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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-1595

Minor Lee McNeil

Appellant

v.

University of Arkansas Foundation Inc,
also known as UAMS, et al.

Appellees

Appeal from U.S. District Court for the
Eastern District of Arkansas - Little Rock
(4:19-cv-00104-BRW)

ORDER

If the original file of the United States District Court is available for review in electronic format, the court will rely on the electronic version of the record in its review. The appendices required by Eighth Circuit Rule 30A shall not be required. In accordance with Eighth Circuit Local Rule 30A(a)(2), the Clerk of the United States District Court is requested to forward to this Court forthwith any portions of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format or filed under seal, exhibits, CDs, videos, administrative records and state court files. These documents should be submitted within 10 days.

March 21, 2019

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

MINOR MCNEIL **PLAINTIFF**
VS. **4:19-CV-00104-BRW**
UNIVERSITY OF
ARKANSAS FOUNDATION, et al. **DEFENDANTS**

ORDER

Plaintiff filed a complaint “for forced labor in violation of Thirteenth Amendment; for violation of constitutionally protected rights under color of state law, and for common law conversion.”¹ His “First Amended Complaint Pleading Special Matters of Congressional Intent,” filed on February 25, 2019, mentions treason.² It appears to me that Plaintiff is upset that Defendants, his employers, are garnishing his wages pursuant to an IRS lien, as they are required to do. Plaintiff’s state-court case, with one less Defendant but involving the same issues, was dismissed with prejudice.³

For reasons including, but not limited to, failure to state a claim, *Rooker-Feldman*,⁴ and immunity, the

¹ Doc. No. 1.

² Doc. No. 12.

³ See *McNeil v. Univ. of Arkansas Medical Sciences, et al*, Case No. 60CV-18-6811.1 (Pulaski Co. Ark. 2018), Order filed January 24, 2019.

⁴ Under *Rooker-Feldman*, federal courts, other than the United States Supreme Court, do not have subject matter jurisdiction to hear challenges to state court judgments. If a “federal

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Motions to Dismiss (Doc. Nos. 8, 13)⁵ are GRANTED. I decline to retain jurisdiction over the state law claims, assuming there are any. This case is DISMISSED.

IT IS SO ORDERED this 5th day of March, 2019.

Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

claim succeeds only to the extent that the state court wrongly decided the issue before it," the claim may not be heard by the federal court. *Lemons v. St. Louis County*, 222 F.3d 488, 492 (8th Cir. 2000).

⁵ Plaintiff filed a response March 5, 2019 (Doc. No. 16).

26 U.S. Code § 6331 – Levy and distraint

(a) AUTHORITY OF SECRETARY

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

* * *

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**EVERY FEDERAL DISTRICT COURT
IS A COURT OF GENERAL JURISDICTION.**

The best-known courts are courts of GENERAL JURISDICTION, which have unlimited trial jurisdiction, both civil and criminal, within their jurisdictional area. At the federal level, these are called DISTRICT COURTS. * * * *West's Encyclopedia of American Law*, Volume 9 (West Group: St. Paul, Minn., 1998), p. 316 (s.v. "Special courts").

"On the federal level, the district courts are courts of general jurisdiction. * * * " *Id.* at Volume 6, p. 293 (s.v. "Jurisdiction").

**COURTS OF GENERAL JURISDICTION ARE NOT
CONSTITUTIONAL BUT TERRITORIAL COURTS
CREATED BY VIRTUE OF THE SOVEREIGN
CONGRESSIONAL FACULTY, GRANTED UNDER
ARTICLE 4 § 3(2) OF THE CONSTITUTION.**

Counsel for the Plaintiff in error also rely on the organization of a United States District Court in Porto Rico, on the allowance of review of the Porto Rican Supreme Court in cases when the Constitution of the United States is involved, on the statutory permission that Porto Rican youth can attend West Point and Annapolis Academies, on the authorized sale of United States stamps in the island, on the extension of revenue, navigation, immigration, [258 U.S. 298, 312] national banking, bankruptcy, federal employers' liability, safety appliance, extradition, and

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census laws in one way or another to Porto Rico. With the background of the considerations already stated, none of these, nor all of them put together, furnish ground for the conclusion pressed on us.

The United States District Court is not a true United States court established under article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The *resemblance* of its jurisdiction to that of true United States courts * * * does not change its character as a mere territorial court. *Balzac v. People of Porto Rico*, 258 U.S. 298, 312 (1922).³

³ The United States District Court referenced in *Balzac* is that in the Foraker Act—Ch. 191, 18 Stat. 75, April 12, 1900—which establishes that, among other things, (a) federal criminal laws are applicable in Porto Rico, (b) the attorney-general of Porto Rico is a legislative-branch officer answerable ultimately to Congress, and (c) no matter what name it may be given, the court therein “established,” like the provisional military court it succeeds, is a territorial court of general jurisdiction; to wit:

SEC. 14. That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Porto Rico as in the United States, except the internal-revenue laws, which, in view of the provisions of section three, shall not have force and effect in Porto Rico.

* * * SEC. 21. That the attorney-general shall have all the powers and discharge all the duties provided by law

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The term 'District Courts of the United States' as used in the rules, without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under article 3 of the Constitution. Courts of the Territories are legislative courts, properly speaking, and are not District Courts of the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the District Courts of the United States does not make it a 'District Court of the United States.' *Reynolds v. United States*, 98 U.S. 145, 154; *The City of Panama*, 101 U.S. 453, 460; *In re Mills*, 135 U.S. 263, 268, 10 S.Ct. 762; *McAllister v. United States*, 141 U.S. 174, 182, 183 S., 11 S.Ct. 949; *Stephens v. Cherokee Nation*, 174 U.S. 445, 476, 477 S., 19 S.Ct. 722; *Summers*

for an attorney of a Territory of the United States in so far as the same are not locally inapplicable, and he shall perform such other duties as may be prescribed by law, and make such reports, through the governor, to the Attorney-General of the United States as he may require, which shall annually be transmitted to Congress.

* * * SEC. 34. That Porto Rico shall constitute a judicial district to be called "the district of Porto Rico." * * * The district court for said district shall be called the district court of the United States for Porto Rico * * * *

The United States district court hereby established shall be the successor to the United States provisional court established by General Orders, Numbered Eighty-eight, promulgated by Brigadier-General Davis, United States Volunteers, and shall take possession of all records of that court, and take jurisdiction of all cases and proceedings pending therein, and said United States provisional court is hereby discontinued.
[Underline added.]

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v. United States, 231 U.S. 92, 101, 102 S., 34 S.Ct. 38; United States v. Burroughs, 289 U.S. 159, 163, 53 S.Ct. 574. * * * *Mookini v. United States*, 303 U.S. 201, 205 (1938).

CONGRESS MANUFACTURE JURISDICTIONAL
- CONFUSION BY GIVING CONSTITUTIONAL
AND TERRITORIAL COURTS THE SAME NAME.

"Quaelibet jurisdictio cancellos suos habet. Every jurisdiction has its bounds." Bouvier's Law Dictionary, p. 2156.

"Rerum ordo confunditur, si unicuique jurisdictio non servatur. The order of things is confounded if every one preserves not his jurisdiction." Id. at 2161.

As of June 25, 1948, Congress confound the order of things by further conflating the jurisdictional distinctions between Article III and Article IV courts—first blurred in section 34 of the Foraker Act,⁴ *supra*, fn. 3, necessitating clarification in *Balzac, supra*, and amplification in *Mookini, supra*—by giving them the same name, i.e., "United States District Court," in Title 28 U.S.C.; to wit:

⁴ Whereas, in the Foraker Act the name by which the judicial district of Porto Rico is called is identified with particularity via quotation marks, i.e., "the district of Porto Rico," the name by which the court in said judicial district is called, the *district court of the United States for Porto Rico*, is not so distinguished.

Congress thereafter in Section 34 refer to the same *district court of the United States for Porto Rico* as the *United States district court*.

§ 132. Creation and composition of district courts

(a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.

* * * (June 25, 1948, ch. 646, 62 Stat. 895; Pub. L. 88-176, §2, Nov. 13, 1963, 77 Stat. 331.)

"The true distinction between courts is between such as possess a general and such as have only a special jurisdiction for a particular purpose * * * " *Black's Law Dictionary*, p. 673 (s.v. "Limited jurisdiction")—and as of June 25, 1948, the only way to know if a particular United States District Court is a judicial Article III constitutional court or mere legislative Article IV territorial court is to identify which species of jurisdiction said court is authorized to exercise, i.e., general or limited—and there is no provision of Article III of the Constitution that authorizes a court of limited jurisdiction to hear criminal matters and enter judgments in criminal proceedings.

**THE UNITED STATES DISTRICT COURT OF
FIRST INSTANCE IS A MERE TERRITORIAL COURT.**

The United States District Court of first instance is a court with jurisdiction to hear criminal matters and enter judgments in criminal proceedings regarding a debt whose subject matter is alleged income tax liability arising from alleged unpaid federal income taxes, penalties, or interest assessed by the Internal

Revenue Service (28 U.S.C. § 3002(2), (3), and (8) (App., *infra*, 68a)—i.e., the selfsame subject matter specified in the complaint of the Plaintiff against Petitioner—and therefore “a mere territorial court” (*Balzac, supra*) created by the Congress of the United States (App., *infra*, 29a-30a) under authority of the territorial clause, Article 4 § 3(2), of the Constitution.

**NO COURT OF GENERAL JURISDICTION HAS
JURISDICTION WITHOUT TERRITORY OR OTHER
PROPERTY BELONGING TO THE UNITED STATES.**

As affirmed in *Balzac* and *Mookini, supra*, the only federal courts of general jurisdiction are legislative Article IV territorial courts with jurisdiction only in geographic area described in Article 4 § 3(2) of the Constitution, which provides, in pertinent part: “The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States;
* * * ”

“*Non refert quid notum sit iudice si notum non sit in forma iudici.* It matters not what is known to the judge, if it is not known to him judicially.” *Bouvier’s Law Dictionary*, p. 2150.

“*A verbis legis non est recedendum.* From the words of the law there should be no departure.” *Id.* at 2124.

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The record of this case is devoid of evidence or proof that Petitioner resides, is domiciled, or has legal residence in "Territory or other Property belonging to the United States"⁵ (U.S. Const., Article 4 § 3(2)):

⁵ Physical fact of residence and major life interests in the geographic area occupied by Harris County, Texas, bars peremptorily any claim that for the purpose of taxation Petitioner is domiciled or has legal residence elsewhere; to wit:

When one intends the facts to which the law attaches consequences, he must abide the consequences whether intended or not. 13. One can not elect to make his home in one place in point of interest and attachment and for the general purposes of life, and in another, where he in fact has no residence, for the purpose of taxation. P. 426. 14. Physical facts of residence, united with major life interests may fix domicile — one's "preeminent headquarters." *Id.* 15. The burden of proof is on one who claims that an earlier domicile was abandoned for a later one. P. 427. *Texas v. Florida*, 306 U.S. 398 (1939).

* * *
