

Appeal No. 09-3503

United States Court of Appeals
For The Eighth Circuit
Thomas F Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Vaughn Wilson
Plaintiff/Appellant

VS.

ALMA CITY COURT
STATE OF ARKANSAS
DEFENDANTS/APPELLEES

BRIEF OF APPELLANT

APPEAL OF THE ORDER TO DISMISS FROM THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

From: Vaughn Damon Wilson, sui juris
Plaintiff/Appellant
Without prejudice of rights **UCC 1-308/1-207**
7225 Chastain Road
Mulberry, Arkansas 72947
The republic of Arkansas
Phone: 479 414 322

SUMMARY OF CASE AND WAIVER OF ORAL ARGUMENT

Unlawful contractual agreements have been used with duress to deprive the plaintiff of his common law rights protected by the **Constitution for the United States (1789)** and the **Constitution for the State of Arkansas (1874)**. DEFENDANTS refuse to honor remedy **UCC 1-308** and operate outside of their jurisdiction and conspire to deprive rights of human beings under color of law, law merchant, commercial law, admiralty and etc... They do not operate within the common law. The facts and arguments in this case is incontrovertible so oral argument is waived by Plaintiff.

Corporate Disclosure Statement

There are no corporate entities to disclose.

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STATEMENT OF JURISDICTION

This action was filed in the UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS FORT SMITH DIVISION on August 11th, 2009 and is pursuant to **28 U.S.C. §§ 1331**. "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States". Plaintiff's rights that are protected by the Constitution and laws were violated. The DISTRICT COURT ordered the case dismissed on 20th day of October 2009.

The Plaintiff then filed a Notice of Appeal with the DISTRICT COURT on October 26th, 2009.

The First Circuit Court of Appeals has jurisdiction of this case pursuant to **28 U.S.C. § 1291** and may also take jurisdiction pursuant to the **Judicial act of 1789**.

On the 20th day of October 2009, the Honorable Robert T. Dawson United States District Judge issued the following order to dismiss "Plaintiff's Complaint is DISMISSED on the grounds that the claims are frivolous, asserted against individuals who are immune from suit, or fail to state claims on which relief can be granted. See **28 U.S.C. § 1915(e) (2) (B) (i)-(iii)** (IFP action may be dismissed on such grounds at any time)."

STATEMENT OF ISSUES

1. Did the Plaintiff proceed in forma pauperis as per **28 U.S.C. § 1915(e) (2) (B) (i)-(iii)** "(IFP action may be dismissed on such grounds at any time)."?
2. Are the "claims are frivolous"?
3. Are the claims "against individuals who are immune from suit"?

4. Does the complaint "fail to state claims on which relief can be granted."?

STATEMENT OF THE CASE AND FACTS

The central issue in this case is that the DEFENDANTS operate as commercial entities and have deprived the Plaintiff of his rights by forcing him to perform under a contract or contracts that he is not subject to. The DEFENDANTS are engaging in acts of privateering. Plaintiff, Vaughn Damon Wilson is a natural citizen of Arkansas and not subject to commercial law/law merchant/admiralty law and is standing on dry land. Further, Plaintiff has not contracted any of his rights away to the DEFENDANTS. Plaintiff has made his reservation of rights **UCC 1-308/1-207** public record with the CRAWFORD COUNTY CIRCUIT CLERK on December 17th, 2008 and notified several judges on the state and federal level. Plaintiff's drivers' license is signed "without prejudice **UCC 1-308**"

Plaintiff was subject to an armed attack by

DEFENDANTS on January 1st, 2009 at 9:20 pm on I-40 at exit 20, Alma, Arkansas. Plaintiff was overtaken by a motor vehicle/vessel under color of commission and fitted out for the purpose of piracy. Plaintiff was unlawfully stopped, held captive, and incarcerated for 12 minutes. And further was subjected to a search of plaintiff's papers and personal effects, without warrant by an armed pirate/agent for the STATE OF ARKANSAS, ARKANSAS STATE TROOPER, PATRICK A SCHMIDT. He was clothed under color of commission, in a uniform resembling governmental authority. PATRICK A SCHMIDT then violated plaintiff's liberty further by forcing plaintiff to sign ARKANSAS UNIFORM LAW ENFORCEMENT CITATION number J109746 under duress with threat of being taken captive. Plaintiff signed the citation "without prejudice **UCC 1-308**".

On January 12th 2009, Plaintiff filed with the commercial entity, ALMA CITY COURT a Motion to Dismiss because of Plaintiffs reservation of rights UCC 1-308. Plaintiff received no notice of dismissal.

On February 24th, 2009 at 5 pm, Plaintiff presented himself under duress to ALMA CITY COURT out of fear of further "Deprivation of rights under color of law". ALMA CITY COURT, under color of commission, displayed a gold fringed banner or flag resembling that of the de jure United States government created in 1789, but only having the same jurisdiction as the Jolly Roger.

At same trial, PAUL D. GANT ordered Plaintiff under duress to pay a ransom before leaving of \$115 in commercial paper, "Federal Reserve notes" without any evidence of the existence of a maritime/admiralty or other contractual agreement and in violation of Plaintiffs liberties.

Wherefore, (maritime/admiralty contact)/ (deprivation of rights under color of law) / (piracy) is prevalent and unfettered.

Plaintiff was blocked by ALMA CITY COURT from free access to appeal the decision with a bond of twice the amount of the fine and further blocked by ARKANSAS TWENTY-FIRST JUDICIAL CIRCUIT IN Van Buren, Arkansas

with a \$140 filing fee when lawful money is not available.

DEFENDANTS have failed to produce or show any existence of a contractual agreement or ratification of commencement. Nor has the DEFENDANTS provided proof that the Plaintiff is a commercial entity or a commercial commodity.

SUMMARY OF ARGUMENT

Plaintiff did not file in forma pauperis. Further the claims are not frivolous, or against individuals who are immune from suit. Nor did plaintiff fail to state claims on which relief can be granted.

Unlawful, ambiguous, contractual agreements have been used to deprive the plaintiff of his common law rights protected by the **Constitution for the United States (1789)** and the **Constitution for the State of Arkansas (1874)** and specifically **Article 2. Declaration of Rights. § 13. Redress of wrongs.**

ARGUMENT

1. **FIRST ISSUE:** Plaintiff did not file in forma pauperis as per **28 U.S.C. § 1915(e) (2) (B) (i)-(iii)**.

Plaintiff paid \$350 cash to contract with THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS FORT SMITH DIVISION for its services to seek remedy and relief without prejudice of rights.

Furthermore, the clerks confirmed for the Plaintiff on October 26th, 2009 that there is no clerical error to the contrary.

Furthermore, Plaintiff has in his possession cash receipts.

Furthermore, it would appear that the Honorable Robert T. Dawson has personal knowledge that Plaintiff had not filed in forma pauperis as per **28 U.S.C. § 1915(e) (2) (B) (i)-(iii)**, for he would have approved it.

Wherefore, the Honorable Robert T. Dawson is in error and possessed no basis for dismissal on the grounds cited at anytime as per **28 U.S.C. § 1915(e) (2) (B) (i)-(iii)**.

2. **SECOND ISSUE:** The claims are not "frivolous". Plaintiff has made a public record filing of his reservation of rights with the Crawford County circuit clerk on December 17th, 2008. Further, Plaintiff, Vaughn Damon Wilson has mailed similar letters to judges on both the state and federal level certified mail and return receipt. Plaintiff's common law rights that are protected by the constitutions and laws of the land have been sorely violated. Plaintiff has not contracted his rights away to any commercial entity. Plaintiff has no contractual agreements with the DEFENDANTS and is not subject to the DEFENDANTS in their commercial capacity. Wherefore the Plaintiff also is not subject to commercial law. And further, the DEFENDANTS have refused to honor the remedy **UCC 1-308/1-207 Reservation of Rights**. Further, it is unlawful to subject a human being to commercial law, see **USC TITLE 15 > CHAPTER 1 > § 17 "The labor of a human being is not a commodity or article of commerce."**

Also see, *Brady v. U.S.*, 397 U.S. 742, 748, (1970)

"Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

Further, plaintiff, Vaughn Damon Wilson is not a 14th

Amendment citizen for a remedy was provided by 15

United States Statute at Large, July 27, 1868 also

known as "Expatriation Statute". Wherefore I, Vaughn

Damon Wilson claim the remedy and am a natural Citizen of

Arkansas in its capacity as one of the several states of

the union, which incidentally makes me the plaintiff a

national Citizen of the republic, arising under the

original jurisdiction of the de jure **Constitution for**

the United States of 1789, and I explicitly reserve all

of my rights.

And further because the DEFENDANTS have made themselves

foreign commercial entities of, and subject to the

foreign entity, the Federal corporation, also known as

the UNITED STATES, and also known as the municipality

the DISTRICT OF COLUMBIA, the DEFENDANTS in their acts

towards the plaintiff are in violation of the **Foreign Sovereign Immunities Act (FSIA) of 1976**. See **USC TITLE 28 > PART IV > CHAPTER 97> § 1604**, "Immunity of a foreign state from jurisdiction Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter."

And further, because the plaintiff is a Citizen of Arkansas in its capacity as one of the several states of the Union. And further, because the DEFENDANTS are acting in their commercial capacity as possessions of the UNITED STATES, (the Federal corporation) in their acts towards the plaintiff. The DEFENDANTS are in violation of the **11th amendment**.

Further, the violations of rights are not frivolous, for they are in violation of **USC TITLE 18 > PART I >**

CHAPTER 13 > § 242. "Deprivation of rights under color of law".

Further, the DEFENDANTS by unlawfully enforcing the ambiguous contract and failing to recognize its remedy **UCC 1-308/1-207**, are impairing the obligations of a contract in violation of **Article one, Section 10 of the Constitution for the United States, 1789 No State shall...pass...Law impairing the Obligation of Contracts ...**

Furthermore, the DEFENDANTS are failing to recognize the aforementioned remedy, or to provide or show any other remedy, or has hidden or failed to reveal other remedy, the DEFENDANTS are in violation of

ENGLISH TORT LAW

61. *Ashby v. White*, (1703) 92 Eng. Rep. 126 (K.B.); *BLACKSTONE*, *supra* note 59, at 23. 62. 5 U.S. (1 Cranch) 137, 163-66 (1803) ("It is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that

right is invaded [F]or it is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress.").

Furthermore, see...

SHAPIRO vs. THOMSON, 394 U. S. 618 April 21, 1969.

"Further, the Right to TRAVEL by private conveyance for private purposes upon the Common way can NOT BE INFRINGED. No license or permission is required for TRAVEL when such TRAVEL IS NOT for the purpose of [COMMERCIAL] PROFIT OR GAIN on the open highways operating under license IN COMMERCE."

Murdock v. Penn., 319 US 105, (1943) "No state shall convert a liberty into a privilege, license it, and attach a fee to it."

Shuttlesworth v. Birmingham, 373 US 262, (1969) "If the state converts a liberty into a privilege, the citizen can engage in the right with impunity."

Miranda v. Arizona, 384 U.S. 436, (1966) "Where rights secured by the Constitution are involved, there can be no rule making or legislation, which would abrogate them."

Norton v. Shelby County, 118 U.S. 425, (1886) "An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."

Miller v. U.S., 230 F.2d. 486,489 "The claim and exercise of a Constitutional right cannot be converted into a crime."

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958). "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents."

3. **THIRD ISSUE:** Plaintiffs claim is not "against individuals who are immune from suit".

As stated earlier, Plaintiff is not a **14th Amendment** citizen for a remedy was provided by **15 United States Statute at Large, July 27, 1868** also known as "Expatriation Statute". Wherefore plaintiff is a natural Citizen of Arkansas. Wherefore, the **11th Amendment** does not prevent Plaintiff from suing the DEFENDANTS and Plaintiff has not contracted that right away.

Further, because the DEFENDANTS are possessions of the DISTRICT OF COLUMBIA created by the **Congressional act of 1871**, which states "...the District of Columbia, by which name it is hereby constituted a body corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded ..." Then there is no doubt the DEFENDANTS can be sued in their commercial capacity or otherwise.

Further, the magistrates cites of decisions of courts of contracts concerning those who are contractually obligated, do not apply to the plaintiff in this case. And more so, if the contracts were hidden and unlawful.

Further the DEFENDANTS are devoid of immunity because of the *Clearfield Doctrine*

"Governments descend to the Level of a mere private corporation, and take on the characteristics of a mere private citizen...where private corporate commercial paper" [Federal Reserve Notes] "and securities"

[checks] "is concerned. ... For purposes of suit, such corporations and individuals are regarded as entities entirely separate from government." -

Clearfield Trust Co. v. United States 318 U.S. 363-371 (1942)

Wherefore the DEFENDANTS have descended to mere corporations and have criminally operated outside of their jurisdiction and are devoid of immunity.

Also see the following

Colten v. Kentucky (1972)407 U.S. 104@122. 92 S.Ct. 1953; Dissent by Douglas "If the nation comes down from its position of sovereignty and enters the domain of commerce, it submits itself to the same laws that govern individuals therein. It assumes the position of an ordinary citizen and it cannot recede from the fulfillment of its obligations;" 74 Fed. Rep. 145, following 91 U.S. 398.

4. **FOURTH ISSUE:** The complaint does "state claims on which relief can be granted". The claims are deprivation of rights protected by the constitution, conspiracy to deprive rights, plunder of property, piracy ashore and etc... Relief requested is declaratory relief, preliminary and permanent injunctive relief from further duress, harassment, deprivation of rights, unlawful arrests and unlawful fines. And furthermore to order the return of all property plundered by the DEFENDANTS from the people of Arkansas. And in the case of the Plaintiff, in count eight, was \$115. All of the foregoing in fact takes

precedent over all other civil actions. See...

USC TITLE 28 > PART V > CHAPTER 111 > § 1657 "Priority of civil actions (a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefore is shown. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit."

Furthermore, although it is mandatory in the above cite that this case takes precedent over other civil actions, and although the suit was filed by Plaintiff on August 11th, 2009, the court did not respond until

the 8th day of October 2009. Wherefore it appears it appears that the District court is in error of **USC TITLE 28 > PART V > CHAPTER 111 > § 1657 "Priority of civil actions"**.

Furthermore, preliminary injunctive relief is priority. On October 21st, 2009 the same day that I received the order to dismiss this case, it was by no coincidence that I was stopped and held captive, harassed and ticketed by an agent for the DEFENDANTS, ARKANSAS STATE TROOPER CORPORAL CHRIS WATERS, badge number 81.

Citation number J195093. As the court knows with its systems of records, this should not have happened.

This incident appears to be a purposeful act in violation of...

USC TITLE 18 > PART I > CHAPTER 73 > § 1512 "Tampering with a witness, victim, or an informant".

CONCLUSION

Because of all of the foregoing arguments, rebuttals and statement of facts, it is incontrovertible that this complaint is legitimate, and worthy of proceeding

forward according to the **Constitution for the United States** and all of its laws, codes, statutes and regulations. Wherefore the Plaintiff, Vaughn Damon Wilson, sui juris asks the court to overturn THE ORDER TO DISMISS FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS FORT SMITH DIVISION and order the case to proceed forward without further hindrances.

CERTIFICATE OF COMPLIANCE

The undersigned certifies this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32. The brief has 506 lines of monospaced type and 3,822 typed words. The font used is Courier New and the font size is 14. The number of characters per inch is 9. The brief was prepared using Microsoft Word. The undersigned also certifies that the computer diskette containing the full text of the Brief has been scanned for viruses and to the best of his limited peabrained sized ability and technology, believes it is virus-free.

Respectfully submitted,

Signed:

Vaughn Damon Wilson, sui juris

Without prejudice of rights **UCC 1-308**

7225 Chastain Road

Mulberry, Arkansas 72947

Phone: 479 414 3220

NOTARY PUBLIC

STATE OF _____ COUNTY OF _____

Subscribed and sworn to before me, a Notary Public, the
above signed Vaughn Wilson.

this _____ day of _____, 2009

Notary Public

MY COMMISSION EXPIRES:
