INTRO DECLARATION

Now comes before this honorable court a flesh and blood man, a people, as in we the people of the constitution. I, John Doe am not a 14th amendment citizen. I am a people as in we the people and not JOHN DOE which is a fictitious corporate entity. I reserve all rights and waive none UCC 1-308 without prejudice. I operate under common law jurisdiction and common law jurisdiction only. Any attempt to trick me under any other jurisdiction is fraud and will further violate my rights. I hereby publicly and notoriously deny the Fourteenth Amendment Federal Citizenship and Law Merchant Status.

GC CITES

Maxim of Law: Truth and Fact are sovereign in law. For the lawyers to tell us that truth and facts do not matter in "the real world" , meaning in court, is an attempt to deny us the right to Due Process and Equal Protection and to prohibit getting Truth and Facts on the record

Go to Blacks Law page 864

Roadway Express v. Pipe, 447 U.S. 752 at 757 (1982) "Due to sloth, inattention or desire to seize tactical advantage, lawyers have long engaged in dilatory practices... the glacial pace of much litigation breeds frustration with the Federal Courts and ultimately, disrespect for the law."

Sherar v. Cullen, 481 F. 2nd 946 (1973) "There can be no saction or penalty imposed upon one because of his exercise of Constitutional Rights."

Justice Black in **Conley v. Gibson, 355 U.S. 41 at 48 (1957)** "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to fascilitate a proper decision on the merits." According to **Rule 8(f) FRCP** and the State Court rule which holds that all pleadings shall be construed to do substantial justice."

Maxims of Law:

"IN COMMERCE FOR A MATTER TO BE RESOLVED MUST BE EXPRESSED" Heb. 4:16; Phil 4:6; Eph. 6:19-21. Legal Maxim: "He who fails to assert his rights has none."

"ALL ARE EQUAL UNDER THE LAW" (God's Law – Moral and Natural Law)

Exodus 21:23-25; Lev 24: 17-21: Deut 1:17, 19:21, Mat. 22:36-40; Luke 10:17; Col 3:25. "NO ONE IS ABOVE THE LAW"

"IN COMMERCE TRUTH IS SOVEREIGN"

Exodus 20:16; Ps. 117:2; John 8:32; II Cor. 13:8.Truth is sovereign - and the Sovereign tells only the truth. Your word is your bond.

"TRUTH IS EXPRESSED IN THE FORM OF AN AFFIDAVIT"

Lev. 5:4-5; Lev 6:3-5; Lev. 19:11-13; Num. 30:2; Mat. 5:33; James 5:12.

"AN UNREBUTTED AFFIDAVIT STANDS AS TRUTH IN COMMERCE"

12 Pet. 1:25; Heb. 6:13-15. Claims made in your affidavit, if not rebutted, emerge as the truth of the matter. Legal Maxim: "He who does not deny, admits."

"AN UNREBUTTED AFFIDAVIT BECOMES THE JUDGMENT IN COMMERCE" Heb. 6:16-17. There is nothing left to resolve.

WARNING: New York's Statute of Limitations for Defamation is Shorter than for Negligence

It is important to note that the statute of limitations for defamation is different in each state. A statute of limitations is the time that a civil or criminal action must be brought forward. In New York the statute of limitations for defamation is one (1) year from the date the defamatory statement is communicated (published) to someone other than the plaintiff. Because the time to bring a defamation action is shorter than a negligence action, it is imperative that a person who believes they have been defamed speak with an attorney immediately.

Color of law. The appearance or semblance, without the substance, of legal right. Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state,is action taken under "color of law." Atkins v. Lanning, D.C.Okl., 415 F.Supp. 186, 188.

As used in Civil Rights Act means same thing as "state action", Timson v. Weiner, D.C.Ohio, 395 F .Supp., 1344; and means pretense of law and includes actions of officers who undertake to perform their official duties, Thompson v. Baker, D.C. Ark., 133 F.Supp. 247; U.S.C.A. : 1983.

Acts "under color of law" of a State include not only acts by State officials within the bounds or limmits of their lawful authority, but also acts done without and beyond the bounds of thier lawful authority; provided that, in order for unlawful acts of an official to be done "under color of any law", the unlawful acts must be done while such official is purporting or pretending to act in the performance of his official duties; that is to say, the unlawful acts must consist in an abuse or misuse of power which is possessed by the official only because he is an official; and the unlawful acts must be of such a nature or character, and be committed under such circumstances, that they would not have occurred but for the fact that the person committing them was an official then and there exercising his official powers outside the bounds of lawful authority. 42 U.S.C.A. : 1983

Kangaroo court. Term descriptive of a sham legal proceeding in which a persons rights are totally disregarded and in which the result is a foregone conclusion because of the bias of the court or other tribunal.

Mate. A spouse. The officer seccond in command on a merchant vessel. In Navy, petty officer who is assistant to warranty officer.

Chain of custody. In evidence, the one who offers real evidence, such as the narcotics in a trial of drug case, must account for the custody of the evidence from the moment in which it reaches his custody until the moment in which it is offered in evidence, and such evidence goes to weight not admissibility of evidence. Com. v. White, 353 Mass. 409, 232 N.E. 2d 335.

Unl**awful entry.** An entry upon lands effected peaceably and without force, but which is without color of title and is accomplished by means of fraud or some other willful wrong.

Invasion of privacy. The unwarranted appropriation or exploitation of one's personality, publicizing of one's private affairs with which the public has no legitimate concern, or wrongful intrusion into one's private activities, in such manner as to cause mental suffering, shame or hummiliation to person of ordinary sensibilities. Shorter v. Retail Credit Co., D.C.S.C., 251 F

.Supp. 329, 330. Violation of right which one has to be left alone and unnoticed if he so chooses. Such invasion may constitute actionable tort. See **Eavesdropping; Privacy Acts.**

"Liable and Slander" are both methods of defamation; the former being expressed by print, writing, pictures, or signs; the latter by oral expressions or transitory gestures. Restatement, Second, Torts, : 568 .

HEARSAY.

Clean Hands Doctrine. Under "clean hands" doctrine, equity will not grant relief to a party, who, as actor, seeks to set judicial machinery in motion and obtain some remedy, if such party in his prior conduct has violated conscience or good faith or other equitable principle. Franklin v. Franklin, 365 Mo. 442, 283 S.W.2d 483, 486.

Friut of the Poisonous Tree. Evidence which is spawned by or directly derived from an illegal search or illegal interrogation is generally considered inadmissable against the defendant because of its original taint, though knowledge of facts gained independantly of the original and tainted search is admissible. Wong Sun v. U.S. , 371 U.S.471, 83 S. Ct. 407, 9 L.Ed.2d 441. This doctrine is to the effect that an unlawful search, but taints not only evidence obtained at the search, but fact discovered by process initiated by the unlawfull search. This doctrine is generally applied to cases involving searches in violation of the Fourth Amendmant to the Constitution right against unlawfull searches and siezures, but can be applied to searches in violation of a statutory right. Duncan v. State, 278 Ala, 145, 176 So.2d 840, 865. (Black's Law Dictionary)

Malicious prosecution. One begun in malice without probable cause to believe the charges can be sustained. An action for damages brought by person, against whom civil suit or criminal prosecution has been instituted maliciously and without probable cause, after termination of prosecution of such suit in favor of person claiming damages. Beaurline v. Smith, Tex.Civ.App. 426 S.W.2nd. 295, 298.

One who takes an active part in the initiation, continuation or procurement od civil proceedings if: (a) he acts without probable cause, and primarily for a purpose other than that of securing the proper adjudication of the claim in which the proceedings are based, and (b) except when they are ex parte, the proceedings have terminated in favor of the person against whom they are brought. Restatement, Second, Torts, sec. 674.

Elements of a cause of action for malicious prosecution are: (1) commencement of prosecution of proceedings against the present plaintiff; (2) its legal causation by present plaintiff; (3) its termination in favor of the present plaintiff; (4) absence of probable cause for such proceedings; (5) presence of malice therein; and (6) damage to plaintiff by reason thereof. **Palermo v. Cottom, Mo.App. 525 S.W.2nd 758, 764.**

False swearing. A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true, is guilty of a misdemeanor if: (a) the falsification occurs in an official proceeding; or (b) the falsification is intended to mislead a public servent in performing his official function. Model Penal Code, sec. 241.2." Blacks Law

False statement. They mean an incorect statement made or aquiesced in with the knowledge of incorrectness or with reckless indifference to actual facts and with no reasonable ground to believe it to be correct. International Shoe Co. v. Lewine, C.C.A.Miss., 67 F.2nd 389, 390. Statement knowingly false, or made recklessly without honest belief in its truth, and with purpose to mislead or deceive. Third Nat. Bank v. Schatten, C.C.A.Tenn., 81 F.2d 538, 540 ; Blacks Law .

LEGAL MAXIM: An unrebutted affidavit is the judgement in commerce. There is nothing to resolve. Any proceeding in a court, tribunal, or arbitration forum consists of a contest, or duel, of commercial affidavits where in the points remaining unrebutted in the end stands as facts to which a judgement is applied.

Maxims of Law:

1. All men and women know that the foundation of law and commerce exists in the telling of the truth, and nothing but the truth.

2. Truth, as a valid statement of reality, is sovereign in commerce.

3. An unrebutted affidavit stands as truth in commerce.

4. An unrebutted affidavit is acted upon as the judgment in commerce.

5. Guaranteed- All men shall have a remedy by the due course of law. If a remedy does not exist, or if the remedy has been subverted, then one may create a remedy for themselves - and endow it with credibility by expressing it in their affidavit.

6. Ignorance of the law might be an excuse, but it is not a valid reason for the commission of a crime when the law is easily and readily available to anyone making a reasonable effort to study the law.

7. Except for a Jury, it is also a fatal offence for any person, even a Judge, to impair or to expunge, without a Counter-Affidavit, any Affidavit or any commercial process based upon an Affidavit.

ALL CITES

Morris v NCR, 44 SW2nd 433 which states: " An Affidavit if not contested in a timely manner is considered undisputed facts as a matter of law."

The phrase consensus facit legem is a Latin maxim which means consent makes the law. A contract is a legal agreement between the parties, and consent is an inevitable component for the legality of contract. The consent must be free and fair and should not be induced by fraud, misrepresentation, coercion or mistake.

"Where rights secured by the Constitution are involved, there can be no 'rule making' or legislation which would abrogate them." Miranda v. Arizona, 384 U.S. 426, 491; 86 S. Ct. 1603

Nemo tenetur ad impossibile is a legal maxim in Latin. The maxim states that no one is bound to perform impossibility.

"The elementary doctrine that the constitutionality of a legislative act is open to attack only by persons whose rights are affected thereby, applies to statute relating to administrative agencies, the validity of which may not be called into question in the absence of a showing of substantial harm, actual or impending, to a legally protected
interest directly resulting from the enforcement of the statute."
Board of Trade v. Olson, 262 US 1; 29 ALR 2d 105.

To establish the corpus delecti, independent evidence must be presented showing the occurrence of a specific kind of injury and that a criminal act was the cause of the injury. Porter v. State, 391 N.E.2d 801, 808-809

Corpus delecti consists of a showing of 1) the occurrence of the specific kind of injury and 2) someones criminal act as the cause of the injury. Johnson v. State, 653 N.E.2d 478, 479 (Ind. 1995).

"State must produce corroborating evidence of "corpus delecti," showing that injury or harm constituting crime occurred and that injury or harm was caused by someone's criminal activity." Jorgensen v. State, 567 N.E.2d 113, 121.

FRAUD BY GOVERNMENT

McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v. Holzer, 816 F.2d. 304, 307: "Fraud in its elementary common law sense of deceit and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud.

"A Law repugnant to the Constitution is void." Marbury v. Madison

"There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights." Sherar v. Cullen, 481 F. 2d 946 (1973)

A contractual obligation is impracticable "when it can only be done at an excessive and unreasonable cost" (Transatlantic Financing Corp. v. United States, 363 F.2d 312 [D.C. Cir. 1966]

To make out his defense he must show that his authority was sufficient in law to protect him It is no answer for the defendant to say I am an officer of the government and acted under its authority unless he shows the sufficiency of that authority); and Poindexter v. Greenhow, 114 U.S. 270, 287, 5 S.Ct. 903, 912

The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but, the individuals rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed. Redfield v Fisher, 292 P 813, at 819 [1930]

[I]n common usage, the term `person does not include the sovereign, [and] statutes employing the phrase are ordinarily construed to exclude it. United States v. Cooper Corp., 312 U.S. 600, 604 [1941;] accord, United States v. Mine Workers, 330 U.S. 258, 1947.]
Colten v. Kentucky (1972)407 U.S. 104@122. 92 S.Ct. 1953

We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted. Mattox v. U.S., 156 US 237,243. (1895)

The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now. S. Carolina v. U.S., 199 U.S. 437, 448 (1905).

The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law. Marbury v. Madison, 5 US 137,(1803)

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

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

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

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. Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

The rights of the individuals are restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. City of Dallas v Mitchell, 245 S.W. 944

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. Norton v. Shelby County, 118 U.S. 425, (1886)

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

"To take away all remedy for the enforcement of a right is to take away the right itself. But that is not within the power of the State." Poindexter v. Greenhow, 114 U.S. 270, 303 (1885

One who commits a breach of the peace is guilty of disorderly conduct, but not all disorderly conduct is necessarily a "breach of the peace." City of Seattle v. Franlkin, 191 Wash. 297, 70 P. @d 1049, 1051. Term signifies disorderly, dangerous conduct disruptive of public peace. Great Atlantic & Pac. Tea Co. v. Pail, 256 Md. 643,261 A.2d 731, 739.

When a police officer exceeds his power in making an arrest he becomes a trespasser" and he is liable for false imprisonment. Muscoe vs. Commonwealth, 86 Va. 444, 10 S.E. 534,536.

"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

"...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 there from, 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." Hale vs. Hinkel, 201 US 43, 74-75

Inasmuch as every government is an artificial person, an abstraction, and a creature of the mind only, a government can interface only with other artificial persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them. S.C.R. 1795, Penhallow v. Doanes Administraters (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54),

The state citizen is immune from any and all government attacks and procedure, absent contract. see, Dred Scott vs. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "...every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent."
CRUDEN vs. NEALE, 2 N.C. 338 2 S.E. 70

"For purposes of criminal prosecution under § 241 or § 1584, the term involuntary servitude necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury or by the use or threat of coercion through law or the legal process. This definition encompasses cases in which the defendant holds the victim in servitude by placing him or her in fear of such physical restraint or injury or legal coercion." UNITED STATES V. KOZMINSKI, 487 U. S. 931 (1988)

Crim.R. 11(C)(2) requires the court to (a) determine that the defendant is

making the plea voluntarily, with an understanding of the nature of the charges and the maximum penalty.

Ex dolo malo non oritur actio. Out of fraud no action arises; fraud never gives a right of action. No court will lend its aid to a man who founds his cause of action upon an immoral or illegal act.
As found in Blacks Law Dictionary, Fifth Edition, page 509.

"Fraud destroys the validity of everything into which it enters,"
Nudd v. Burrows, 91 U.S 426.

"Fraud vitiates everything"
Boyce v. Grundy, 3 Pet. 210

Fraud vitiates the most solemn contracts, documents and even judgments.
U.S. v. Throckmorton, 98 US 61

TO PROSECUTOR

"Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law." Rubinstein v. Collins, 20 F.3d 160, 1990

An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness. (Trinsey v. Pagliaro D.C.Pa. 1964, 229 F. Supp. 647)

Where there are no depositions, admissions, or affidavits the court has no facts to rely on for a summary determination. Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647.

The prosecutor is not a witness; and he should not be permitted to add to the record either by subtle or gross improprieties. Those who have experienced the full thrust of the power of government when leveled against them know that the only protection the citizen has is in the requirement for a fair trial. Donnelly v. Dechristoforo, 1974.SCT.41709 ¶ 56; 416 U.S. 637 (1974)

UCC 1-308

"The making of a valid Reservation of Rights preserves whatever rights the person then possesses, and prevents the loss of such rights by application of concepts of waiver or estoppel." (UCC 1-207.7 & 1-308)

"I reserve my right not to be compelled to perform under any contract or commercial agreement that I did not enter knowingly, voluntarily and intentionally. I do not accept the liability of the compelled benefit of any unrevealed contract or commercial agreement."

"The Code is complimentary to the Common Law, which remains in force, except where displaced by the code. A statute should be construed in harmony with the Common Law, unless there is a clear legislative intent to abrogate the Common Law." (UCC 1-103.6)

Title 18

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; they shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

§ 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

SUI JURIS

Pro se pleadings are to be considered without regard to technicality; pro se litigants pleadings are not to be held to the same high standards of perfection as lawyers. Picking v. Pennsylvania R. Co. 151 Fed. 2nd 240; Pucket v. Cox 456 2nd 233.

Additionally, pro se litigants are to be given reasonable opportunity to remedy the defects in their pleadings. Platsky v. C.I.A. 953 F.2d. 25. Reynoldson v. Shillinger 907F .2d 124, 126 (10th Cir. 1990); See also Jaxon v. Circle K. Corp. 773 F.2d 1138, 1140 (10th Cir. 1985) (1)

The respondent in this action is a nonlawyer and is moving forward in Propria persona. Haines v. Kerner (92 S.Ct. 594).

Members of groups who are competent nonlawyers can assist other members of the group achieve the goals of the group in court without being charged with "Unauthorized practice of law." NAACP v. Button (371 U.S. 415); United Mineworkers of America v. Gibbs (383 U.S. 715); and Johnson v. Avery 89 S. Ct. 747 (1969).

Litigants may be assisted by unlicensed layman during judicial proceedings. Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar (377 U.S. 1); Gideon v. Wainwright 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425.

Federal Law and Supreme Court Cases apply to State Court Cases Howlett v. Rose, 496 U.S. 356 (1990)

"Next Friend" A next friend is a person who represents someone who is unable to tend to his or her own interest... Federal Rules Civil Proc., Rule 17, 28 U.S.C.A.

Inadequate training of subordinates may be basis for 1983 claim. Mandonado-Denis v. Castillo-Rodriguez, 23 F.3d 576 (1st Cir. 1994)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law. Warnock v. Pecos County, Tex., 88 F3d 341 (5th Cir. 1996)

"Each citizen acts as a private attorney general who 'takes on the mantel of sovereign'," Title 42 U.S.C. Sec. 1983, Wood v. Breier, 54 F.R.D. 7, 10-11 (E.D. Wis. 1972). Frankenhauser v. Rizzo, 59 F.R.D. 339 (E.D. Pa. 1973).

Oklahoma is a "Right to Work" State! Bill SJR1! Its OK to practice God`s law with out a license, Luke 11:52, God`s Law was here first! "There is a higher loyalty than loyalty to this country, loyalty to God" U.S. v. Seeger, 380 U.S. 163, 172, 85 S. Ct. 850, 13 L. Ed. 2d 733 (1965)

"The practice of law can not be licensed by any state/State. Schware v. Board of Examiners, United States Reports 353 "The practice of law is an occupation of common right." A bar card is not a license, its a dues card and/or membership card. A bar association is that what it is, a

club, A association is not license, it has a certificate though the State, the two are not the same.... U.S. pgs. 238, 239. In Sims v. Aherns, 271 S.W. 720 (1925)

"Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice"... "The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice. Conley v. Gibson, 355 U.S. 41 at 48 (1957)

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice." Davis v. Wechler, 263 U.S. 22, 24; Stromberb v. California, 283 U.S. 359; NAACP v. Alabama, 375 U.S. 449

"... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." Elmore v. McCammon (1986) 640 F. Supp. 905

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519 (1972)

Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers. Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment." Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938)

Members of groups who are competent nonlawyers can assist other members of the group achieve the goals of the group in court without being charged with "unauthorized practice of law." NAACP v. Button, 371 U.S. 415); United Mineworkers of America v. Gibbs, 383 U.S. 715; and Johnson v. Avery, 89 S. Ct. 747 (1969)

The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities." Picking v. Pennsylvania Railway, 151 F.2d. 240, Third Circuit Court of Appeals

It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per Justice Black in Conley v. Gibson (see case listed above, Pro Se Rights Section). Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA)

"There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights." Sherar v. Cullen, 481 F. 2d 946 (1973)

"The practice of law cannot be licensed by any state/State." Schware v. Board of Examiners, United State Reports 353 U.S. pages 238, 239.

B.Platsky v. CIA, 953 F.2d 25, 26 28 (2nd Cir. 1991), "Court errs if court dismisses pro se litigant without instruction of how pleadings are deficient and how to repair pleadings." Sims v. Aherns, 271 SW 720 (1925)

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519 (1972)

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SILENCE

Silence can only be equated with fraud where there is a legal or moral duty tospeak or where an inquiry left unanswered is intentionally misleading." U.S. v.Tweel, 550 F. 2d 297 (1977)

Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of fraud." Bransom v. Standard Hardware, Inc., 874 S.W.2d 919, 1994

COURT OF RECORD

New York Statutes Article 2, Section 2 states

Each of the following courts of the state is a court of record: (1) The court for the trial of impeachments. (2) A court on the judiciary. 3. The court of appeals. (4) The appellate division of the supreme court in each department. (5) The supreme court. (6) The court of claims. (7) A county court in each county, except the counties of New York, Bronx, Kings, Queens and Richmond. (8) The family court. (9) A surrogate's court in each county. (10) Each city court outside the city of New York. (11) The district court in each county or

portion thereof in which such court shall be established. (12) The civil court of the city of New York and the criminal court of the city of New York. All courts other than those specified in this section are courts not of record.

COURTS OF RECORD and COURTS NOT OF RECORD. The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded. 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231. Blacks Law Dictionary 4th Edition

A "court of record" is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

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"Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law." Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652

This term may denote any court subordinate to the chief appellate tribunal in the particular judicial system; but it is commonly used as the designation of a court of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment See Ex parte Cuddy, 131 U. S. 280, 9 Sup. Ct 703, 33 L. Ed. 154; Kempe v. Kennedy, 5 Cranch, 185, 3 L. Ed. 70; Grignon v. Astor, 2 How. 341, 11 L. Ed. 283; Swift v. Wayne Circuit Judges, 64 Mich. 479, 31 N. W. 434; Kirkwood v. Washington County, 32 Or. 568, 52 Pac. 568

The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities." Picking v. Pennsylvania Railway, 151 F.2d. 240, Third Circuit Court of Appeals

Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of fraud." Bransom v. Standard Hardware, Inc., 874 S.W.2d 919, 1994

There must be full disclosure of all evidence material and and necessary in the prosecution or defense of an action regardless of proof. Section 3101(a)

"When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statutes do not act judicially, but merely ministerially". Thompson v. Smith, 154 SE 583.

TRAVEL

"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 22?1;
Ligare vs. Chicago, 28 NE 934;
Boon vs. Clark, 214 SSW 607;
25 Am.Jur. (1st) Highways Sect.163

"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

the Right to TRAVEL by private conveyance for private purposes upon the Common way can NOT BE INFRINGED. SHAPIRO vs. THOMSON, 394 U. S. 618 April 21, 1969

JUDUCIAL COGNIZANCE

Black's Law Dictionary defines judicial cognizance as judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence.

Judicial notice is defined by Black's Law Dictionary as the act by which a court, in conducting a trial or framing its decision, will of its own motion, and without the production of evidence recognize the existence and truth of certain facts having a bearing on the controversy at bar, which, from their nature, are not properly the subject of testimony, or which are universally regarded as established by common notoriety, eg, the laws of the state, international law, historical events, the constitution and course of nature, main geographical features, etc. The cognizance of certain facts which judges and jurors must properly take and act upon without proof, because they already know them. Fed. Evid. Rule 201. I have inalienable rights that are protected by the constitution for the United States.

CONSTITUTION

The Preamble of the Constitution for the United States of America states that: We the people of the United States, in Order to form a more perfect Union. Establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Amendment I [1791] of Constitution for the United States of America states : Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment IV [1791] of Constitution for the United States of America states: The right of people to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue but upon probable cause

supported by Oath, or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V [1791] of the Constitution for the United States for America states: No persons shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of War or public danger; nor shall any person be subject with the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI [1791] of the Constitution for the United States of America states that: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment 7 - Trial by Jury in Civil Cases. Ratified 12/15/1791.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law. The Constitution for United States of America States of America

Amendment 8 - Cruel and Unusual Punishment. Ratified 12/15/1791.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX [1791] of the Constitution for the United States of America states that: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X [1791] of the Constitution for the United States of America states that: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

13th amendment : Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Supremacy Clause

The Supremacy Clause of the United States Constitution (Article VI, Clause 2) establishes that the Constitution, federal laws made pursuant to it, and treaties made under its authority, constitute the supreme law of the land. It provides that state courts are bound by the supreme law; in case of conflict between federal and state law, the federal law must be applied.

New York Constitution, Article I, Section 14

§14. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

FRUIT OF POISONOUS TREE

Items which spawn by or directly derived from an illegal search or illegal interrogation is generally inadmissible against the defendant because of its original taint, though knowledge of facts gained independently of the original tainted search is admissible, Fruit of a Poisonous Tree Doctrine defined by Black's Law Dictionary Fifth Edition

UNLAWFUL ARREST

In Corpus Juris Secundum, Vol. 6A, under the subject of "Arrest," and under the heading of "Arrest or Detention Without Warrant" § 10, p. 17, it is written: At common law, however, it has always been the rule that, except in cases where the public security has demanded it, arrest without a warrant is deemed to be unlawful. As will be displayed on the dashboard camera of officer Voulamandis' car, I was no threat to public security. I did not commit a breach of peace. A breach of peace is defined by Black's Law Dictionary Fifth Edition as a violation or disturbance of the public tranquility and order.

When a police officer exceeds his power in making an arrest he becomes a trespasser" and he is liable for false imprisonment. Muscoe vs. Commonwealth, 86 Va. 444, 10 S.E. 534,536.

One who commits a breach of the peace is guilty of disorderly conduct, but not all disorderly conduct is necessarily a "breach of the peace." City of Seattle v. Franlkin, 191 Wash. 297, 70 P. @d 1049, 1051. Term signifies disorderly, dangerous conduct disruptive of public peace. Great Atlantic & Pac. Tea Co. v. Pail, 256 Md. 643,261 A.2d 731, 739.

Unlawful arrest for a minor misdemeanor is both a statutory and constitutional violation. State v. Jones (2000), 88 Ohio St. 3d 430

Conduct constituting a common use or action with the item at issue does not favor an inference of intent to prevent production. Common use extends beyond the enumerated conduct that evinces tampering. Here, the belligerent claimant's alleged conduct of utilizing ganja with its intended use is inconclusive of tampering.

The show of authority by the three uniformed armed police officers would permit a reasonable person to conclude that once he was handcuffed by the armed police officers he was not free to leave. Melock, 149 Ill.2d at 437, 174 Ill. Dec. 857, 599 N.E.2d 941

The probable cause requirement of the fourth amendment strikes a balance between the individual's right to privacy and the need for efficient law enforcement. People v. Moody, 94 Ill. 2d 1, 7,

The right of personal liberty is a very high prerogative right, and to deprive one of that right, without due process of law, we must find specific authority for doing so. It can not be left to inference or some strained construction of statute or ordinance. State v. Lutz, 85 W.Va. 330; 101 S.E. 434, 43 (1919

At common law, the right to arrest for a misdemeanor committed in the presence of the officer is limited to those offenses which amount to a breach of the peace. The basis for the rule is that arrest without warrant is permitted, in cases less than felony. not for the apprehension of the offender, but only for the immediate preservation of the public peace; and, accordingly, when the public peace is not menaced, a warrant is necessary. (authorities cited, see also section 22).

In Corpus Juris Secundum, Vol. 6A, under the subject of "Arrest," and under the heading of "Arrest or Detention Without Warrant" § 10, p. 17, it is written:

At common law, however, it has always been the rule that, except in cases where the public security has demanded it, arrest without a warrant is deemed to be unlawful

: The limits to the power of arrest by a constable, without process, was well defined at common law. The regard for liberty of the person was so great that the common law did not confer upon a mere conservator of the peace the power to touch the person of the subject, of his own volition, except in those cases when the interests of the public absolutely demanded it. Collins v. Cody, 95 N.1. Law 65, 113 Atl. 709, 710 (I920).

UNLAWFUL SEARCH AND SEIZURE

Byars v. U.S., 273 US 28 (1927)

Unlawful search and seizure, your rights must be interpreted in favor of the Citizen

The exclusionary rule, barring introduction of all evidence seized in violation of the Fourth Amendment, applies in state court proceedings. Mapp v. Ohio (1961), 367 U.S. 643

Car was stopped supposedly because headlights were not on. Police ordered everyone out of the car. Defendant dropped pack of cigarettes found to contain packet of cocaine.

Suppression should have been ordered. Independent source doctrine did not apply since recovery was tainted by illegality of search beyond claimed headlight violation. State v. Bevan (1992), 80 Ohio App. 3d 126

Search of vehicle was accomplished through use of keys seized during illegal search of defendant's person. Regardless of whether defendant has standing to contest search of vehicles he did not own, evidence found in cars as the fruit of the illegal search of his person was properly suppressed. Also see State v. Otte (1996), 74 Ohio St. 3d 555, 559 (claimed illegal arrest). State v. Thompson (1995), 103 Ohio App. 3d 498

Terry frisk for weapons held to have been unjustified. Contraband was discovered only after officer felt a lump and asked what it was. Suppression required under the fruit of the poisonous tree doctrine. State v. Warren (1998), 129 Ohio App. 3d 598

There is kind of warrantless search, called a Terry stop or a Terry frisk. It is designed to protect officers from hidden weapons. Accordingly, items that do not feel like weapons, such as a baggie of soft, granular substance tucked inside a jacket pocket, cannot be seized during a Terry frisk, even if it turns out that the item is contraband.

A Terry stop and frisk "may not be used as a general search for evidence of criminal activity." **People** v. Creagh, 214 Ill.App.3d 744, 748, 158 Ill. Dec. 302, 574 N.E.2d 96 (1991).

Under the doctrine of Terry v. Ohio (1968), 392 U.S. 1, 20 L.Ed.2d 889, 88 S.Ct. 1868, when, as contended by the State here, a valid stop has been made, an officer is permitted to conduct a limited search for weapons only where he reasonably suspects that he or another is in danger of attack. Section 108-1.01 of the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1983, ch. 38, par. 108-1.01) is in conformity with Terry and specifically authorizes peace officers to make such a limited search under those circumstances.

The court must be vigilant to scrutinize the attendant facts with an eye to detect and a hand to prevent violations of the Constitution by circuitous and indirect methods. 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." Boyd v. United States, 116 U. S. 616, 116 U. S. 635; Gouled v. United States, supra, p. 255 U. S. 304, supra.

The Fourth Amendment was adopted in view of long misuse of power in the matter of searches and seizures both in England and the colonies, and the assurance against any revival of it, so carefully embodied in the fundamental law, is not to be impaired by judicial sanction of equivocal methods,

.

In order to make effective the fundamental constitutional guarantees of sanctity of the home and inviolability of the person, Boyd v. United States, 116 U. S. 616, this Court held nearly half a century ago that evidence seized during an unlawful search could not constitute proof against the victim of the search. Weeks v. United States, 232 U. S. 383. The exclusionary prohibition extends as well to the indirect as the direct products of such invasions. Silverthorne Lumber Co. v. United States, 251

"The purpose of the exclusionary rule is not to redress the injury to the privacy of the search victim: '[T]he ruptured privacy of the victims' homes and effects cannot be restored. United States v. Calandra (1974), 414 U.S. 338, 347

"The essence of a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used before the Court, but that it shall not be used at all. Of course, this does not mean that the facts thus obtained become sacred and inaccessible. If knowledge of them is gained from an independent source, they may be proved like any others, but the knowledge gained by the Government's own wrong cannot be used by it in the way proposed." 251 U.S. at 251 U. S. 392.

The exclusionary rule has traditionally barred from trial physical, tangible materials obtained either during or as a direct result of an unlawful invasion. It follows from our holding in Silverman v. United States, 365 U. S. 505, that the Fourth Amendment may protect against the overhearing of verbal statements as well as against the more traditional seizure of "papers and effects." Similarly, testimony as to matters observed during an unlawful invasion has been excluded in order to enforce the basic constitutional policies. McGinnis v. United States, 227 F.2d 598. Thus, verbal evidence which derives so immediately from an unlawful entry and an unauthorized arrest as the officers' action in the present case is no less the "fruit" of official illegality than the more common tangible fruits of the unwarranted intrusion.

An arrest is not justified by what the subsequent search discloses, as Johnson v. United States

State v. Jones (2000), 88 Ohio St. 3d 430 -- Unlawful arrest for a minor misdemeanor is both a statutory and constitutional violation

Nueslein v. District of Columbia, 115 F.2d 690. Nor do the policies underlying the exclusionary rule invite any logical distinction between physical and verbal evidence. Either in terms of deterring lawless conduct by federal officers, Rea v. United States, 350 U. S. 214, or of closing the doors of the federal courts to any use of evidence unconstitutionally obtained, Elkins v. United States, 364 U. S. 206, the danger in relaxing the exclusionary rules in the case of verbal evidence would seem too great to warrant introducing such a distinction.

Assuming, arguendo, that there was reasonable cause for search of the automobile as a vehicle believed to be carrying contraband, this did not justify a search of the person of respondent. Carroll v. United States, 267 U. S. 132, distinguished. Pp. 332 U. S. 583-587

It is basic that an arrest with or without a warrant must stand upon firmer ground than mere suspicion, see Henry v. United States, 361 U. S. 98, 361 U. S. 101

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." P. 273 U. S. 32.

Nor is it material that the search was successful in revealing evidence of a violation of a federal statute. A search prosecuted in violation of the Constitution is not made lawful by what it brings to light; and the doctrine has never been recognized by this court, nor can it be tolerated under our constitutional system, that evidences of crime discovered by a federal officer in making a search without lawful warrant may be used against the victim of the unlawful search where a timely challenge has been interposed. Weeks v. United States. 232 U. S. 383, 232 U. S. 393; Gouled v. United States, 255 U. S. 298, 255 U. S. 306; Amos v. United States, 255 U. S. 313; Silverthorne Lumber Co. v. United States, 251 U. S. 385, 251 U. S. 391; Agnello v. United States, 269 U. S. 20, 269 U. S. 33.

Passengers in a motor vehicle have standing to challenge police action in stopping the vehicle and the resultant seizing of their persons. Rakas v. Illinois (1978), 439 U.S. 128, distinguished. Also see State v. Holmes (1985), 28 Ohio App. 3d 12, 14. State v. Goodlow (1992), 84 Ohio App. 3d 529

Evidence that is the "fruit" of an illegal search or seizure is not admissible, and "[t]he exclusionary prohibition extends as well to the indirect as the direct products of such invasions." Wong Sun, 371 U.S. at 484-85, 83 S.Ct. 407.

Finding a quantum of individualized suspicion only after a stop occurs cannot justify the stop itself. "That result would have the same essential vice as a proposition we have consistently rejected — that a search unlawful at its inception may be validated by what it turns up." Wong Sun, 371 U.S. at 484, 83 S.Ct. 407.

Seizure is to meaningfully interference, however brief, with an individual's freedom of movement. See Michigan v. Summers, 452 U.S. 692, 696 (1981); Reid v. Georgia, 488 U.S. 438 , [448 U.S. 438] 440, n. (1980) (per curiam); United States v. Mendenhall, 446 U.S. 544, 551 -554 (1980) (opinion of Stewart, J.); Brown v. Texas, 443 U.S. 47, 50 (1979); United States v. Brignoni-Ponce, 422 U.S. 873, 878 (1975); Cupp v. Murphy, 412 U.S. 291, 294 -295 (1973); Davis v. Mississippi, [499 U.S. 621, 641] 394 U.S. 721, 726 -727 (1969); Terry v. Ohio, 392 U.S., at 16 , 19, n. 16. Id., at 113, and n. 5.

The State bears the burden of showing that a seizure based on reasonable suspicion was sufficiently limited in scope and duration to satisfy the conditions of an investigative seizure. Florida v. Royer, 460 U.S. 491, 500, 103 S. Ct. 1319, 1326, 75 L. Ed. 2d 229, 238 (1983).

"The fact that the petitioner was released on a promise to appear before a magistrate for an arraignment, that fact is circumstance to be considered in determining whether in first instance there was a probable cause for the arrest." Monroe v. Papa, DC, Ill. 1963, 221 F Supp 685.

Curiosity is not a good reason to detain. Everything that flowed directly from that unlawful detention must be suppressed. People v. Brownlee, 713 N.E.2d 556 (Ill. 1999).

Suspicions, no matter how reasonable, do not add up to probable cause to arrest. See Alabama v. White, 496 U.S. 325, 330, 110 L. Ed.2d 301, 309, 110 S.Ct.
2412, 2416 (1990). See also People v. Kidd, 175 Ill. 2d 1, 22, 675 N.E.2d 910 (1996) (Mere suspicion is not adequate to establish probable cause.).

The sacrament found by the defendant Voulamandis was the fruit of a poisonous tree, since the defendant could not have been accused without the evidence stemming from Voulamandis's illegal search.

Courts have interpreted the Fourth Amendment's guarantee against unreasonable searches and seizures to mean that law enforcement officers must satisfy escalating legal standards of "reasonableness" for each level of intrusion upon a person—stop, search, seizure, and arrest. United States v. Nelson, 284 F.3d 472, 478 (3d Cir. 2002)

While reasonable suspicion is evaluated by looking at the totality of circumstances, an officer must be able to "articulate specific reasons justifying [the] detention." Johnson v. Campbell, 332 F.3d 199, 206 (3d Cir. 2003); see also United States v. Robertson, 305 F.3d 164,

Reasonable suspicion depends on the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." Leming, 2016 Tex. Crim. App. LEXIS 73, at *32.

Profiling consists of little more than the informal compilation of characteristics believed to be typical of persons unlawfully engaging in certain criminal activity, such as drug trafficking. Boyett v. State, 485 S.W.3d 581, 591 (Tex. App.—Texarkana 2016, pet. ref'd), quoting, Reid v. Georgia, 448 U.S. 438, 440, 100 S. Ct. 2752, 65 L. Ed. 2d 890 (1980) (per curiam).

The Safe Streets Act provides that "no person in any State shall on the ground of race, color, religion, national origin, or sex be ... subjected to discrimination under or denied employment in connection with any programs or activity" receiving federal funds. 42 U.S.C. § 3789d(c)(1). Title VI establishes that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving [f]federal financial assistance." 42 U.S.C. § 2000d. Title VI's implementing regulations prohibit law enforcement agencies from using "criteria or methods of administration" that have a disparate impact based on race, color, or national origin. 28 C.F.R. § 42.104(b)(2); see also Alexander v. Sandoval, 532 U.S. 275, 281-82 (2001). Thus, under these statutes, discriminatory impact may be unlawful even where it is not intentional

Consequently, a "reflexive reliance" on such characteristics is to be avoided. See id. at 591 (describing such "reflexive reliance" as problematic according to Justice Marshall in United States v. Sokolow, 490 U.S. 1, 13, 109 S. Ct. 1581, 104 L. Ed. 2d 1 (1989) (Marshall, J., dissenting)). Such reliance "runs a far greater risk than does ordinary, case-by-case police work of subjecting innocent individuals to unwarranted police harassment and detention." Veal v. State, 28 S.W.3d 832, 837 (Tex. App.—Beaumont 2000 pet. ref'd) (wherein the officer invoked his knowledge of and experience with drug traffickers and noted that one or more of the innocuous activities performed by Veal are also performed by such criminals). "This risk is enhanced by the profile's 'chameleon-like way of adapting to any particular set of observations.

Actions must be sufficiently distinguishable from [the activities] of innocent people under the same circumstances [so] as to clearly, if not conclusively, set the suspect apart from [innocent people].'" Wade v. State, 422 S.W.3d at 670

Statements and drugs obtained as the fruit of an unlawful arrest (warrantless and not supported by probable cause) may not be admitted. Wong Sun v. United States (1962), 371 U.S. 471

Fingerprints taken incident to an unlawful arrest were themselves the fruit of that arres Taylor v. Alabama (1982), 457 U.S. 687, 692-693

The fact that an officer actually discovers evidence during or after a stop or search that provides reasonable suspicion for the stop or probable cause for the arrest does not render the officer's actions constitutional. See Wong Sun, 371 U.S. at 484-85.

Constitution, Article I, Section 9, Paragraph 3). In fact, it cannot do anything unless it has prior permission from the People (see U.S. Constitution, Amendment X, Reservation of Powers).

VIOLATIONS OF DUE PROCESS

Rule 10 of Federal Rules of Arraigning states; (a) an arraignment must be conducted in and open court and must consist of (1) ensuring that the defendant has a copy of the indictment or information; (2) reading the indictment or information to the defendant or stating to the defendant the substance of the charge; and then (3) asking the defendant to plead to the indictment or information. NOTES OF ADVISORY COMMITTEE ON RULES—1944 (2) states there is a requirement that the defendant shall be given a copy of the indictment or information before he is called upon to plead

Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris." Merritt v. Hunter, C.A. Kansas 170 F2d 739

"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."

Wuest v. Wuest, 127 P2d 934, 937.

"Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exercise such powers are necessarily nullities." Burns v. Sup. Ct., SF, 140 Cal. 1.

What constitutes "unnecessary delay", i.e., reasonable time within which the prisoner should be brought before a committing magistrate, must be determined in the light of all the facts and circumstances of the case. The following authorities discuss the question what constitutes reasonable time for this purpose in various situations: Carroll v. Parry, 48 App.D.C. 453; Janus v. United States, 38 F.2d 431 (C.C.A. 9th); Commonwealth v. Di Stasio, 294 Mass. 273; State v. Freeman, 86 N.C. 683; Peloquin

If it is law, it will be found in our books. If it is not be found there, it is not law." Entick v. Carrington,

In order to satisfy Gerstein's promptness requirement, a jurisdiction that chooses to combine probable cause determinations with other pretrial proceedings must do so as soon as is reasonably feasible, but in no event later than 48 hours after arrest. Providing a probable cause determination within that time frame will, as a general matter, immunize such a jurisdiction from systemic challenges. Although a hearing within 48 hours may nonetheless violate Gerstein

if the arrested individual can prove that his or her probable cause determination was delayed unreasonably, courts evaluating the reasonableness of a delay must allow a substantial degree of flexibility, taking into account the practical realities of pretrial procedures. Where an arrested individual does not receive a probable cause determination within 48 hours, the burden of proof shifts to the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance, which cannot include intervening weekends or the fact that, in a particular case, it may take longer to consolidate pretrial proceedings.

A defendant must be brought before a judicial officer for a hearing "without unnecessary delay," Fed. R. Crim. P. 5 (a), usually within 24 hours of the arrest , except on weekends. Such hearing is variously called the "initial arraignment," "arraignment on a warrant," "arraignment on a complaint," or the "initial appearance." At the initial appearance: (1) the defendant receives formal notice of the charges against him. (2) relevant constitutional rights are explained to the defendant. (3) a date is set for a preliminary hearing. (4) counsel is appointed if the defendant is indigent. (5) a Gerstein probable cause determination may be made at such time if the defendant was arrested without a warrant. (6) the magistrate determines whether the defendant should be set free on his own recognizance, released on bail, or detained pending further proceedings. [See Chapter 16, Pretrial Release or Detention.] § 15.04 Preliminary (Bindover) Hearing In most jurisdictions, a preliminary hearing is held within two weeks after the initial appearance before the magistrate, unless the defendant waives the hearing. Fed. R. Crim. P. 5 (c). The primary purpose of a preliminary hearing is to determine whether there is probable cause to believe that the defendant committed a specified criminal offense.

Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. — Justice Louis D.

Jurisdiction

Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action. Melo v. US, 505 F2d 1026.

A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well-established law that a void order can be challenged in any court OLD WAYNE MUT. L. ASSOC. v. McDONOUGH, 204 U. S. 8, 27 S. Ct. 236 (1907).

There is no discretion to ignore lack of jurisdiction. Joyce v. U.S. 474 2D 215.

Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted. Latana v. Hopper, 102 F. 2d 188; Chicago v. New York, 37 F Supp. 150.

The law provides that once State and Federal Jurisdiction has been challenged, it must be proven. Main v. Thiboutot, 100 S. Ct. 2502 (1980).

Jurisdiction can be challenged at any time. and Jurisdiction, once challenged, cannot be assumed and must be decided. Basso v. Utah Power & Light Co., 495 F 2d 906, 910.

Defense of lack of jurisdiction over the subject matter may be raised at any time, even on appeal. Hill Top Developers v. Holiday Pines Service Corp., 478 So. 2d. 368 (Fla 2nd DCA 1985)

Once challenged, jurisdiction cannot be assumed, it must be proved to exist. Stuck v. Medical Examiners, 94 Ca 2d 751. 211 P2d 389.

There is no discretion to ignore that lack of jurisdiction. Joyce v. US, 474 F2d 215.

The burden shifts to the court to prove jurisdiction. Rosemond v. Lambert, 469 F2d 416

Jurisdiction is fundamental and a judgment rendered by a court that does not have jurisdiction to hear is void ab initio. In Re Application of Wyatt, 300 P. 132; Re Cavitt, 118 P2d 846.

Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term. Dillon v. Dillon, 187 P 27.

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A universal principle as old as the law is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property. Norwood v. Renfield, 34 C 329; Ex parte Giambonini, 49 P. 732.

A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance. Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.

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. Wuest v. Wuest, 127 P2d 934, 937.

Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris. Merritt v. Hunter, C.A. Kansas 170 F2d 739.

The fact that the petitioner was released on a promise to appear before a magistrate for an arraignment, that fact is circumstance to be considered in determining whether in first instance there was a probable cause for the arrest. Monroe v. Papa, DC, Ill. 1963, 221 F Supp 685.

"Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term." Dillon v. Dillon, 187 P 27.

"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." Wuest v. Wuest, 127 P2d 934, 937.

The state citizen is immune from any and all government attacks and procedure, absent contract. see, Dred Scott vs. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "...every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent." CRUDEN vs. NEALE, 2 N.C. 338 2 S.E. 70

"Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term." Dillon v. Dillon, 187 P 27.

"A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance." Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.

It is a fact of law that the person asserting jurisdiction must, when challenged, prove that jurisdiction exists; mere good faith assertions of power and authority (jurisdiction) have been abolished. "Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus." [U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

MALICE

Malice - The intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or under circumstances that the law will imply an evil intent. A condition of mind which prompts a person to do a wrongful act willfully, that is, on purpose, to the injury of

another, or to do intentionally a wrongful act toward another without justification or excuse. A conscious violation of the law (or the prompting of the mind to commit it) which operates to the prejudice of another person. A condition of the mind showing a heart regardless of social duty and fatally bent on mischief. Cockrell v. State, 135 Tex.Cr.R. 218, 117 S.W.2d 1105, 1109, 1110. Black's Law Dictionary Fifth Edition

Malice in law is not necessarily personal hate or ill will, but it is that state of mind which is reckless of law and of the legal rights of the citizen.

In the law of malicious prosecution, it means that the prosecution was instituted primarily because of a purpose other than that of bringing an offender to justice. Brown v. Kisner, 192 Miss. 746, 6 So.2d 611, 617. Black's Law Dictionary Fifth Edition

Actual malice - Express malice or malice in fact. Eteenpain Co-op. Soc. V. Lillback, C.C.A.Mass., 18 F.2d 912, 917. Express malice – Actual malice; malice in fact; ill will or wrongful motive. A deliberate intention to commit an injury, evidenced by external circumstances. Sparf, v. U.S., 156 U.S., 51, 15 S.Ct. 273, 39 L.Ed. 343. Black's Law Dictionary Fifth Edition

Implied malice - Malice inferred by legal reasoning and necessary deduction from the res gestae or the conduct of the party. Malice inferred from any deliberate cruel act committed by one person against another, however sudden. What is called "general malice" is often thus referred. Sparf v. U.S., 156 U.S. 51, 15. S.Ct. 273, 39 L.Ed., 343. Black's Law Dictionary Fifth Edition

Special malice - Particular or personal malice; that is hatred, ill will, or a vindictive disposition against a particular individual. Black's Law Dictionary Fifth Edition

Malice in fact - Express or actual malice. It implies desire or intent to injure, while "malice in law," or "implied malice," means wrongful act done intentionally, without just cause or excuse, and jury may infer it as a deduction from want of probable cause. Black's Law Dictionary Fifth Edition

Malice in law - The intentional doing of a wrongful act without just cause or excuse. Lyons v. St. Joseph Belt Ry, Co., 232 Mo. App. 575, 84 S.W.2d 933, 944. Implied, inferred or legal malice. As distinguished from malice in fact, it is presumed from tortuous acts, deliberately done without just cause, excuse, or justification which are reasonably calculated to injure another or others. Black's Law Dictionary Fifth Edition

Malice aforethought - A predetermination to commit an act without legal justification or excuse. Harrison v. Commonwealth, 279 Ky. 510, 131 SW.2d 454,455. A malicious design to injure. State v. Thomas, 157 kan. 526, 142 P.2d 692,693. The intentional doing of an unlawful act which was determined upon before it was executed. State v. lane, Mo., 371 S.W.2d 261,263. Black's Law Dictionary Fifth Edition

Malicious act - A wrongful act intentionally done without legal justification or excuse; an unlawful act done willfully or purposely to injure another. Black's Law Dictionary Fifth Edition

Injury - Any wrong or damage done to another, either in his person, rights, reputation, or property. The invasion of any legally protected interest of another. Black's Law Dictionary Fifth Edition

Malicious Injury - An injury committed against a person at the prompting of malice or hatred towards him, or done spitefully or wantonly. The willful doing of an act with knowledge it is liable to injure another and regardless of consequences. Injury involving element of fraud, violence, wantonness and willfulness, or criminality. An injury that is intentional, wrongful and without just cause or excuse, even in absence of hatred, spite or ill will. Panchula v. Kaya, 59 Ohio App. 556, 18 N.e.2d 1003, 1005, 13 O.O. 301. Punitive damages may be awarded to plaintiff for such injury. Black's Law Dictionary Fifth Edition

Maliciously - Imports a wish to vex, annoy, or injure another, or an intent to do a wrongful; act. And may consist in direct intention to injure, or in reckless disregard of another's rights. Black's Law Dictionary Fifth Edition

Malicious motive - Any motive for instituting a prosecution, other than a desire to bring an offender to justice. Lounder v. Jacobs, 119 Colo. 511, 205 p.2d 236, 238. Black's Law Dictionary Fifth Edition

Malicious prosecution - One begun in malice without probable cause to believe the charges can be sustained. An action for damages brought by a person, against whom civil suit or criminal prosecution has been instituted maliciously and without probable cause, after termination of prosecution of such suit in favor of person claiming damages. Beaurline v. Smith, Tex.Civ.App., 426 S.W.2d 295, 298. . Black's Law Dictionary Fifth Edition

Malicious prosecution - One who takes an active part in the initiation, continuation or procurement of civil proceedings against another is subject to liability to the other for wrongful civil proceeding if: (a) he acts without probable cause, and primarily for purpose other than that of securing the proper adjudication of the claim in which the proceedings are based, and (b) except when they are ex parte, the proceedings have terminated in favor of the person against whom they are brought. . Black's Law Dictionary Fifth Edition

Elements of a cause of action for malicious prosecution are: (1) commencement of prosecution of proceedings against present plaintiff; (2) its legal causation by present defendant; (3) its termination in favor of present plaintiff; (4) absence of probable cause for such proceedings; (5) presence of malice therein; and (6) damage to plaintiff by reason thereof. Palermo v. Cottom, Mo.App., 525 S.W.2d 758, 764. . Black's Law Dictionary Fifth Edition

Kangaroo Court

Kangaroo court- Term descriptive of a sham legal proceeding in which a person's rights are totally disregarded and in which the result is a foregone conclusion because of the bias of the court or other tribunal.

DEFINITIONS

Artificial: As opposed to "Natural", means created or produced by man. ... Created by Art, ... Human Contrived.. ...

Artificial Person: Persons created and derived by human laws, for purposes of (civil) society and government, as distinguished from natural persons. Corporations are examples of artificial persons.

Attainder: At common law, that extinction of civil rights and capacities which took place when ever a person who had committed treason or felony received sentence of death for his crime. The effect of attainder upon such felon was in general terms, that all his estate, real and personal, was forfeited.
At common law, attainder resulted in three ways, viz: by confession, by verdict, and by process of outlawry.
The first case was where the prisoner pleaded guilty at the bar, or having fled to sanctuary, confessed his guilt and abjured abjured the realm to save his life.
The second was where the prisoner pleaded not guilty at the bar, and the jury brought in a verdict against him.
The third, when the person accused made his escape and was outlawed.
In the United States, the doctrine of attainder is now scarcely known, although during and shortly after the Revolution acts of attainder were passed by several of the states.

Bill of Attainder: Such special acts of the legislature as inflict capital punishments upon persons suppose to be guilty of capital offenses such as treason and felony without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties,but both are included in the prohibition in the Constitution Art. 1 Sec 9.

Attaint: Attained, stained, or blackened. In old English practice, a writ which lay to inquire whether a jury of twelve men had given a false verdict, in order that the judgement might be reversed. 3 Bl.Comm. 402. This inquiry was made by grand assise or jury of twenty-four persons, usually knights, and, if they found the verdict a false one, the judgement was that the jurors should become infamous, should forfeit their goods, and the profits of their lands, should themselves be imprisoned, and their wives and children thrust out of doors, should have their houses raised, their trees extirpated, and their meadows plowed up, and that the plaintiff should be restored to all that he lost by reason of the unjust verdict. 3 Bl.Comm. 404.

Bona Vacana: Vacant goods; unclaimed property. Generally, personal property which eschets to the state, because no owner, heuir, or next of kin claims it. Now includesd real as well as personal property and passes to the state as an incident of sovereignty.

Citizen: One who, under the Constitution and Laws of ... a particular state, is a member of the political community ... ... Citizens are members of a political community who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights. Herriott v. City of Seattle, 81 Wash.2d 48, 500 P.2d 101, 109 . "

Civil Liberties: Personal natural rights guaranteed and protected by Constitution; eg freedom of speech, press, freedom from discrimination, etc. Body of law dealing with natural liberties, shorn of excesses which invade equal rights of others. Constitutionally, they are restrictions on government.

Coercion: Compulsion; constraint; compelling by force of arms or threat. ... It may be actual, direct, or positive, as where physical force is used to compel act against ones will, or implied, legal or constructive, as where one party is constrained by subjugation to other to do what his free will would refuse. ...
A person is guilty of criminal coercion if, with purpose to unlawfully restrict another's freedom of action to his detriment, he threatens to: (a) commit any criminal offence; or (b) accuse anyone of a criminal offence; or (c) expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or (d) to take or withhold action as an official, or cause an official to take or withhold action. Model penal code, ss 212.5

Cognizable: Capable of being tried or examined before a designated tribunal; within jurisdiction of court or power given to court to adjudicate controversy.

[redacted]

Collateral attack: With respect to a judicial proceeding, an attempt to avoid, defeat, or evade it, or deny its force and effect, in some incidental proceeding not provided by law for the express purpose of attacking it. May v. Casker, 188 Okl.448, 110 P.2d 287, 289. An attack on a Judgement in any manner other than by action or proceeding, whose very purpose is to impeach or overturn the judgement; or, stated affirmatively, a collateral attack on a judgement is an attack made by or in an action or proceeding that has an independent purpose other than impeaching or overturning the judgement. Travis v. Travis Estate, 79 Wyo. 320, 334 P.2d 508, 510.

Collateral: adj. By the side; at the side; attached upon the side. Not lineal; but upon a parallel or diverging line. Additional or auxiliary; supplementary; co-operating; accompanying as a secondary fact, or acting as a secondary agent. ...

Common Law: As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgements and decrees of the courts recognizing, affirming, and enforcing such usages and customs; and in this sense particularly the ancient unwritten law of England.
The "common law" is all the statutory and case law background of England and the American colonies before the American Revolution.
"Common law" consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. As distinguished from ecclesiastical law, it is the system of jurisprudence administered by the purely secular tribunals. ... In a broad sense,

"common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs."

Common-Law Extortion: Corrupt collection of unlawful fee by an office under color of office.

Common-Law Dedication: A "statutory dedication" is in nature of grant based on substantial compliance with terms of applicable statute, while "common law dedication" is generally held to rest upon doctrine of estoppel in pas.

Doctrine of estoppel in Pais

In law, the doctrine of estoppel is a legal principle by which a claimant may be prevented from asserting a legal right or depending on a set of facts to support a claim if that claimant has said or done something that contradicts his current claim.

Common-Law Extortion: Corrupt collection of unlawful fee by an office under color of office.

Compurgator: One of several neighbors of a person accused of a crime, or charged as a defendant in a civil action, who appeared and swore that they believed him on his oath.

Congregate: To come together; to assemble, to meet.

Considered: Deemed, determined, adjudged, reasonably regarded.
For example, evidence may be said to have been 'considered' when it has been reviewed by a court to determine whether any probative force should be given it.

Constat: It is clear or evident; it appears; it is certain, there is no doubt.

Constitution: The organic and fundamental law of a nation or state, which may be written or unwritten, establishing the character and conception of it's government, laying the basic principles to which its internal life is to be conformed, organizing the government, and regulating, distributing, and limiting the functions of the different departments, and prescribing the extent and manner of the exercise of sovereign powers.
A charter of government deriving its whole authority from the governed.
The written instrument agreed upon by the people of the Union or of a particular state, as the absolute rule of action and decision for all departments and officers of the government in respect to points covered by it, which must control until it shall be changed by the authority which established it, and in opposition to which any act or ordinance of any such department or officer is null and void.
In a more general sense, any fundamental or important law or edict; as the Novel Constitutions of Justinian; the Constitutions of Clarendon.

Corpus Delicti: The body of a crime. The body (material substance) upon which a crime has been committed, e.g., the corpse of a murdered man, the charred remains of a house burned down. In the derivative sense, the substance or foundation of a crime; the substantial fact that a crime has been committed. The corpus delicti of a crime is the body or substance of the crime, which ordinarily includes two elements: the substance of the crime, and the act and the criminal agency of the act. State v. Edwards, 49 Ohio St.2d 31, 358 N.E.2d 1051, 1055.

Court of Record: A court that is required to keep a record of its proceedings, and that may fine or imprison.
Such record imports verity and cannot be collaterially attacked.

De facto Court: One established, organized, & exercising its judicial functions under authority of a statute apparently valid, though such statute may be in fact unconstitutional and may be afterward so adjudged; or a court acting under the authority of a de facto government.

Court of Law: In a wide sense, any duly constituted tribunal administering the laws of the state or nation;
in a narrower sense, a court proceeding according to the rules of the common law and governed by its rules and principles.

De facto: In fact, in deed, actually. This phrase is used to characterize an officer, a government, a past action, or a state of affairs which must be accepted for all practical purposes, but is illegal or illegitimate. Thus an office, position or status existing under a claim or color of right such as a de facto corporation. In this sense, it is the contrary of de jure, which means rightful, legitimate, just or constitutional. Thus an officer, king, or government de facto is one who is in actual possession of the office or supreme power, but by usurpation, or without lawful title; while an officer, king, or government de jure is one who has just claim and rightful title to the office or power; but has never had plenary possession of it, or is not in actual possession. ...

De facto government: One that maintains itself by a display of force against the will of the rightful legal government and is successful, at least temporarily, in overturning the institutions of the rightful legal government by setting up its own in lieu thereof.

De facto judge: A judge who functions under color of authority but whose authority is defective in some procedural form.

De facto officer: One who, while in actual possession of an office, is not holding such in a manner prescribed by law.

De jure: Description of a condition in which there has been total compliance with all requirements of law.
Of right; legitimate; lawful; by right and just title. In this sense, it is the contrary of de facto. It may also be contrasted with de grata, in which case it means as a matter of right,as de grata means by grace or favor.
Again, it may be contrasted with de equitate; here meaning by law, as the latter means by equity.

Defendere unica manu: To wage law; a denial of an accusation upon oath. See Wager of Law.

Direct Attack: A direct attack on a Judgement or decree is an attempt, for sufficient cause, to have it annulled, reversed, vacated, corrected, declared void, or enjoined, in a proceeding instituted for that specific purpose, such as an appeal, writ of error, bill of review, or injunction to restrain its execution; distinguished from a collateral attack, which is an attempt to impeach the validity or binding force of the judgement or decree as a side issue or in a proceeding instituted for some other purpose. Ernell v. O'Fiel, Tex.Civ.App., 441 S.W.2d 653, 655.
A direct attack on a judicial proceeding is an attempt to void or correct it in some manner provided by law.

Domus sua cuique est tutissimum refugium: To every man his own house is his safest refuge. The house of every one is to him as his castle and fortress, as well for his defense against injury, and violence as for his repose. A man's dwellinghouse is his castle, not for his own personal protection merely, but also for the protection of his family and his property there-in.

Due Course of Law: This phrase is synonymous with due process of law, or the law of the land, and the general definition thereof is law in its regular course of administration through courts of justice.

Due Process of Law: Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.
A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.
To give such proceedings any validity there must be a tribunal competent by its constitution - that is by the law of its creation - to pass upon the subject matter of the suit ... .
Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgement upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of

controverting, by proof, every material fact which bears on the question of right in the matter involved.
If any question of fact or liability be conclusively presumed against him, this is not due process of law. ... Aside from all else, due process means fundamental fairness.

Fair and impartial trial: One where accused's legal rights are safeguarded and respected. A fair and impartial trial by a jury of one's peers contemplates council to look after one's defense, ... and a reasonable time in the light of all prevailing circumstances to investigate, properly prepare, and present the defense. One wherein defendant is permitted to be represented by counsel and neither witnesses nor counsel are intimidated. One wherein no undue advantage is taken by the district attorney or any one else. ... One wherein witnesses of litigants are permitted to testify under rules of court within proper bounds of judicial discretion, and under law governing testimony of witnesses with right in parties to testify, if qualified, and of counsel to be heard.
There must not only be fair and impartial jury, and learned and upright judge, but there should be atmosphere of calm in which witnesses can deliver their testimony without fear and intimidation, in which attorneys can assert accused's rights freely and fully, and in which the truth may be received and given credence without fear of violence.

Fair Hearing: One in which authority is fairly exercised; that is, consistent with the fundamental principles of justice embraced within the conception of due process of law. Contemplated in a fair hearing is the right to present evidence, to cross examine, and to have findings supported by the evidence. ...

Fair Trial: A proceeding before an impartial and disinterested tribunal; a proceeding which hears before it condemns, which proceeds upon inquiry and renders judgement only after trail consideration of evidence and facts as a whole. A basic constitutional guarantee ... . A legal trial or one conducted in all material things in substantial conformity to law. A trial which insures substantial justice. A trial without prejudice to the accused. An orderly trail before an impartial jury and judge whose neutrality is indifferent to every factor in trial but that of administering justice. One conducted according to due course of law. A trail before an impartial judge, and an impartial jury, and in an atmosphere of judicial calm. In such trial, the judge may

not extend his activities so far as to become, in effect, either an assistant prosecutor, or a thirteenth juror.

False Judgement: In old English law, a writ which law when a false judgement had been pronounced in a court not of record, as a county court, court baron, etc.
In old French law, the defeated party in a suit had the privilege of accusing the judges of pronouncing a false or corrupted judgement, whereupon the issue was determined by his challenging them to combat or duellum. It was called the "appeal of false judgement".

Collateral attack. With reSpect to a judicial proceeding, an attempt to avoid, defeat, or evade it, or deny its force and effect, in some incidental proceeding not provided by law for the express purpose of attacking it. May v. Casker, 188 Okl. 448, 110 P.2d 287, 289. An attack on a judgment in any manner other than by action or proceeding, whose very purpose is to impeach or overturn the judgment; or, stated affirmatively, a collateral attack on a judgment is an

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attack made by or in an action or proceeding that has an independent purpose other than impeaching or overturning the judgment. Travis v. Travis' Estate, 79 Wyo. 329, 334 P.2d 508, 510.

False Token: In criminal law, a false document or sign of the existence of a fact, in general, used for the purpose of fraud. Device used to obtain money by false pretenses. See Counterfeit, False Weights.

Fiat money: Paper Currency not backed by gold or silver.

Fides: Faith, honesty, confidence, trust, veracity, honor. Occurring in phrases bona fides (good faith), mala fides (bad faith), and umberrima fides (the utmost or most abundant good faith).

Freeman: A person in the possession and enjoyment of all civil and political rights accorded to the people under a free government. In the Roman law, it denoted one who was either born free or emancipated, and was the opposite of slave.

Fundamental Fairness Doctrine: Due process of law as applied to judicial procedure.

Fundamental Law: The law which determines the constitution of government in a nation or state, and prescribes the manner of its exercise. The organic law of a nation or state; its constitution.

Fundamental Right: Those which have their origin in the express terms of the Constitution or which are necessarily to be implied from those terms.

Future Interests: Interests in Land or other things in which the privilege of possession or of enjoyment is future and not present. An interest which will come into being at some future point in time. It is distinguished from present interest which is already in existence.