No official immunity or privileges of rank or position survive the commission of unlawful acts. If it violates the rights of individuals, it is also likely to be a crime, and the militia duty obligates anyone aware of such a violation to investigate it, gather evidence for a prosecution, make an arrest, and if necessary, seek an indictment from a grand jury, and if one is obtained, prosecute the offender in a court of law.

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STATE OF SOUTH CAROLINA

2017 AUG 22 AM 9:36

APPEAL

2017 CD 37490
Court of
Common Pleas

Oconee County
South Carolina
Tenth Judicial Circ.

PLAINTIFF

TICKET #(S): 5102 P.0778082

-VERSUS-

CHARGE(S): No SC DL

DEFENDANT

I, John Dalen, PLAINTIFF IN THIS CRIMINAL
ACTION MAKE THE FOLLOWING CLAIM.

1. I BELIEVE THAT THE PLAINTIFF/DEFENDANT RESIDES IN
AND IS WITHIN THE JURISDICTION OF THE COURT.
2. I MAKE THIS APPEAL BASED ON THE FOLLOWING ERRORS COMMITTED BY
THE LOWER COURT: @ Court proceeded without subject
matter jurisdiction/No proof on the record
⑥ Denial of due process/No evidence on the record of
any crime/No corpus delicti. @ Court ignored
the Constitutional challenge to the Statute in question
Defendant relied on Supreme Ct. rulings that clearly
support Defendant's contention that the State cannot
convert a right into a privilege or issue a license
or charge a fee for the exercise of a Constitutionally-
protected right.
3. I BELIEVE, BECAUSE OF THE ABOVE INFORMATION, THAT I AM ENTITLED
TO AND REQUEST:
Vacate judgment/Return fine

I STATE UNDER PENALTY OR PERJURY THAT THE ABOVE IS CORRECT AND TRUTHFUL.

DATE: August 21, 2017

SIGNED: John Dalen

ADDRESS OF PLAINTIFF:

Westminster Municipal Ct.
106 E. Windsor Street
Westminster, SC 29693

BUSINESS TELEPHONE:

864 647 3212

HOME TELEPHONE:

ADDRESS OF DEFENDANT:

109 Wood Valley Drive
Westminster, SC
29693

BUSINESS TELEPHONE:

864 647 4705

HOME TELEPHONE:

**ATTACHMENT TO APPEAL
COURT OF COMMON PLEAS
OCONEE COUNTY, SOUTH CAROLINA
TENTH JUDICIAL CIRCUIT**

2017-00-37-490

STATEMENT OF THE ISSUES

1. Was it error for the court to proceed where jurisdiction has been challenged and not been proved on the record?
2. Was it error for the court to ignore the Constitutional challenge to the Statute in question as it was applied to the defendant?
3. Was the result of the above errors a denial of due process?

STATEMENT OF THE CASE

This is an appeal from a jury trial in which Defendant/Appellant was found guilty of the charge of no South Carolina driver's license. Defendant did appear for trial and was found guilty. Defendant had relied on Supreme Court rulings that clearly support defendant's contention that the state cannot convert a right into a privilege, or issue a license or charge a fee for the exercise of a constitutionally-protected right. The judge in this case summarily dismissed numerous motions filed by the defendant with no cause or suitable explanation given. Defendant believes that he is entitled to responsive answers to his motions and that the lack of responsive answers constitutes a denial of due process.

The Court had no jurisdiction to hold a trial without first having proven jurisdiction on the record. It is the accuser's duty to prove jurisdiction—not the judge who, in this case,

determined that he had subject matter jurisdiction. The judge and the officer involved had both sworn an oath to uphold and defend the Constitution of the United States, and have violated said oath.

SCOPE OF REVIEW FOR EACH CONTENTION

The standard of review for errors letters a, b, and c is de novo as such errors are errors of law. U.S. v. Campa, 529 F. 3d 980,992, (11th Cir. 2008).

SUMMARY OF THE ARGUMENT

The defendant was engaged in a Constitutionally-protected right, and the Statute and summons and subsequent trial are invalid and null and void of law as it was applied to the defendant in this case. The municipal court erred in conducting a trial on a charge that was clearly invalid and null and void on its face as it was applied to the defendant in this case. The municipal court caused harmful error to the defendant in failing to perform its core function, which is the protection of citizen's constitutional rights.

16 AM JUR. 2d Sec. 177 late 2d, Sec.256

16 AM JUR. 2d Sec. 260

ARGUMENT AND CITATIONS

Defendant's arguments and citations are contained in the exhibits entered into evidence at the trial and attached herein. They consist of:

- defendant's opening 4-page statement,
- copy of the citation (2 pages),
- letter to Senator Thomas Alexander,

response from Colonel Michael R. Oliver, SC Dept. of Public Safety,
defendant's original letter to Col. Oliver,
defendant's letter to SCDMV,
newspaper article *Difference Between Individual Rights and Privileges* (2 pgs.), and
defendant's notice to dismiss for lack of subject matter jurisdiction (22 pgs.)

The Supreme Court said:

Constitutional provisions for the security of person and property are to be liberally construed, and "it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." *Byars v. U.S.*, 273 U.S. 28, 32 (1927).

THE CONSTITUTION IS THE SUPREME LAW OF THE LAND

- A. "The constitution of these United States is the supreme law of the land. Any in conflict is null and void of law." *Marbury v. Madison*, 5 U.S. 137
- B. "No state may convert a secured liberty into a privilege, and issue a license and fee for it." *Murdock v. Pennsylvania* 319 US 105
- C. "If the state does convert your right into a privilege and issue a license and charge a fee for it, you can ignore the license and fee and engage in the right with impunity."
Schuttlesworth v. Birmingham, Alabama, 373 US 262
- D. "Willfulness is one of the major elements, which is required to be proven in any criminal element. You have to prove (1) that you are the party, (2) that you had a method or opportunity to do the thing, and (3) that you did so with willful intent. Willful is defined as an evil motive or intent to avoid a known duty or task under the law." *US v Bishop*, 412 US 346

ARTICLE VI OF THE U.S. CONSTITUTION

"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...."

"The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution"

CONCLUSION

The Municipal Courts conducting of a trial on a Statute that clearly violates the constitutional rights of the defendant as it was applied to him, and the Courts ignoring the constitutional arguments and Supreme Court authorities is harmful error of law. Further, the judge as well as the arresting officer are in violation of Title 18 Sec. 242 and Title 42 Sec. 1983 of the U.S. Code, as well as their oath of office. The municipal court's judgment should be reversed/vacated and the fine paid by the defendant promptly returned.


John Dalen, Defendant /Appellant Pro Se

August 21, 2017

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
COUNTY OF OCONEE)

FILED OCONEE COUNTY SC
CLERK OF COURT
2017 AUG 23 P 3:15

STATE OF SOUTH CAROLINA,

vs.

RETURN OF THE CRIMINAL APPEAL

CASE NUMBER

John Dalen

2017 CP-37-490

Defendant/Address

This matter is on appeal from the Magistrate's Court of Oconee County, South Carolina, the Honorable Will F. Derrick, Presiding Judge.

The defendant, John Dalen, was charged with violating

S.C. Code Ann. §

56-1-20

which is commonly referred to as

(Code Section)

NO SC DL

, on

(Common Name of Offense)

2-16

, 20 17.

This matter was heard in a Bench/Jury trial on

8-17

, 20 17

and the Notice of Appeal was filed on

8-22

, 20 17 The

proceedings were (check appropriate box)

☒ recorded electronically

☐ recorded by a court reporter

☒ recorded in writing by the judge.

Copies to:

Atty (P)

(D)

DSS other

Derrick & Dalen (mailed)

Mailed

Boxed

Handed ☒

ENTERED
COMPUTER

The jury list was prepared pursuant to S.C. Code Ann. (check appropriate box)

☒ § 22-2-80 Selection of jury list for a single trial.

☐ § 22-2-90 Selection of jury list for scheduled terms of jury trials.

and the Defendant and the State were given an opportunity to exercise peremptory challenges on 6-28, 2017.

The State called the following witnesses:

1. Avery Taylor, SCHP
2. _____
3. _____
4. _____
5. _____
6. _____

A summary of their testimony is attached.

The Defendant called the following witnesses:

1. John Daler
2. _____
3. _____
4. _____
5. _____
6. _____

A summary of their testimony is attached.

The State made the following Motions:

1. N/A
2. _____
3. _____
4. _____

A summary of the State's and Defendant's position on each motion and the Court's ruling is attached.

The Defendant made the following Motions:

1. MANY - all attached.
2. _____
3. _____
4. _____

A summary of the Defendant's and State's position on each motion and the Court's ruling is attached.

The State offered the following items into evidence:

1. N/A
2. _____
3. _____
4. _____
5. _____
6. _____

The Defendant raised the following objections to the items that the State sought to introduce into evidence:

1. N/A
2. _____
3. _____
4. _____
5. _____
6. _____

A summary of the Defendant's and State's position and the Court's ruling on the objection is attached.

The Defendant offered the following items into evidence:

1. see attached
2. _____
3. _____
4. _____
5. _____
6. _____

The State raised the following objections to the items that the Defendant sought to introduce into evidence:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

A summary of the State's and Defendant's position and the Court's ruling on the objection is attached.

The Defendant was found guilty of violating S.C. Code Ann. § 56-1-20,
commonly known as NO SC DL
and the Court imposed the following sentence: 30 days or \$232.50

Attached are copies of the items which are checked.

- ☒ Uniform Traffic Ticket No(s). 5702 POT9 8082
- ☐ Arrest Warrant No(s). _____
- ☒ The jury list.
- ☒ List of witnesses and a summary of their testimony.
- ☒ List of motions, summary of the parties' positions and court's ruling.

☒ List of items offered into evidence, a summary of objections and the Court's ruling.

☒ Documents and exhibits entered into the record.

☒ The Notice of Appeal

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

STATE,

VS

John Dalen

Defendant.

IN THE MAGISTRATE'S COURT

TICKET NO(s) 5102 P0778082

OFFENSE: NO SC DL

Mr. Foreman, when the jury reaches a verdict, please record it by striking out the statement that does NOT reflect the jury's decision. After having done this, Mr. Foreman, please sign your name under the verdict to signify that the remaining statement reflects the verdict of the jury.

The law in this State requires that a jury verdict be unanimous which means that all of the jurors must agree.

For the convenience of the jury, I have listed below the possible verdicts in this case. You are to attach no significance to the order in which I set out the possible verdicts.

When you have reached a verdict and have recorded it, please notify us by knocking on the door.

THE POSSIBLE VERDICTS ARE:

WE FIND THE DEFENDANT GUILTY.

~~WE FIND THE DEFENDANT NOT GUILTY.~~

DATE: 8-17-17

Bruce D. Bryson
JUROR

Rodney D. Brantley
JUROR

Paula Long
JUROR

Justin Haly
FOREMAN

Steven Kark
JUROR

Eunice B. Kewland
JUROR

Form 6-438 Rev. 05/2014											
UNIFORM TRAFFIC TICKET											
STATE OF SOUTH CAROLINA VERSUS											
FIRST NAME <u>John</u>			MIDDLE NAME			LAST NAME <u>Davis</u>					
STREET <u>109 Wood Valley Dr</u>											
CITY <u>Westminster</u>			STATE <u>SC</u>			ZIP CODE <u>29080</u>					
DL STATE <u>NA</u>			DRIVER'S LICENSE NO. <u>NA</u>			CLASS <u>NA</u>			CDL <u>NO</u>		
RACE <u>W</u>		SEX <u>M</u>		BIRTH DATE <u>4/30/57</u>		HGT. <u>6'00</u>		WGT. <u>200</u>		HAIR <u>BRO</u>	
EYES <u>BRO</u>		VEH. LIC. NO. <u>8GF 367</u>		STATE <u>SC</u>		MAKE OF VEH. <u>CHEV</u>		YEAR <u>99</u>		TYPE <u>SED</u>	
VEHICLE OWNER FIRST NAME <u>John</u>			MIDDLE NAME <u>Ann</u>			LAST NAME <u>Davis</u>					
OWNER STREET <u>109 Wood Valley Dr</u>			CITY <u>Westminster</u>			STATE <u>SC</u>			ZIP CODE <u>29080</u>		
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT											
NAME OF TRIAL COURT <u>Trinity</u>			STREET <u>106 E. Winckel St</u>			CITY <u>Westminster</u>			STATE <u>SC</u>		
DATE OF TRIAL <u>4/18/17</u>			TIME OF TRIAL <u>08:00 PM</u>			CITY <u>Westminster</u>			STATE <u>SC</u>		
VIOLATION SECTION NO. <u>36-1-20</u>			VIOLATION - COURT APPEARANCE REQUIRED YES ☒ NO ☐			SC POINTS <u>NO</u>			B.A. LEVEL <u>DL</u>		
DATE OF VIOLATION <u>2/16/17</u>			TIME OF VIOLATION <u>1:30</u>			SC POINTS <u>NO</u>			B.A. LEVEL <u>DL</u>		
VIOLATION LOCATION <u>SC 34</u>			CITY <u>Westminster</u>			COUNTY <u>Orange</u>					
LAT <u>34 36 47.64</u>			LONG <u>82 56 47.96</u>			CITY <u>Westminster</u>					
NAME AND RANK OF ARRESTING OFFICER <u>TRP A M Taylor</u>			SOCIAL OFFICER NUMBER <u>7189 G 712</u>								
BAIL DEPOSITED <u>NONE</u>			DATE OF ARREST <u>2/16/17</u>			BOND AMOUNT REQUESTED <u>\$222.00</u>					
DATE BAIL RECD. <u></u>			BY <u></u>								
CASE: ☒ MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐											
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE											
TRIAL BY: TRIAL JUDGE ☐ JURY ☒			DEFENDANT: DID NOT APPEAR ☐ APPEARED ☒								
DISPOSITION DATE <u>8/17/17</u>			DISPOSITION: NOLLE PROSSED ☐ GUILTY ☒ FORFEITED BOND ☐ NOT GUILTY ☐			PLEA: NOLLE CONTENDERE ☐					
CHARGE CONVICTED OF <u>NO</u>			SAME AS ORIGINAL ☐			SC POINTS <u>NO</u>					
FEE <u>30</u>			SUSPENDED <u>332</u>			AMT. COLLECTED <u>332</u>			COMMITTED TO <u></u>		
CERTIFIED CORRECT <u>W.D. Smith</u>			DATE <u>8/17/17</u>			Arrested at <u>Westminster</u>					
TRIAL COURT COPY			TICKET# <u>5102P0778082</u>								

John Dalen

109 Wood Valley Drive, Westminster, SC 29693
Ph. 864.647.4705

July 27, 2017

David A. Root, Esq.
Oconee County Attorney
415 S. Pine Street
Walhalla, SC 29691
Phone: 864 364 - 5332

Re: **Notice of Intent to Sue**

Dear Mr. Root,

This letter is to notify you that I intend to file suit against the county and others who have engaged in a conspiracy to deprive me of my constitutionally-protected rights. A copy of Title 16, Chapter 5, Offenses Against Civil Rights is included for your perusal.

This action arises out of a traffic stop at a checkpoint that was set up in Oconee County on February 16, 2017. I was unlawfully arrested by a state trooper, known by me only as Trooper A.M. Taylor. At least three other troopers were involved in this unlawful arrest and will be added to this lawsuit as their names are made available to me. I was stopped without probable cause, told I would not be allowed to leave and would be physically taken into custody and my property seized if I did not comply with their orders. I was issued a summons for violating Section 56 - 1 - 20, the transportation statute of this state.

I have subsequently appeared at all scheduled hearings held at Westminster Municipal Court in Westminster, under duress. I have filed numerous motions with the court that have produced unresponsive orders from the magistrate. I am including copies of the motions I have submitted as well as other relevant information regarding this case.

My right to due process of law is being violated in these hearings. The court has no personal or subject matter jurisdiction, cannot or will not explain the nature or the cause of this action against me as required by the Constitution of the United States; therefore I will no longer participate in the magistrate's proceedings, but will bring charges against all the individuals involved as well as file suit for damages against the magistrate and the troopers involved.

I, John Dalen, intend to file an action at law against all actors in this false arrest and subsequent hearings. I have not consented to these proceedings, and demand my rights under the Common Law, including the right to a trial by jury in a court of record. Please consider the following:

- 1) I relied on Supreme Court decisions noted in previously filed memorandums of law and motions before the court. A citizen has a right to rely on the decisions and opinions of the Supreme Court of the United States.
- 2) Based on these Supreme Court decisions and opinions, I believed and still believe that the summons in question is invalid and null and void of law.
- 3) Further, there was no willful intent to disobey any valid law or order of the court.
- 4) This court lacks subject matter jurisdiction in this matter because no valid law was violated. I, the accused, was engaged in a lawful, Constitutionally-protected fundamental right. The statute in question attempts to convert that right into a privilege and tax that right, in violation of my Constitutionally-protected rights. See 16 Am. Jur. 2d, Sec. 177 late 2d, Sec. 256:

“The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land.... No one is bound to obey an Unconstitutional law and no courts are bound to enforce it.”

Also see *Hale v. Henkel*, 201 U.S. 43 (1906):

“[w]e are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.”

- 5) This court does not have personal jurisdiction. I, John Dalen, do not consent to these proceedings. My appearances and filings in this case are under duress and under threat of arrest.
- 6) The protection of Constitutional rights is a core function of the judiciary. See: 16 Am. Jur. 2d, Sec. 260.
- 7) *Hurtado v. California*, 110 U.S. 516, 3 Sup. Ct. 111, 292, 28 L.Ed. 232 (1884)
Due process of law is process according to the law of the land.... Due process of law in the latter (the Fifth Article of Amendment to the Constitution) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law.... Mr. Justice Matthews, delivering the opinion of the court....

* Note that the 14th Amendment insured that all of the above applies to the states.

- 8) *Manning v. Ketcham*, 58 F.2d 948 (6th Cir. 1932): An affirmance results when a judge acts in the clear absence of all jurisdiction, i.e. of authority to act officially over the subject matter in hand, the proceeding *coram non iudice*. In such a case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for the damages resulting from his unauthorized acts. Such has been the law from the days of the case of *The Marshalsea*, 10 Coke 68. It was recognized as such in *Bradley v. Fisher*, 13 Wall. (80 U.S.) 335, 351, 20 L. Ed. 646. In *State ex rel. Egan v. Wolever*, 127 Ind. 306, 26 N.E. 762, 732, the court said: 'The converse statement of it is also ancient. Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.'
- 9) *McNutt v. GMAC*, 298 US 178
"The burden of proof of jurisdiction lies with the asserter."
- 10) *Wuest v. Wuest*, 127 P2d 934, 937. *Outboard Marine Corp. v. Thomas*, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985) "A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction."
- 11) The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed. 257 (1821).
- 12) "Officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America." *Owen vs. City of Independence*, 100 S. Ct. 1398; *Maine vs. Thiboutot*, 100 S. Ct. 2502; and *Hafer vs. Melo*, 502 U.S. 21
- 13) There is no injured party. The state cannot be the injured party. In order for a cause of action to exist, there must be an injured person or party.
- 14) *Wilson v. Omaha Indian Tribe* 442 US 653 (1979); *Will v. Michigan State Police* 491 U.S. 58, 105 L. Ed. 2nd 45 (1989); *U.S. v. General Motors Corporation*, D.C. Ill, 2 F.R.D. 528, 530: "The word 'person' as used and employed in most statutory language is ordinarily construed to exclude the sovereign, and that for one as such to be bound by statute, they must be 'specifically' named."
- 15) *Church of Scientology v. U.S. Dept. of Justice* 612 F. 2d 417, 425 (1979):
"The word 'person' in legal terminology is perceived as a general word which normally includes in its scope a variety of entities other than human beings."

Dalen Letter
July 27, 2017
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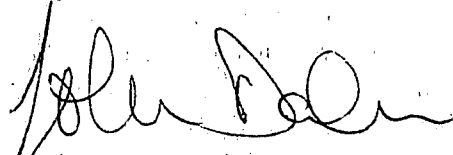
- 16) United States v. Lacher, 134 U.S. 624, 628, 10; S. Ct. 625, 626, 33 L. Ed. 1080 (1890);
United States v. Gradwell, 243 U.S. 476, 485, 37 S. Ct. 407, 61 L. Ed. 857 (1916):
"The legislature cannot be deemed to have intended to punish anyone who is not 'plainly and unmistakably' within the confines of the statute."

I will file this suit on or about August 15, 2017. I will also be filing a complaint with the judicial review board against the magistrate as well as criminal charges against the magistrate and the troopers involved. If you notify me that all charges against me have been dropped and the case has been dismissed, before I file the suit, I will not file suit.

The freedoms that have been hard won by the American people are in grave danger in this country. The Constitution is routinely ignored by our elected officials and the oaths they take to defend and support it are nothing more than "lip service." With this action, I intend to determine if in fact the Constitution is still in force and effect. And I pray, for the sake of all Americans, that it is.

For all of the above reasons, I believe that this unlawful prosecution should be dismissed. Government officials have repeatedly violated my Constitutionally-protected rights and I, John Dalen will file an action at-law to protect said rights and recover damages for deprivation of rights under color of law.

Sincerely,



John Dalen

Enc.: Copy of Summons
Brief in Support of Notice for Dismissal for Lack of Jurisdiction
Copy of Title 16, Chapter 5, Offenses Against Civil Rights
Copy of Motion for Pretrial Hearing
Copy of Motion for Findings of Facts and Conclusions of Law
Copy of Motion for Offer of Plea
Copy of Response Letter from Col. Michael R. Oliver, S.C. Dep't of Public Safety
Letter to Senator Thomas Alexander
Judge's Order to Dismiss
Judge's Order to Denying Motion for Reconsideration

Cc (of Letter) to: Senator Thomas Alexander
Col. Michael R. Oliver, S.C. Dep't. of Public Safety
William F. Derrick, Westminster Magistrate, Oconee County

CHAPTER 5
Offenses Against Civil Rights

SECTION 16-5-10. Conspiracy against civil rights.

It is unlawful for two or more persons to band or conspire together or go in disguise upon the public highway or upon the premises of another with the intent to injure, oppress, or violate the person or property of a citizen because of his political opinion or his expression or exercise of the same or attempt by any means, measures, or acts to hinder, prevent, or obstruct a citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both. A person convicted under this section is ineligible to hold, and disabled from holding, any office of honor, trust, or profit in this State.

HISTORY: 1962 Code Section 16-101; 1952 Code Section 16-101; 1942 Code Section 1380; 1932 Code Section 1380; Cr. C. '22 Section 310; Cr. C. '12 Section 320; Cr. C. '02 Section 233; G. S. 2567; R. S. 198; 1871 (14) 560; 1960 (51) 1602; 1993 Act No. 184, Section 22.

SECTION 16-5-20. Punishment for commission of additional crimes.

If in violating any of the provisions of Section 16-5-10 or 16-5-50 any other crime, misdemeanor or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor and felony by the existing laws of this State.

HISTORY: 1962 Code Section 16-102; 1952 Code Section 16-102; 1942 Code Section 1381; 1932 Code Section 1381; Cr. C. '22 Section 311; Cr. C. '12 Section 321; Cr. C. '02 Section 234; G. S. 2568; R. S. 199; 1871 (14) 560.

SECTION 16-5-30. Duty and liability of officers.

Any constable, sheriff or magistrate, upon receipt of notice from any person that he has knowledge of an intention or attempt to destroy his property or to collect a mob for that purpose, shall take all legal means necessary for the protection of such property as is attacked or threatened to be attacked, and if such constable, sheriff or magistrate, upon receipt of such notice or upon knowledge of such intention or attempt to destroy such property in any wise received, shall neglect or refuse to perform his duty in the premises, he shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office and, on conviction thereof, shall forfeit his commission.

HISTORY: 1962 Code Section 16-103; 1952 Code Section 16-103; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. '22 Section 316; Cr. C. '12 Section 326; Cr. C. '02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

SECTION 16-5-40. Duty of officers to execute warrants.

All sheriffs, constables, and other officers specially empowered shall obey and execute all warrants and other processes issued under the provisions of Sections 16-5-10, 16-5-20, or 16-5-50 and directed to them. If a sheriff, constable, or other officer specially empowered refuses to receive a warrant or other process when tendered to him or neglects or refuses to execute the same, he is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars or imprisoned not more than three years. Fines collected are for use of citizens deprived of the rights secured by the provisions of this chapter.

Warrants and other processes run with and are executed by officers anywhere within the circuit or county in which they are issued.

V
HISTORY: 1962 Code Section 16-104; 1952 Code Section 16-104; 1942 Code Section 1382; 1932 Code Section 1382; Cr. C. '22 Section 312; Cr. C. '12 Section 322; Cr. C. '02 Section 235; G. S. 2569; R. S. 200; 1871 (14) 560; 1993 Act No. 184, Section 163.

SECTION 16-5-50. Penalty for hindering officers or rescuing prisoners.

Any person who shall (a) hinder, prevent, or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet, or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not more than three thousand dollars or imprisonment for not more than three years, or both, at the discretion of the court having jurisdiction.

HISTORY: 1962 Code Section 16-105; 1952 Code Section 16-105; 1942 Code Section 1383; 1932 Code Section 1383; Cr. C. '22 Section 313; Cr. C. '12 Section 323; Cr. C. '02 Section 236; G. S. 2570; R. S. 201; 1871 (14) 561; 2010 Act No. 273, Section 19, eff June 2, 2010.

SECTION 16-5-60. Suits against county for damages to person or property resulting from violation of person's civil rights.

Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office.

HISTORY: 1962 Code Section 16-106; 1952 Code Section 16-106; 1942 Code Section 1384; 1932 Code Section 1384; Cr. C. '22 Section 314; Cr. C. '12 Section 324; Cr. C. '02 Section 237; G. S. 2571; R. S. 202; 1871 (14) 561.

SECTION 16-5-70. Indemnity for property destroyed by mob or riot.

When any dwelling house, building or other property, real or personal, shall be destroyed in consequence of any mob or riot it shall be lawful for any person owning or interested in such property to bring a suit against the county in which such property was situated and being for the recovery of such damages as he may have sustained by reason of the destruction thereof. The amount which shall be recovered in such action shall be paid in the manner provided by Section 16-5-60.

HISTORY: 1962 Code Section 16-107; 1952 Code Section 16-107; 1942 Code Section 1385; 1932 Code Section 1385; Cr. C. '22 Section 315; Cr. C. '12 Section 325; Cr. C. '02 Section 238; G. S. 2572; R. S. 203; 1871 (14) 561.

SECTION 16-5-80. Damages shall not be recoverable from county when property damage results from plaintiff's illegal or negligent conduct.

No person shall be entitled to the recovery of such damages if it shall appear that the destruction of his property was caused by his illegal conduct, nor unless it shall appear that he, upon knowledge had of the

intention or attempt to destroy his property or to collect a mob for that purpose and sufficient time intervening, gave notice thereof to a constable, sheriff or magistrate of the county in which such property was situated and being.

HISTORY: 1962 Code Section 16-108; 1952 Code Section 16-108; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. '22 Section 316; Cr. C. '12 Section 326; Cr. C. '02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

SECTION 16-5-90. Preservation of property owner's right of action against participants in mob or riot resulting in damage to property.

Nothing in this chapter shall be construed to prevent the person whose property is so injured or destroyed from having and maintaining his action against every person engaged or participating in such mob or riot to recover full damages for any injury sustained; provided, however, that no damages shall be recovered by such person against any of such rioters for the same injury for which compensation shall be made by the county.

HISTORY: 1962 Code Section 16-109; 1952 Code Section 16-109; 1942 Code Section 1387; 1932 Code Section 1387; Cr. C. '22 Section 317; Cr. C. '12 Section 327; Cr. C. '02 Section 240; G. S. 2574; R. S. 205; 1871 (14) 562.

SECTION 16-5-100. Jurisdiction of circuit courts.

The circuit courts of this State within their respective circuits in the counties of which the circuits are respectively composed shall have cognizance of all actions arising under the provisions of Sections 16-5-30, 16-5-70 and 16-5-110.

HISTORY: 1962 Code Section 16-110; 1952 Code Section 16-110; 1942 Code Section 988; 1932 Code Section 988; Cr. P. '22 Section 79; Cr. C. '12 Section 330; Cr. C. '02 Section 243; G. S. 2577; R. S. 208; 1871 (14) 562.

SECTION 16-5-110. County's right of action against participants in mob or riot resulting in county's liability for damages to property.

The governing body of the county against which damages shall be recovered under the provisions of this chapter may bring suit in the name of the county against any and all persons engaged or in any manner participating in any such mob or riot and against any constable, sheriff, magistrate or other officer charged with the maintenance of the public peace who may be liable, by neglect of duty, to the provisions of this chapter for the recovery of all damages, costs and expenses incurred by the county and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

HISTORY: 1962 Code Section 16-111; 1952 Code Section 16-111; 1942 Code Section 1388; 1932 Code Section 1388; Cr. C. '22 Section 318; Cr. C. '12 Section 328; Cr. C. '02 Section 241; G. S. 2575; R. S. 206; 1871 (14) 562.

SECTION 16-5-120. Penalty for engaging in riot where weapon was not used.

Any person, upon conviction of engaging in a riot, rout or affray when no weapon was actually used and no wound inflicted shall be subject and liable for each offense to a fine not to exceed one hundred dollars or to imprisonment for a term not exceeding thirty days.

HISTORY: 1962 Code Section 16-113; 1952 Code Section 16-113; 1942 Code Section 1737; 1932 Code Section 1737; Cr. C. '22 Section 719; Cr. C. '12 Section 23; Cr. C. '02 Section 15; R. S. 14; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824.

HISTORY: 1962 Code Section 16-104; 1952 Code Section 16-104; 1942 Code Section 1382; 1932 Code Section 1382; Cr. C. '22 Section 312; Cr. C. '12 Section 322; Cr. C. '02 Section 235; G. S. 2569; R. S. 200; 1871 (14) 560; 1993 Act No. 184, Section 163.

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HISTORY: 1962 Code Section 16-110; 1952 Code Section 16-110; 1942 Code Section 988; 1932 Code Section 988; Cr. P. '22 Section 79; Cr. C. '12 Section 330; Cr. C. '02 Section 243; G. S. 2577; R. S. 208; 1871 (14) 562.

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HISTORY: 1962 Code Section 16-111; 1952 Code Section 16-111; 1942 Code Section 1388; 1932 Code Section 1388; Cr. C. '22 Section 318; Cr. C. '12 Section 328; Cr. C. '02 Section 241; G. S. 2575; R. S. 206; 1871 (14) 562.

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HISTORY: 1962 Code Section 16-113; 1952 Code Section 16-113; 1942 Code Section 1737; 1932 Code Section 1737; Cr. C. '22 Section 719; Cr. C. '12 Section 23; Cr. C. '02 Section 15; R. S. 14; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824.

SECTION 16-5-130. Penalties for instigating, aiding or participating in riot.

A person who is convicted of riot, or of participating in a riot, either by being personally present, or by instigating, promoting, or aiding the same, is guilty of a:

(1) felony and must be imprisoned not more than five years or fined not more than one thousand dollars, or both, if the purpose of the assembly, or of the acts done or threatened or intended by the persons engaged, is to resist the enforcement of a statute of this State, or of the United States, or to obstruct any public officer of this State, or of the United States, in serving or executing any process or other mandate of a court of competent jurisdiction, or in the performance of any other duty; or if the offender carries, at the time of the riot, firearms, or any other dangerous weapon, or is disguised;

(2) misdemeanor and must be imprisoned not more than two years or fined not more than five hundred dollars, or both, if the offender directs, advises, encourages, or solicits other persons, present or participating in the riot or assembly, to acts of force or violence;

(3) misdemeanor and must be imprisoned not more than two years or fined not more than two hundred and fifty dollars, or both, in any case, not embraced within the foregoing subdivisions of this section.

This section must not be construed to prevent the peaceable assembling of persons for lawful purposes of protest or petition.

HISTORY: 1962 Code Section 16-113.1; 1968 (55) 2286; 1993 Act No. 184, Section 164.

SECTION 16-5-140. Enforcement of chapter.

Sheriffs, constables and other officers in the several circuits or counties vested with powers of arresting, imprisoning and bailing offenders against the laws of this State shall institute proceedings against every person who shall violate the provisions of this chapter and cause them to be arrested, imprisoned or bailed, as the case may require, for a trial before such court as shall have jurisdiction of the offense.

HISTORY: 1962 Code Section 16-112; 1952 Code Section 16-112; 1942 Code Section 1389; 1932 Code Section 1389; Cr. C. '22 Section 319; Cr. C. '12 Section 329; Cr. C. '02 Section 242; G. S. 2576; R. S. 207; 1871 (14) 566.

John Dalen

109 Wood Valley Drive, Westminster, SC 29693

Ph. 864.647.4705

August 11, 2017

David A. Root, Esq.
Oconee County Attorney
415 S. Pine Street
Walhalla, SC 29691
Phone: 864 364 - 5332

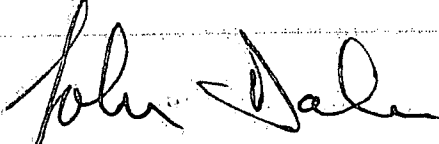
Re: August 17 Trial and Motion for Change of Venue

Dear Mr. Root:

This is regarding my July 27, 2017 letter to you and the notice of intent to sue. In that letter I stated that I would not appear at the trial, and would file the suit sometime prior to the trial. After careful consideration and advice of counsel, I have decided instead to file a motion, a copy of which is enclosed.

If this motion is denied, I will appear at the August 17 scheduled trial date. It is my hope that a lawsuit will not be necessary as I do not wish to sue anyone. However, as I am merely attempting to assert my Constitutionally-protected rights, I will file the suit if it seems necessary.

Sincerely,



John Dalen

Enc.: Copy of Motion

RECEIVED

2017 AUG 11 P 3:31

CLERK OF SUPERIOR COURT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SC
BEVERLY H. WHITEFIELD
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2017 CP-37-00490

John Dalen,

PLAINTIFF,

State of South Carolina,

DEFENDANT,

Affidavit of John Dalen

AFFIDAVIT OF JOHN DALEN

Comes now, John D. Dalen, who first being sworn, states as follows:

1. At the time that I was cited by Officer Avery Taylor, I had not been engaged in any commercial activity or for hire activity on the highway, nor was I at any time prior or since engaged in any commercial activity or for hire activity upon the highways.
2. I fully believe, based on my study of the law, and numerous Supreme Court and other lower court decisions, that I have a right to travel and that such right is not a privilege and cannot be converted to a privilege by any state. I also believe that the Statute that I was charged under clearly states that it is attempting to license a privilege, and not to regulate a Constitutional right which would require the State to prove a narrow and specific need for such regulation.
3. A necessary element of a crime is willfulness to evade a known duty under the law. No evidence of willfulness was presented in my case. On the contrary, I have presented numerous arguments, authorities, and letters to government

officials which prove that I did not willfully violate any law. The state's failure to respond to any of my letters or produce any evidence against me has been taken by me as affirmation of the correctness of my arguments.

4. The Statute in question violates my religious liberties secured by the United States Constitution. The Statute requires applicants to produce a federal Social Security card containing a number that is not required by the federal government, but is in fact *voluntary*. The Statute in effect is requiring applicants to waive one Constitutionally-protected right in order to engage in another – in the absence of informed consent, clearly a violation of the limits placed on government by the U.S. Constitution.

I, John Dalen, do not believe in the Social Security system, and I do not participate in that system due to my religious objections. Therefore, even if I wanted to obtain a "driver's license" the state would not issue one to me.

Further, since the State of South Carolina is enforcing the Real ID Act, which is a federal mandate, it is my belief that this is further proof that the Statute in question must come under USC Title 18, Sec. 31, Commercial Activity, and cannot be applied to individuals exercising Constitutional rights.

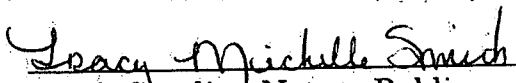
5. Due to the lack of evidence submitted against me in this case – not one piece of evidence, nor any refutation of the authorities I cited in support of my contentions – I believe that the court in this case is engaged in what is known as "conclusive presumptions" which may be defeated where its application would

impair a party's Constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights.

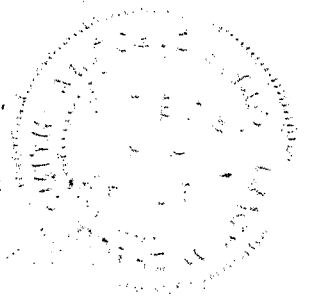
FURTHER AFFLIANT SAYETH NOT!


John D. Dalen

Sworn to and subscribed before me this 12th day of March, 2018.


Tracy Michelle Smith
South Carolina Notary Public

My Commission expires 12/08/2027



THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh

Case No. 2018 - 000637

John Dalen, Appellant

v.

The State, Respondent

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SC Court of Appeals

CERTIFICATION OF RECORD ON APPEAL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 30, 2018


John D. Dalen

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