



JUDGE MICHAEL WARREN
PEOPLE v GREENE, NATHAN

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiffs,

V

NO: 2019-271371-FH

Honorable Michael Warren

NATHANIEL GREENE,

Defendant.

**OPINION & ORDER DENYING
DEFENDANT'S AFFIDAVIT; WRITS/MOTIONS TO VACATE AND TO VOID
NOTWITHSTANDING TICKETS/SUITS/SUMMONS/
CITATIONS/(MISREPRESENTED) BILL(S) OF EXCHANGE; AFFIANT'S NOTICE
OF NON-LIABILITY OF COMMERCIAL BILLS OF EXCHANGE; WRIT/MOTION
FOR JURISDICTIONAL CHALLENGE; WRIT OF MANDAMUS TO RELEASE
APPEARANCE BOND TO AFFIANT AND CHANGE OF VENUE; CAUSE OF
ACTION; MOTION TO DISMISS; WRIT OF DISCOVERY AND FOIA
("AFFIDAVIT AND MOTION")**

**At a session of said Court held in the
Courthouse, City of Pontiac, Oakland County,
Michigan on October 24, 2019**

PRESENT: HONORABLE MICHAEL WARREN

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OPINION

I

Overview

Before the Court is the Defendant's Affidavit and Motion. Having reviewed the Motion and Response, the Court dispenses with oral argument it would not materially aid it in rendering a decision. MCR 2.119(E)(3). Simply put, because this Court is duly authorized with subject matter and personal jurisdiction over the Defendant, and the

Defendant has otherwise been afforded due process, the Affidavit and Motion are denied.

II

Defendant's Arguments

In essence, the Defendant challenges the Court's jurisdiction based on a wide range of arguments. They invoke both subject matter and personal jurisdiction challenges. The subject matter jurisdiction based challenges basically argue that this Court is illegitimate, while the personal jurisdiction based challenges basically argue that various procedural hurdles and defects in the criminal law applicable to the case bar the prosecution of the Defendant. All of these arguments are specious. The Defendant needs a civics and history lesson.

III

Subject Matter Jurisdiction

Subject matter jurisdiction is the "power of a court to act and the authority of a court to hear and determine a case." *Trost v Buckstop Lure Co*, 249 Mich App 580, 586 (2002), quoting *Grubb Creek Action Committee v Shiawassee Co Drain Comm'r*, 218 Mich App 665, 668-669 (1996). Whether a court has subject matter jurisdiction is determined by reference to the allegations; if it is apparent that the claim is in the class of cases within a court's jurisdiction, then the court has subject matter jurisdiction over the claim. *Id.* When a court lacks subject matter jurisdiction, any action it takes, other than to dismiss the case, is absolutely void. *McCleese v Todd*, 232 Mich App 623, 627 (1998).

This Court has a duty to sua sponte take notice of its lack of subject-matter jurisdiction. See, e.g., *In re Estate of Fraser*, 288 Mich 392, 394 (1939) ("Courts are bound to take notice of the limits of their authority, and a court may, and should, on its own motion, though the question is not raised by the pleadings or counsel, recognize it lack

of jurisdiction and act accordingly"). When a court recognizes that it lacks jurisdiction, the court may stay, dismiss, or otherwise dispose of the case before it. *Id.*

Here, the Court is a Circuit Court, which has subject matter jurisdiction over criminal felony cases. See, e.g., Mich Const 1963, Art VI, Section 13 ("The circuit court shall have original jurisdiction in all matters not prohibited by law"); MCL 600.601 ("Circuit courts have the power and the jurisdiction (1) possessed by courts of record at the common law, as altered by the constitution and laws of this state and the rules of the supreme court, and (2) possessed by courts and judges in chancery in England on March 1, 1847, as altered by the constitution and the laws of this state and rules of the supreme court, and (3) prescribed by rule of the supreme court");¹ MCL 600.8311 (district courts have jurisdiction over "Misdemeanors punishable by a fine or imprisonment not exceeding 1 year, or both").

The Defendant's wide ranging argument, however, goes to the bottom of the legitimacy of this Court. This is where a more fundamental civics and history lesson is required.

To understand our foundations, we must begin at the beginning. Unlike most countries in world history, America has a definitive birthday - it was born with the approval of a resolution of independence passed by the Second Continental Congress on July 2, 1776. Two days later, the same body passed the Declaration of Independence - explaining to a "candid world" the reasons behind the separation with the British Empire. Perhaps the most eloquent political message ever penned by the hands of men, the second paragraph lays out the First Principles upon which our nation was founded:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable

¹ Hence, the Court is not a federal or State Admiralty Court.

rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

These words from the Declaration of Independence were revolutionary in 1776 and remain revolutionary today. They explain the foundational basic truths - the First Principles - upon which the revolutionary generation united to rebel against the British. Thomas Jefferson, the primary draftsman of the Declaration, noted that he did not create "any new principles, or new argument" ² Instead, "it was intended to be an expression of the American mind" ³

Distilled in more modern language, the First Principles identified in the Declaration justifying the American Revolution and upon which the new nation was to be built were:

- ✧ Unalienable rights (everyone is naturally endowed by their Creator with certain rights that cannot be taken away by others);
- ✧ Equality (all persons are created equal and should be treated equally under the law);
- ✧ The Social Compact (governments are instituted by the people and derive their just powers from the consent of the governed);
- ✧ Limited government (government is instituted to protect the unalienable rights of the people and should be limited in its power to fulfill that purpose);
- ✧ The Rule of Law (the law governs everyone, including those in government and the people); and

² *Letter to Henry Lee* (1825).

³ *Id.*

- ☆ The Right to Alter or Abolish an oppressive government (the people have the right to reform the government, including abolishing an oppressive government).

They are "principles" because they are, as the dictionary states, "A basic truth, law or assumption . . . A rule or standard . . . Moral or ethical standards or judgment as a whole."⁴ They are "First" because they "Come[] before all others:" and "Rank[] above all others in importance or quality."⁵

Despite these lofty sentiments, many attack our Declaration of Independence and Constitution as antiquated, blood stained, elitist, hypocritical instruments of oppression in which they cannot see themselves represented. At the beginning, there was great truth to some of this critique. Undoubtedly, even while many in the country were happy and prosperous, at its birth America was in hypocritical violation of these First Principles. Slaves, oppression of women, and discrimination on the basis of race, gender, property ownership, and religion were rampant. We should not gloss over the stains of the past.

On the other hand, those who fought (and continue to fight) for emancipation, woman's suffrage, and civil rights drew upon the wellspring of the First Principles to challenge the hypocrisy. Martin Luther King Jr., Frederick Douglass, Susan B. Anthony, Elizabeth Cady Stanton and many others pointed to the Declaration and demanded that its eloquent words not be a broken promise, but fulfilled. They embraced the Declaration and ensured, with great effort, sacrifice, and controversy, that the country moved decisively in the direction of freedom and equality. The struggle for living up to the ideals of the First Principles is hardly over.

⁴ Webster's II, New Riverside University Dictionary, Houghton Mifflin Company, Boston Massachusetts (1998), p. 935.

⁵ Webster's II, New Riverside University Dictionary, Houghton Mifflin Company, Boston Massachusetts (1998), p. 481.

After the Declaration of Independence, the newly independent states joined together under the Articles of Confederation. Due to its many flaws, the Articles were replaced with the federal Constitution, which was drafted in the summer of 1787 and ratified in 1789. While the Articles were still in effect, the Congress adopted the Northwest Ordinance, which organized for settlement the area that includes what is now known as the State of Michigan. In 1805, the Territory of Michigan was organized. Although the People of Michigan adopted their first Constitution in 1835, the State of Michigan did not formally enter the Union until January 26, 1837.

The federal and State Constitutions put into practice the founding First Principles. Because the federal government and each State has a constitution, we all live under two constitutions. Few people understand the U.S. Constitution well, and only a tiny number understand their state constitution. As such, the Defendant's misunderstanding of jurisdiction is hardly surprising.

As noted by the Defendant, in America, we believe in the sovereignty of the People. See e.g., Mich Const 1963, Art 1, Sec 1 ("All political power is inherent in the people"). However, through the First Principle of the Social Compact, that sovereignty has been expressed by providing our governments certain powers to protect our unalienable rights. See, e.g., *Id.* ("Government is instituted for [the People's] equal benefit, security and protection").

Pursuant to the doctrines of enumerated powers and federalism, as well as the 10th Amendment of the United States Constitution, the State of Michigan has a plenary power to legislate on behalf of the People – all of course subject to the federal and State Constitutions. In an opinion by Justice Harlan, the United States Supreme Court explained the authority of States to exercise the police power:

The authority of the state to enact this statute is to be referred to what is commonly called the police power,—a power which the state did not surrender when becoming a member of the Union under the Constitution. Although this court has refrained from any attempt to define the limits of that power, yet it has distinctly recognized the authority of a state to enact quarantine laws and ‘health laws of every description;’ indeed, all laws that relate to matters completely within its territory and which do not by their necessary operation affect the people of other states. According to settled principles, the police power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety. *Gibbons v Ogden*, 9 Wheat 1, 203; 6 L Ed 23, 71; *Hannibal & St J R Co v Husen*, 95 US 465, 470; 24 L Ed. 527, 530; *Boston Beer Co v Massachusetts*, 97 US 25; 24 L Ed 989; *New Orleans Gaslight Co v Louisiana Light & H P & Mfg Co*, 115 US 650, 661; 29 L Ed 516, 520; 6 S Ct 252; *Lawson v Stecle*, 152 US 133, 38 L Ed 385; 14 S Ct 499. It is equally true that the state may invest local bodies called into existence for purposes of local administration with authority in some appropriate way to safeguard the public health and the public safety. The mode or manner in which those results are to be accomplished is within the discretion of the state, subject, of course, so far as Federal power is concerned, only to the condition that no rule prescribed by a state, nor any regulation adopted by a local governmental agency acting under the sanction of state legislation, shall contravene the Constitution of the United States, nor infringe any right granted or secured by that instrument.

[*Jacobson v Massachusetts*, 197 US 11, 24-25; 25 S Ct 358 (1905).]

Justice Harlan also explained that an individual’s unalienable rights do not make one a law unto himself, but rather a member of the Social Compact who must abide by laws legally adopted:

But the liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis organized society could not exist with safety to its members. Society based on the rule that each one is a law unto himself would soon be confronted with

disorder and anarchy. Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own, whether in respect of his person or his property, regardless of the injury that may be done to others. This court has more than once recognized it as a fundamental principle that 'persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the state; of the perfect right of the legislature to do which no question ever was, or upon acknowledged general principles ever can be, made, so far as natural persons are concerned.' *Hannibal & St J R Co v Husen*, 95 US 465, 471; 24 L Ed 527, 530; *Missouri, K & T R Co v Haber*, 169 US 613, 628, 629; 42 L Ed 878-883; 18 S Ct 488; *Thorpe v Rutland & B R Co* 27 Vt 148, 62 Am Dec 625. In *Crowley v Christensen*, 137 US 86, 89; 34 L Ed 620, 621; 11 S Ct 13, we said: 'The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order, and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is, then, liberty regulated by law.' In the Constitution of Massachusetts adopted in 1780 it was laid down as a fundamental principle of the social compact that the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for 'the common good,' and that government is instituted 'for the common good, for the protection, safety, prosperity, and happiness of the people, and not for the profit, honor, or private interests of any one man, family, or class of men.' The good and welfare of the commonwealth, of which the legislature is primarily the judge, is the basis on which the police power rests in Massachusetts. *Com v Alger*, 7 Cush 84.

[*Id.* at 26-27.⁶]

Like Massachusetts in *Jacobson*, the State of Michigan has enacted laws to protect the health, safety and welfare of its citizens. Pertaining to the instant case, the People, acting through their representatives, have criminalized Operating - While Intoxicated/Impaired - 3rd Offense Notice, MCL 257.625(1) & (9) and/or MCL

⁶ See also Warren, Michael, *America's Survival Guide: How to Stop America's Impending Suicide by Reclaiming Our First Principles and History* (Mill City Press, 2007), pp 17-144.

257.625(11) as well as Operating - License Suspended, Revoke, Denied, MCL 257.904(3)(a). Although the Defendant disclaims any allegiance to "CORPORATE GOVERNMENTS" (his emphasis), he cannot unilaterally violate the criminal law of the duly constituted State of Michigan and escape prosecution by asserting a vague liberty right or self-sovereignty. The United States Constitution establishes that criminal defendants are triable in the State in which the alleged crime occurred. See, e.g., U.S. Const Art IV, Section 2, clause 2; U.S. Const Art VI. Michigan law invokes the same principle. MCL 762.2.⁷ Even those who are not citizens or members of the Social Compact are bound by the law when they act within the jurisdiction of the State. *Id.*⁸

⁷ The provision provides:

- (1) A person may be prosecuted for a criminal offense he or she commits while he or she is physically located within this state or outside of this state if any of the following circumstances exist:
 - (a) He or she commits a criminal offense wholly or partly within this state.
 - (b) His or her conduct constitutes an attempt to commit a criminal offense within this state.
 - (c) His or her conduct constitutes a conspiracy to commit a criminal offense within this state and an act in furtherance of the conspiracy is committed within this state by the offender, or at his or her instigation, or by another member of the conspiracy.
 - (d) A victim of the offense or an employee or agent of a governmental unit posing as a victim resides in this state or is located in this state at the time the criminal offense is committed.
 - (e) The criminal offense produces substantial and detrimental effects within this state.
- (2) A criminal offense is considered under subsection (1) to be committed partly within this state if any of the following apply:
 - (a) An act constituting an element of the criminal offense is committed within this state.
 - (b) The result or consequences of an act constituting an element of the criminal offense occur within this state.
 - (c) The criminal offense produces consequences that have a materially harmful impact upon the system of government or the community welfare of this state, or results in persons within this state being defrauded or otherwise harmed.

⁸ In a somewhat analogous situation, the United States District Court for the Western District of Kentucky explained that any person who allegedly commits a crime is subject to the jurisdiction of the applicable criminal courts regardless of any assertion of immunity because of citizenship status:

Lamb's overarching argument in this case is that the state courts had no jurisdiction over his person because he is not a citizen of Kentucky or of the United States. This argument is wholly without merit because Lamb's citizenship in this situation is of no consequence for the prosecution of criminal violations. Under Kentucky law, "a person may be

Likewise, the Defendant's assertions that he is immune from prosecution because driving drunk is a victimless crime is baseless. In particular - the predicate that drunk driving is a victimless crime is laughable. The Court takes judicial notice that in 2015 (the year in question), in the United States "there were 10,265 people killed in alcohol-impaired-driving crashes, an average of 1 alcohol-impaired-driving fatality every 51 minutes."⁹ There were 963 such fatalities in Michigan.¹⁰ Thankfully the Defendant was not one of them. The State of Michigan, through its police power, certainly has the authority to bar drunk driving.

With this understanding, the gravamen of the Defendant's argument collapses. This Court is a legitimate, legal, and duly constituted Circuit Court of the State of Michigan. The Defendant allegedly has violated a criminal law duly promulgated by the State of Michigan, and the Defendant has been lawfully brought before this Court for criminal proceedings based on that accusation. The writs/motions to vacate and to void, affiant's notice of non-liability of commercial bills of exchange, writ/motion for jurisdictional challenge, writ of mandamus to release appearance bond to affiant and change of venue, cause of action, and motion to dismiss are all specious. Sprinkling together various doctrines in an embrangling fashion is not argument, only bluster. Mantra cannot substitute for authority and reasoning. Further, simply stating conclusions does not make them so; nor are these conclusions somehow magically transformed into evidence. So far as the record reflects - or any source which would

convicted under the laws of this state of an offense committed by his own conduct ... when ... the conduct or the result which is an element of the offense occurs within this state." KRS § 500.060(1). Lamb subjected himself to the laws, regulations, and criminal penalties governing Kentucky's highways when he chose to drive on the roads in Calloway County. When he violated those laws, he subjected himself to the jurisdiction of Kentucky's courts.

[*Lamb v Telle*, 2012 WL 5077686 (W.D. Ky, October 18, 2012) at *4.

⁹ Traffic Safety Facts, 2015 Data, Alcohol-Impaired Driving, National Highway Traffic Safety Administration, US Department of Transportation (December 2016), p 1.

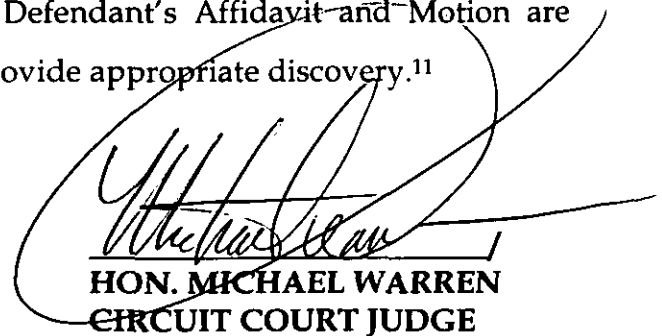
¹⁰ *Id.* at 7 (Table Four).

allow the court to take judicial notice - the Defendant's arguments are devoid of any legal merit.

Finally, in the course of his 21 page Affidavit and Motion, "[s]everal other questions are raised by [the] defendant[], but we do not think a discussion of them is necessary, and they are overruled." *Wilson v California Wine Co*, 95 Mich 117, 120 (1893).

ORDER

In light of the foregoing Opinion, the Defendant's Affidavit and Motion are DENIED; provided, however, that the People provide appropriate discovery.¹¹



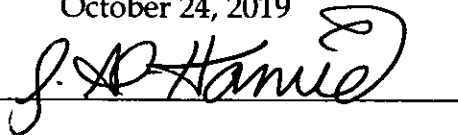
HON. MICHAEL WARREN
CIRCUIT COURT JUDGE

¹¹ The Defendant's reference to FOIA is inapposite. The Court is not subject to FOIA. Any FOIA requests must be submitted to the pertinent agencies.

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon the attorneys for record or the parties not represented by counsel in the above case by mailing it to their addresses as disclosed by the pleadings of record on

October 24, 2019

A handwritten signature in cursive script, appearing to read "J. P. Hamie", is written over a horizontal line.