

1610 Glasco Turnpike, C-2
Woodstock, New York [12498]

JOSEPH BARTON, not me
a fictitious entity created fraudulently

Joseph Barton, a natural flesh and blood man -
A People as in "We the People"

NAME AND ADDRESS OF COURT
Article 78
Writ of Prohibition

versus

Andrew Cuomo, Governor of New York
AND
THE NEW YORK STATE LEGISLATURE

In this court of record let it be known:

The people of the state of New York
do not yield their sovereignty to the agencies that serve them.

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 act and proceedings being enrolled for a perpetual memorial. Jones vs Jones, 188 Mo App. 220, 175 S.W. 227, 229; ex party Gladhill, 8 Etc. Mass. 171, per Shaw, C.J. See also Ledwith vs Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689

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

NOTICE AND DEMAND

Any rulings that this court makes, I demand findings of fact and conclusions of law.

Whether the body or officer proceeded, is proceeding or is about to proceed without or in excess of jurisdiction:

Andrew Cuomo and our agents in the New York State Legislature have exceeded their lawful, Constitutional authority by prohibiting the cultivation and use of Cannabis. No where in the Constitution did "We the People" give lawful authority to our agents to tell us or prohibit from us what we put into our bodies or grow in our gardens. Andrew Cuomo and the New York State Legislature have no lawful Constitutional authority to prohibit from the people.

Whereas we charge them, jointly and severally, with the crime of treasonably conspiring and acting against the peace and security of the New York State Constitution and having treasonably conspired to destroy Constitutional government in New York State by protecting corporate

monopolies while prohibiting and violating the rights of We the People of the State of New York.

Whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed:

Andrew Cuomo and the New York State Legislature acted in an arbitrary and capricious manner by giving licenses to rich campaign donors to grow, possess and sell cannabis while denying and prohibiting the people of the state of New York their inalienable rights to decide what they put in their bodies or grow in their gardens. No where in the Constitution did We the People give authority to our elected agents to tell us what we eat, drink, smoke or grow in our gardens.

Take Judicial Cognizance that Supreme Court rulings are controlling on all lower courts. Blacks Law Dictionary defines judicial cognizance or judicial notice of knowledge upon which a judge is bound to act without having it proved in evidence.

Take Judicial Cognizance

Now come before this honorable court, flesh and blood men/women, people as in "We the People" of the Constitution. We are not 14th amendment citizens. We are People as in We the People and not JOHN DOES in all capital letters which is a fictitious, corporate entity. We reserve all rights and waive none U.C.C. 1-308 without prejudice. We operate under common law jurisdiction and common law jurisdiction only. Any attempts to trick us under any other jurisdiction is fraud and will further violate our rights. We hereby publicly and notoriously deny the 14th amendment federal citizenship and law merchant status.

Colten v. Kentucky, 407 U.S. 104 (1972): "Since when have we Americans been expected to bow submissively to authority and speak with awe and reverence to those who represent us? The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents. We who have the final word can speak softly or angrily. We can seek to challenge and annoy, as we need not stay docile and quiet."

"The eleventh amendment does not protect elected officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law." Warnock vs. Pecos County Tex 88 F3d 341 (5th Cir. 1996)

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice." Davis vs Wechler, 263 U.S. 22, 24; Stromberb vs California, 283 U.S. 359; NAACP vs. Alabama 375 U.S. 449 Members of groups who are competent non lawyers can assist other members of the group achieve the goals of the group in court without being charged with "unauthorized practice of law." NAACP vs Button, 371 U.S. 415. United Mine Works of America vs Gibbs, 383 U.S. 715; and Johnson vs Avery, 89 S. Ct. 747 (1969)

"Litigants may be assisted by unlicensed laymen during judicial proceedings." Brotherhood of Trainmen vs Virginia ex. Res. Virginia State Bar (377 U.S.): Gideon vs Wainwright 372 U.S. 335; Argersinger vs Hamlin, Sheriff 407 U.S. 425

"...at the revolution, the sovereignty devolved on the people, and they are truly sovereigns of the country but they are sovereigns without subjects....with none to govern but themselves; the citizens of America are equal as fellow citizens and as joint tenants in the sovereignty." Chisholm vs Georgia (U.S.) 2D al 419, 454, 1L Ed 440, 445 @DALL 1793 pp 471-472

"The people of this state, as the successors of its former sovereign, are entitled to all the rights which formally belonged to the King by his prerogative. Through the medium of their legislature they may exercise all the powers which previous to the revolution could have been exercised either by the King alone, or by him in conjunction with his parliament; subject only to those restrictions which have been imposed by the Constitution of this state or of the U.S." Lansing vs Smith, 21D. 89., 4 Wendel 9 (1829) (New York) " D" Decennial Digest 21 Am. Dec. 89 10C Const. Law Sec. 298

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

" Sovereignty means that the decree of the sovereign makes law, and foreign courts cannot condemn, influence, persuading sovereign to make the decree!" Moscow Fire Ins. Co. of Moscow, Russia vs Bank of New York & Trust Co., 294 NYS 648, 642, 161 Misc. 903.

" To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head." Merrion vs Jicarilla Apache Tribe; Amoco Production Company vs Jicarilla Apache Indian Tribe 455 U.S. 130, 131, 102 S. Ct. 894, 71 L. Ed. 2d 21 (1981)

We the people of the state of New York directly exercise our natural inalienable right to decide what we eat, drink or smoke or plant in our garden our own property for the enjoyment of our selves and our posterity. No place in the New York Constitution do we forfeit that right to our elected agents.

17 U.S. at 404-05 ("The government of the Union then....is, emphatically, and truly, a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit").

U.S. 471 It is remarkable that, in establishing it (The Constitution) the people exercise their own rights, and their own proper sovereignty, and, conscious of the plenitude of it, they declared with the becoming dignity, "We the people of the United States do ordain and establish the Constitution." Here we see the people acting as sovereigns of the whole country, and in the language of sovereignty, establishing a Constitution by which it was their will that the State governments should be bound, and to which the State Constitutions should be made to conform. Every State Constitution is a compact made by and between the citizens of a State to govern themselves in a certain manner, and the Constitution of the United States is likewise a compact made by the people of the United States to govern themselves as to general objects in a certain manner. By this great compact however, many prerogatives were transferred to national government such as those of making war and peace, contracting alliances, coining money, etc. etc.

Again no where in these Constitutions did a sovereign people relinquish rights to those that govern to prohibit from the people their inalienable rights to decide what they eat, drink, smoke, or grow in their gardens. These fundamental rights which are inalienable cannot be prohibited by acting under color-of-law by our elected agents Governor Cuomo and the members of the New York State Legislature.

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

The state citizen is immune from any and all government attacks and procedures, 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 fellow man without his consent." Cruden vs Neale, 2N.C. 338 2 S. E. 70

Governor Cuomo and the members of the New York State Legislature have conspired with corporate monopolies to violate the rights of We the People of the state of New York by granting licenses to donors of their campaigns which override and put in harm's way the people of the state of New York by prohibiting their inalienable rights for corporate profits. They have violated the rights of the people under Title 18 section 241 Conspiracy against Rights and 242 Deprivation of Rights Under Color of Law.

The eleventh amendment does not protect state officials from claims for perspective relief when it is alleged that state officials acted in violation of federal law. Warnock vs Pacos County, Tex., 88 F 3 d 341(5th circuit 1996)

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

**"Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."
Elrod v. Burns, 427 U.S. 347; 6 S. Ct. 2673; 49 L. Ed. 2d (1976) "**

"There can be no sanction or penalty imposed upon one, because of his exercise of constitutional rights." Miller v. U.S., 230 F. 2d. 486, 490; 42

**"No state shall convert a liberty into a license, and charge a fee therefore."
Murdock v. Pennsylvania, 319 U.S. 105**

**"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity."
Shuttlesworth v. City of Birmingham, Alabama, 373 U.S. 262**

"Federal Law and Supreme Court cases apply to State Court cases" Howlett vs Rose 496 U.S. 356 (1990)