

NO.

BEFORE THE
SUPREME COURT OF THE UNITED STATES

JAMES E. WHITNEY

PETITIONER

vs.

ANTO'NIO GUTERRES, et al.

RESPONDENT

ON PETITIONER FOR WRIT OF CERTIORARI
TO THE STATE OF ARKANSAS SUPREME
COURT CASE # 17-693

PETITION FOR WRIT OF CERTIORARI

JAMES E. WHITNEY, PRO-SE
SUI JURIS IN PROPRIA PERSONA
163817
P.O. BOX 600
GRADY, ARKANSAS
71644-0600

ISSUES PRESENTED FOR REVIEW AND CONSIDERATION

- 1) Should any court deny an individuals secured, guaranteed, and protected rights to due process as expressed in the 5th, 6th, 9th, and 14th amendments to the constitution of the United States?
- 2) Is it proper for any court to dismiss a petition or pleading when it has not yet been vested with the jurisdiction to rule on the merits of the case?
- 3) Is not a court clerk to be held accountable and responsible when they take it upon themselves to act outside and breach off their discretionary or ministerial duties of office to intentionally interfere with and obstruct an individuals actions at law, suits in equity, or other proper proceedings for redress to provide favorable treatment for friends, relatives, and associates employed by the state
- 4) Does a Justice, in his / her super-visional role over those that subject and subordinate to them, have a duty and responsibility to take action and / or corrective measures when so informed of subordinates, such as a clerk of the courts in appropriate activities

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of, or has an interest in this petition is as follows:

Antonio Guterres
United States Secretary General
405 East 42nd Street
New York, New York 10017

Donald Trump
President Of The United States
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20535-0001

Jeff Sessions
United States Attorney General
1425 New York Ave. N.W.
Washington, D.C. 20530-0001

Asa Hutchinson
Governor Of The State Of Arkansas
500 Woodlane Ave.
Suite 250
Little Rock, Arkansas 72201

Leslie Rutledge
Arkansas Attorney General
323 Center Street
Suite 200
Little Rock, Arkansas 72201-2610

Rick Snyder
Governor Of The State Of Michigan
P.O. Box 30013
Lansing, Michigan 48909-0013

Bill Schuette
Michigan Attorney General
3315 Michigan Ave.
Lansing, Michigan 48912-4600

LIST OF PARTIES CONTINUED

Stephanie James

Lincoln County Clerk
300 South Drew Street
Star City, Arkansas 71667-5141

Cindy Glover
Circuit Court Clerk, Lincoln County, Arkansas
300 South Drew Street
Room 103
Star City, Arkansas 71667-5141

Hon. Jodi Raines Dennis
Circuit Court Judge, Lincoln County, Arkansas
P.O. Box 8705
Pine Bluff, Arkansas 71611-8705

Hon John D. Kemp
Chief Justice, Arkansas Supreme Court
625 Marshall Street
Little Rock, Arkansas 72201-1080

Chief Justice
Circuit Court Of Lincoln County, Arkansas
101 West Barraque Street
Pine Bluff, Arkansas 71601

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The opinion of the State Of Arkansas Supreme Court appears at Appendix A to the petition and is not published; Whitney v. Guterres, 2018 Ark. 133.

Jurisdiction

The date on which the highest state court decided my case was 26 April, 2018. A copy of that decision and dissenting opinion appears at Appendix A.

A timely petition for rehearing was therefore denied on 07 June, 2018 and appears at Appendix A.

The jurisdiction of this court is further invoked under 28 u.s.c. § 1257(a).

Therefore, knowing that I have 90 days from the date denying my petition for rehearing in which to file my petition for writ of certiorari, I pray this court will render her opinion on the square and by the compass when reviewing the constitutional issues and questions of laws which I have raised herein and brought before this court.

INTRODUCTION

1) I, James E. Whitney, am a living breathing sentient natural sovereign mortal, not simply because I say I am, but by the fact that I was born a sovereign as bestowed upon me by my creator, lord, and king, YHWH, in the beginning and the source of breath of all flesh, Numbers 27:16, and not by way of any word-of-man government constructs be they allegedly a state, nation, or the like, and such sovereignty may not be modified, altered, restricted or diminished but by consent, and I have given no such consent, nor have I knowingly entered into any contract or agreement with any world-of-man government. see *Afroyim v. Rusk*, 87 s.ct. 1660, (1967).

2) That I am being held captive illegally by the State of Arkansas, as a prisoner in their department of correction, at the Varner / Varner Supermax Unit in Grady, Arkansas, being confined and sequestered to a cell 24/7 approximately 8' x 12' in size since 14 Nov 2016 under extended protective restrictive housing pursuant to threats of great physical harm received from both staff and inmates alike.

3) The state sentence of 540 years confinement under which I am currently being held captive, is a de facto sentence of life without parole. The indictment being duplicitous in nature. The sentence imposed is contrary to and in violation of the constitutions, laws, statutes, rules, and treaties of the United States and the State of Arkansas. See Arkansas code Annotated, (A.C. A.) §5-1-109; §5-1-110; §5-1-112; §5-4-501; §16-90-107; 16-91-113; 1993 Arkansas Laws Act 550; Arkansas Sentencing Standards Grid; United States Constitutional Amendments I, IV, VIII, IX, XIV; Constitution of The United States of Arkansas, Article 2; §§ 1, 2, 6, 8, and 29.

4) That the trial court lacked REM Jurisdiction, Personam Jurisdiction , and Subject Matter Jurisdiction , the trial court further lacked subject matter jurisdiction in that any statue of limitations had elapsed prior to the commencement of proceedings.

5) Per Rule 4-3 (i), rules of the Arkansas Supreme Court, when the sentence is death or life imprisonment, the court must review all errors prejudicial to the appellant in accordance with A.C.A. §16-91-113, a sentence of 540 years is clearly a defacto sentence of life imprisonment without parole. However, the supreme court of Arkansas has continually refused, avoided, and resisted their duty and responsibility to comply with it's own rules and conduct the required review by obstructing in an ever increasing number of instances to accept and hear my pro se pleadings and motions, to wit: court order entered 01 Mar 2017, CR-16-964, denying my motion to file a pro se supplemental appellant brief; court order entered, 05 Apl 2017, denying motion for reconsideration of denial to allow filing of pro se supplemental appellant brief; court order entered, 19 July 2017, CR-16-964, denying my pro-se motion for a copy of the record; court order entered 09 Nov. 2017, CR-16-964, denying my pro se motion for copy of the record on appeal and related documents, additionally, there are a number of other actions pending before the court that are being denied without being heard.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) The language, spirit, and intent of the Declaration of Independence and The Constitution of the United States is to limit and reign in those who choose to serve in public offices. These founding documents of the Republic were designed and penned to subject and hold those individuals accountable for their conduct in the performance of their public duties and to hold them responsible for the actions of their subordinates, not only within their own branch, but also by the remaining two branches and moreover, to the true sovereign of the Republic. However, if there is no civil remedy readily available to the people, who are the true sovereign as found expressed in the founding documents by which they can hold their public servants accountable then the innumerable lives sacrificed to establish and maintain this Republic were all for naught.

2) My secured and protected rights to due process as expressed in the 5th, 6th, 9th, 10th, and 14th amendments to the United States Constitution has been violated by the courts below.

3) My guaranteed and protected rights as expressed and secured by clause two of section one of the fourteenth amendment. "No state shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the united states; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." has been violated by the courts below in such that they do not recognize a declaration / verification submitted in accordance with 28 U.S.C. § 1746 and 18 U.S.C. §1621; but demand a notarized signature example even when there is no such requirement by either statute or court rules. Relying on the phrase "prevailing practices" as their

reasoning for rejecting a properly formatted and technically sufficient declaration / verification to harass prisoners, cause unnecessary delays, and needlessly increase the cost of litigation for prisoners.

4) The eleventh amendment has been twisted and misconstrued to inappropriately provide protection for those serving or employed in constitutional or legislature created positions by means of sovereign immunity, qualified immunity, quasi-judicial and judicial immunity. However, neither the eleventh amendment nor any other provision in the constitution affords any public servant any such protections; quite the opposite is found expressed in the Constitution and bill of rights of the United States as penned by the founders of the Republic.

STATEMENT OF THE CASE

1) The juncture at which the Arkansas Supreme Court dismissed my appeal the only matters properly before them were; my petition for extention of time to file my appellant brief and; my petition for leave to proceed with exception to rule 4-7, rules of the Arkansas Supreme Court, Appendix C, page 14-15, as the Lincoln County Circuit Court clerk, Cindy Glover, refused to provide me with the required file marked copies to include with the appellant brief to comply with the courts rules. And it is disingenuous for the majority of the Arkansas Supreme Court to refer to my pleadings and petitions in this instant cases as post conviction remedies simply because, I as an incarcerated person filed it, see dissenting opinion Justice Hurt, Grady v. State, 2018 Ark. 79. This instant petition now before this Honorable High Court revolves around the improper self-involvement of the circuit court clerk of Lincoln County, Arkansas , Cindy Glover and the justices, in supervisory roles, who refused to take any appropriate action or corrective measures when so informed of her obstruction and interference in a matter that did not include her or the court. This current action does not involve a matter of post conviction relief.

2) The Supreme Court of Arkansas is using procedural rules to usurp the guaranteed right of due process, the fundamental requirement of due process being the opportunity to speak and be heard, and it is an opportunity which must be granted at a meaningful time and in a meaningful manner, Parratt v. Taylor, 101 s.ct. 1908, (1981). The court has become highly technical on procedural issues for the simple means of clearing the docket, and the results is that a petitioner's appeal is not considered on the merits, which increases the possibility of exposing the errors, misconduct, deceptions, abuses of power and tyranny of the courts. see Bradley v.

state 2015 Ark. 144. This is ever more prevalent when the petitioner elects not to use a member of the bar and proceed pro se.

3) Jurisdiction is the power of the court to hear and determine the matter in controversy between the parties. A court lacks jurisdiction, "If it cannot hear a matter "under any circumstance" and is "wholly incompetent to grant the relief sought." Nance v. State, 2014 Ark. 201. In this instant case my affidavit of sovereignty and the follow-on notice of default and demand were originally and intentionally sent to the Lincoln County Clerk, for filing in the vital records, misc. and/or evidentiary files, as can be seen in the certification of service for both documents, and clearly not intended for the Lincoln County Circuit Clerk. Filing such document with the county clerk vital records is done so that it can both be recorded and a certification can be obtained from a non-invested third party as to whether or not any responses were received within the allotted time. And the Arkansas Supreme Court is competent to grant me the request as contained in my petitioner's brief.

4) However, the Lincoln County Circuit Court Clerk, Ms. Cindy Glover, not me, invoked the jurisdiction of the court by injecting herself in a matter that do not yet involve her or the court, but as is her custom and practice she entangles herself in any business that includes or is received from Varner / Varner Supermax Unit in an attempt to intercept, interfere, interrupt and / or delay any proceedings that may arise against staff employed at the Varner / Varner Supermax Unit to engage in favorable treatment for friends and relatives, preying on the hope that an individual will not know what action to take when faced with such a situation. Government officials may not employ their own mistakes or omissions to shield themselves from possible liability and litigation, Dole v. Chandler, 438 F.3d 804, (7th cir. 2006). The objective standard here, as held in Richardson v. State, 314 Ark. 512, (1993), being only the requirement of the

government official in question to have the expectation to have a reasonable knowledge of what the rules require.

5) As my affidavit of sovereignty and notice of default and demand were not intended for filing with the Lincoln County Circuit Court, but jurisdiction of the court was sua sponte invoked by the court clerk, Ms. Cindy Glover, and thereby not for the purpose to seek relief from the conditions of incarceration or as a declaratory judgment action, this instant appeal is incorrectly categorized by the Arkansas Supreme Court as an application for post conviction relief, whereas the proper proceeding for such, following the proper filing of my documents as intended which is a part of the actual relief sought, is a writ of mandamus directed towards the proper government representative, which is a colorable cause of action and claim that is legitimate and maybe reasonably asserted given the facts presented, the current law, or a reasonable and logical extention or modification thereof. Penn v. Gallagher, 2017 Ark. 283.

6) The conduct by Ms. Cindy Glover in this matter are prejudicial to the effective and expeditious administration of the business of the courts, an affront to the efficiency of the judiciary and utilized to harass prisoners, cause unnecessary delays, and needlessly increase the cost of litigation for prisoners.

7) A court may dismiss a complaint sua sponte only if it is clear that no relief could be granted under any set of facts that could be proven consistent with the allegations. Swierkiewicz v. Sorenson, 122 s.ct. 992, (2002). The issue is not whether a plaintiff will prevail, but whether the claimant is entitled to offer evidence to support the claims. Indeed it may appear on the face of the pleadings that a recovery is very remote and unlikely, but that is not the test. Jackson v. Carey, 353 F.3d 750, (9th cir 2003)

8) People originally immigrated to the american continent to establish Elohim's rule without persecution from the rulers and leaders who desired to force their opinion, doctrines, and beliefs upon all to the point of death for those who held true YHWH's teachings and would not conform. This was the plain and clear cause of the founding documents of the Republic being established on Biblical principles, and such documents are to be taken assiduously at face value, according to the single inconvertible interpretation that was intended, with no allowances to be for nuances, ambiguity, or situational contingencies. see Booth v. Churner, 121 s.ct. 1819, (2001); State v. Scarmardo 263 Ark. 396, (1978). Howbeit, there rulers and leaders who have twisted and interpreted the founding documents of the Republic to suit their own evil purposes. They know or reasonably should have known that the founding fathers never intended such rulings; these rulers and leaders are rogues and cronies of thieves, everyone of them are avid for presents and greedy for gifts. They do not judge the case of the oppressed and the down trodden's cause never reaches them. El Shaddai holds these teachers and leaders to a higher standard and more accountable for their practices; as he states: "You shall not render unfair discussions; Do not favor or show deference to the rich; judge your kinsman fairly; Do not deal basely with your countrymen; Do not profit by the blood of your fellow; You shall not hate your kinsfolk in your heart; Reprove your kinsmen, but incur no guilt because of him; You shall not take vengeance or bear a grudge against your countrymen." Leviticus 19:15-18. Partially in judgments shall be their accusers; woe to the wicked magistrate, for he shall fare ill; as his hands have delt, so shall it be done to him. These leaders are misleaders; they have confused the course of the people's path. Adonai will bring this charge against the leaders and officers of the people: "It is you who have ravaged the vineyard; that which is robbed from the poor is in your houses. How dare you crush my people and grind there faces in the dust?" Cease to do evil; learn to do good. Devote

yourselfs to justice; aid the wronged; uphold the rights of the oppressed; defend the cause of the down trodden, Isiah 1:17, for YHWH Elohe Yisrael has readied a day against all that is proud and arrogant, against all the is lofty - so it can be brought low: That man's haughtiness shall be humbled and the pride of man brought low. None but YHWH shall be exalted in that day. Now cease to glorify man, who only has breath in his nostrils! For by what does he merit esteem? Truly it is the spirit in men, the breath of El Shaddai, that gives them understanding. It is not the aged who are wise, or the elders, who understand how to judge. For their are many sides to sagacity. And when it comes right down to it, you really cannot separate political issues from religious issues. They are all tied up together, there can be no separation of the church from the "state", as no nation has or can survive without its God in leadership! Jeremiah 2:10-12

9) The current mode of reading the eleventh amendment to the constitution of the United States is incorrect. The amendment, ratified 07 February 1795, reads, "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state." If one were to hold to this interpretation of this amendment, adding with it Article V §20 of the Constitution of the State of Arkansas, which reads: "The state of Arkansas shall never be made defendant in any of her courts." This would mean that there is no civil remedy available for wrongs by the State of Arkansas or any of it's agents, departments, or subdivisions.

10) It is incorrect to apply or utilize the title sovereign to refer any world-of-man government constructs, such as the United States or the State of Arkansas, or those who serve in any capacity there of. The second paragraph of the Declaration of Independence of 1776 states: "That all men are created equal, that they are endowed by their creator with certain unalienable

rights. That among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it." This founding document of the American Republic goes on further to state: "But when a long train of abuses and usurpation, pursuing invariably the object evince a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government." This is a plain and clear demonstration that those who penned this document decisively acknowledged that the individual living breathing sentient mortal is by and far the natural sovereign superior, this having been established by my creator, lord, and king. YHWH, in the beginning, to any world-of-man governments be they known as the United States, the State of Arkansas, or any others. This was found to be so sacred and compelling by the founders to find it also expressed in the preambles of the Constitution of the United States, 17 September 1778, and the Constitution of the State of Arkansas, 1874, as well as in the tenth amendment to the U.S. Constitution and Article 2 §§ 1 and 29 of the Constitution of the State of Arkansas. To that end the constitutions, statutes, rules, and regulations were / are created and texturized to protect, not to subjugate or rule over the living breathing sentient natural sovereign mortal. More over they are to be controlling and limiting over those individuals employed or serving in constitutional or legislative created offices and positions as well as those who contract with these world-of-man governments in the attempt, in what has been called the great experiment, to put an end to such corruption and abuses of power that had been previously experienced so that it should ever be extirpated. Allowing the ruling below to stand would be akin to placing a failing grade on the founding documents of the American Republic and the great experiment itself.

11) For the explanation as provided above judicial and quasi-judicial immunity for any official is unconstitutional and should not be applied in this instant case or any other case. I will however, address the issues raised below, Lincoln County Circuit Court Clerk, Ms. Cindy Glover, clearly abused her discretion, this standard being that the court has a range of choices and that such decisions will not be disturbed as long as it stays within that range and is not influenced by any mistake of law, Novus Franchising Inc. v. Dawson, 725 F.3d 885, (8th cir 2013).

12) Not within this range of choices available to Ms. Cindy Glover was hindering, interfering with, causing unnecessary delay, or needlessly increasing the cost of submissions.

13) The documents sent, which were not intended for the Court Clerk, but for the County Clerk for filing in the vital records of my affidavit of sovereignty and notice of default and demand the cover letter clear and plain stating such. However, as is Ms. Glover's practice and custom she interjects herself into any and all affairs that originate from the Varner / Varner Supermax facility to be able to provide favorable treatment to the facility staff. Placing additional burdens and altering requirements was not discretionary in nature and is a breach of duty to preform a ministerial act and bars her further to any entitlement of quasi-judicial immunity. Snyder v. Nolen, 380 F.3d 279 (7th cir. 2004)

14) Ms. Glover is not entitled to qualified immunity either, not only for the reasons put forth in sections 9 & 10 above but also on the grounds that the living breathing sentient natural sovereign mortal's constitutional and statutory protected right to access the courts for civil relief of the deprivation of any rights, protections, privileges, or immunities in an action at law suit in equity or other proper proceedings for redress, freely and without purchase, completely without denial, and promptly without delay, is clearly established and of such importance to civilized

society that any reasonable person knows or should know as they are plainly expressed in the first amendment to the United States Constitution as well as in Article 2 §§ 4 and 13 of the Constitution of the State of Arkansas. Thereby meeting the criteria for and establishing actual injury and prejudice, and therefore, Ms. Glover is not entitled to qualified immunity either. As my original documents met all technical requirements and I should have been allowed to prosecute my claim as allowed by A.C.A. § 16-68-604, the cases being stalled as they are, are through no fault of my own.

15) Further, the claim of a state employee to have immunity from suit is a defense to be adjudicated as part of the lawsuit, rather than a basis for a claim that the courts lacks jurisdiction. West Memphis School Dist. No. 4 of Crittenton County v. Circuit Court of Crittenton County, 316 Ark. 290, (1994).

16) As to the claims against Chief Justice Kemp of the Arkansas Supreme Court; the Chief Judge of the Lincoln County Circuit Court; and Judge Dennis, they were all made aware on a number of occasions of the issues with Ms. Glover, by being sent copies of the letters to her and actual formal complaint, the only response being received came from the criminal justice coordinator of the Supreme Court of the State of Arkansas, Appendix D page 15. So it cannot be said that any of them were unaware of the pattern of violations of constitutional and statutory protected rights by Ms. Glover. Instead they chose to let the issues go unacknowledged. Their failure to take any action or corrective measures plain and clear shows deliberate indifference to the issues, and officials may not employ their own mistakes to shield themselves from possible liability or litigation, relying on the likelihood that a prisoner will not know what to do when faced with such a situation. see Dole v. Chandler, 438 F.3d 804, (7th cir 2006).

17) Being that a violation of a constitutional or statutory protected right is never *deminimis*, a phrase meaning so small or trifling that the law takes no account of it, the Supreme Court explained the reason for this rule, "by making the deprivation of such constitutional and statutory rights actionable for nominal damages without proof of "actual injury", The law recognizes the importance to organized society that those rights be scrupulously observed. *Wilson v. Seiter*, 111 s.ct. 2321, (1991).

18) If the courts and legislators did not find it of such importance for supervisory judges to be held accountable for those below them, be they court staff, court officers, justices, or others subjected to the supervisory judges direction to uphold the conduct and standards expected and demanded of the judiciary. It would not be found expressed in Rules 1.2 and 2.12 of the Arkansas Code of Judicial Conduct, that they have a duty and responsibility to investigate any such possible violations and correct such deficiency as are found. However, in this instant matter the judges took the course of "ignore it and hope it goes away" as their action of choice. For these reasons as well as those stated in section 9 & 10 the judges are not entitled to either judicial or qualified immunity.

19) As I am a pro se litigant without a formal legal education or professional legal training the court before granting any motions of opposing party or entry of any order or judgment is to review and consider as evidence all of the pro se litigants contentions offered in pleadings and motions where such contentions are based on personal knowledge, set forth in facts that would be admissible as evidence, and where the pro se litigant attested under penalty of perjury to the truth of the contents. *Jones v. Blanas*, 393 F.3d 918, (9th cir 2004).

20) The natural people, The True sovereigns are the creators of the "government" my rights, liberties, and protections are long antecedent to the creation of the "state" Those rights,

liberties, and protections are inherent and non-negotiable. The “government” can list them and protect them, that is their duty, but they are not theirs to give away, alter, restrict, or diminish in any way.

21) It is always in the best public interest for all those employed or serving in constitutional and legislative created offices to obey the constitutions and statutes in their entirely, as court proceedings are not events that reset without lasting effect, where the participants are expected to enter the arena with near matched skills, but neither are they to be a sacrifice of the unarmed prisoner to the gladiator.

22) In a final point of law, the opinions delivered by Arkansas Supreme Court Justice John Dan Kemp on 26 Apr 2018 in This matter has by and large a very defensive and defiant tone and on the face gives at minimum the appearance of impropriety in that he has taken personal offense and distaste to the challenge that neither he nor any other individual serving or employed in any position or capacity in any world-of-man government constructs, or any of their agencies, departments or subdivisions hold any position or status as sovereign and are to be held accountable for their conduct, actions, and decisions, made in the course of their duties and responsibilities, are not entitled to any immunity, therefore, these being in part the checks and balances penned in the founding documents. However, from the very tone and language of Chief Justice Kemp’s delivered opinion it appears that he would welcome a society such as that portrayed in George Orwell’s classic dystopian novel “1984” and sees the Declaration of Independence and Constitution as outdated documents and does not believe that governing officials should be restricted by the limitations imposed therein. Yet the founders of the American Republic, guided by their creator, distinctly imposed these restrictions to prevent a recurrence of

the tyranny they experienced first hand by such as those who thirst after and lust for power and control over others.

REASONS FOR GRANTING MY PETITION

- 1) The Arkansas Supreme Court has departed so far from the customary and commonplace practices of the judiciary as expressed and defined by the Constitution of the United States and federal statutes and has sanctioned such departures within the states lower courts as to present the belief that as a whole the State of Arkansas is above and beyond adherence to federal statutes and Constitutional law, an issue thought long to have been resolved with the conclusion of the U.S. Civil War, as to call for the exercise of the United States Supreme Court's supervisory power as found expressed in Articles Three and Six of the United States Constitution.
- 2) The courts below have issued rulings and opinions in direct conflict with federal statutes, constitutional law, and accepted and usual practices of the judiciary as to be on the face, at least the appearance of impropriety if not impropriety in and of itself and creates a derogatory and negative impact on the public's confidence in the independence, integrity, and impartiality of the judiciary, and as such compels this court to take up the matter, rendering a ruling on the square and by the compass.
- 3) The courts below have not only violated my personal guaranteed and secured constitutional and statutory rights, but have set upon a dangerous path for creating a precedent to allow the ignoring, invalidating, and dismissing the protected and expressed constitutional and statutory rights of the public at large. There by creating a necessity for this court to invoke itself for the benefit and defense of all the many peoples.

4) That this court, as well as all courts, have a divine and Constitutional obligation, not to protect but hold accountable all those who serve or are employed in public positions of trust for their acts, omission, conduct, and decisions while conducting their public duties and responsibilities, as it is defined and expressed in the founding documents of this Republic.

5) That all courts have an ethical and moral duty to act in accordance with the biblical principles upon which one finds the institution founded. Exodus 18:15-23. And we must look to the scriptures for how to apply the Justice of Elohim, All magistrates are to be righteous and upright in nature, trust worthy, spurn ill-gotten gain, and keep their hands from holding bribes.

6) All courts have a Responsibility to uphold the highest standards required of them by the Biblical based founding documents; and to affirm the decisions of the Courts below in this instant case is an outright Declaration by the Court that these Republic creating documents, upon which all Courts receive their Authority, are no longer valid and therefore dissolve the Republic and all of its Institutions, Agencies, Departments, and Subdivisions in De facto.

Conclusion

Wherefore premises considered, I respectfully request and believe an honorable court will find it reasonable to reverse, reviewing all the documents submitted and render a decision on the square and by the compass wherein this court is competent to grant the relief request, to wit: direct the filing of my affidavit of sovereignty and notice of default and demand with the Lincoln County Clerk's vital records; There after to be forwarded to the Arkansas state's vital records for filing without cost or fees; that the Lincoln County Clerk provide a certified letter as to whether or not any responses were received and on what date a response was received, if not; That proper sanctions be taken in regards to Ms. Cindy Glover, up to and including removal from the position of Lincoln County Circuit Court Clerk;

That it be awarded reasonable compensation for my time and effort expended; be reimbursed for expenses incurred by the necessity to bring this matter before the court; plus any and all other relief and expiation that may be available, just and proper.

Respectfully Submitted,

 24 August 2018

James E. Whitney, Pro se
Sui Juris In Propria Persona
163817
P.O. Box 600
Grady, Arkansas
71644-0600

STATEMENT OF UNDISPUTED MATERIAL FACTS

1) I, James E. Whitney, am a living breathing sentient natural sovereign mortal, not simply because I say I am, but by the fact that I was born a sovereign as bestowed upon me by my Creator, Lord and King, YHWH, the source of breath of all flesh, and not by way of any World-of-Man Government constructs, be they allegedly a state, nation or the like, and such sovereign may not be modified, altered, restricted or diminished but by consent and I have given no such consent nor have I knowingly entered into any contract or agreement with any World-of-Man Government.

2) I reserve all of my freedoms, liberties, rights and protections at all times and I waive none of them at any time nor will I sign anything that relieves me of my security interest as beneficiary.

3) I do not recognize any pledges, nor any loyalties or allegiances to any such world-of-man government constructs. My loyalty and allegiance is pledged, In Toto, without reservation, only to the supreme sovereign ruler, YHWH, Leviticus 18:4-5; Deuteronomy 13:5.

4) I was made in the image of my Creator, Lord and King, Ehyeh-asher-ehyeh, (YHWH) Genesis 1:26-27.

5) I was given dominion over and tasked as a steward and caretaker over all that is above, below, and on the earth by the Supreme Sovereign ruler, YHWH. Genesis 1:28-30.

6) I am only subject onto the Kingdom of YHWH. Exodus 19:5-6; Exodus 34:10.

7) As a first born son of a descendant of Israel, I am further consecrated as an ambassador of the Kingdom of YHWH. Exodus 13:1-2.

8) There is no other authority, instruction, law or rules, but as those provided by YHWH and recorded in Torah, Leviticus 18:4-5; Leviticus 26:46; Deuteronomy 4:2.

9) Although I may reside within or be confined in the lands or territories of any world-of-man government constructs. I am neither to bend knee to or confirm with their ways or practices. I operate and function as a vassal and ambassador for the expression of the kingdom of YHWH, Exodus 23:24; Deuteronomy 13:1; Judges 2:2.

10). There has been no evidence or documentation provided of my liability to any world-of-man government constructs or that any world-of-man constitutions operate upon me and therefore subject me to any of their rules regulations or statutes or that I am under contract to or have entered into an agreement with any World-of-Man Governments or any of their agencies or sub-divisions.

11) The world-of-man constructs constitutions, rules, regulations, and statutes only apply to those employed or serving in constitutional or legislatively created positions or offices and those who contract with the state. The purpose of the constitutions, agreements, contract, covenants, social compacts and statutes are to limit those in constitutional and legislative created positions and offices and those who contract with government units, to the end of protecting the living breathing sentient natural sovereign mortals whom may reside within their sphere of influence from corruption and abuses of power that have previously been experienced.

12) I am not a person regulated by the “*state*”, I do not hold any position or office where I am subject to the constitutions or legislators. The world-of-man constitutions and legislators do not dictate what I do or do not do, nor am I currently under any oath of office, and rescind any and all prior endorsements of such, I further decline any and all offers to contract and reserve the right to reject any and all, I do not concede to any presumptions to the contrary, whether known or unknown to me, with or without my consent.

13) The world-of-man government construct, nor any of its agencies or subdivisions, may not lawfully move against me, as they did not create the office or position of the sovereign. Therefore they do not regulate or control those in the position of being the sovereign, and I, as a sovereign, have not delegated to them any such power. No world-of-man government construct, nor any of its agencies or subdivisions may ascribe penalties for the breach of the office of the sovereign.

14) I am not a party or signatory nor knowingly a descendant of any party or signatory of any of the contracts, covenants, or social compacts that establish or make up the World-of-Man Governments of the United States or any of its subdivisions.

15) The living breathing sentient natural sovereign mortals, are the creators of the "*state*". My freedoms, liberties, rights, and protections are long antecedent to the creation of the "*state*" and are inherent, they are not dependant on any world-of-man government construct, benefit, constitutions or piece of legislation, they are non-negotiable, the "*state*" can list them and protect them that is their duty, but they are not their's to give away, alter, restrict or diminish in any way and they can not be waived under any circumstance or act. Nor do I agree or consent to any world-of-Man "*Government*" to subjugate me, my freedoms, liberties, rights, or protections.

16) I am not named in any world-of-man constructs, constitutions, covenants, social compacts or statutes of the United States or the State of Arkansas. If otherwise, produce the evidence and documentation where I am.

17) The Supreme Court having held in Hale v. Hinkley 201 U.S. 43 (1905) that since the private man [*the living breathing sentient natural sovereign mortal*] is not named in the statutes and all statutes are for the regulation of business due to the fact that the natural persons rights

existed long antecedent to the organization of the “*state*” he owes no such duty or loyalty to such, since he receives nothing therefrom.

18) That I am being held captive and illegally by the State of Arkansas. As a prisoner in their Department of Correction, at the Varner/Varner Super Max Unit in Grady, Arkansas, being confined and sequestered in a cell 24/7 approximately 8‘ x 17‘ in size under Extended Protective Restrictive Housing pursuant to threats of great physical harm from both staff and prisoners alike since 14 Nov. 2016.

19) That the sentence of 540 years, under which I am currently being held captive under, is a defacto sentence of life without parole, the indictment being duplicitous in nature. The sentence imposed in contrary to and in violation of the Constitutions, Laws, Statutes, and Treaties of the United States and the State of Arkansas. See *Arkansas Code Annotated (A.C.A.)* § 5-1-109; § 5-1-110; § 5-1-112; § 5-4-501; § 5-27-602; § 16-90-107; § 16-91-113; *1993 Arkansas Law Act 550; Arkansas Sentencing Standards Grid; U.S. Constitution Amendments 1, 4, 5, 8, 9 and 14; Constitution for the State of Arkansas Article 2* § 1, § 2, § 6, § 8, § 9, § 15 and § 29.

20) No individual serving or employed in any World-of-Man Government construct constitutional or legislative created position or capacity is entitled to immunity in any form or fashion for their conduct or decisions made in the course of their duties. The founders of the American Republic found it so sacred, compelling and important that the living breathing sentient natural mortal be recognized as by and for the sovereign superior to any World-of-Man Government Constructs that they decisively acknowledged this in the creation and textualization of the founding documents. See The Declaration of Independence, 04 July 1776; The preamble and Tenth Amendment to the Constitution of the United States, 17 September 1787; The Preamble to Articles 2 §§ 1 and 29 of The Constitution of the State of Arkansas, to protect the

living breathing sentient natural sovereign mortal, not to subjugate or rule over them, *To Put An END* to such corruption and abuse of power as had been previously experienced, so that they should ever be extirpated. Moreover, these founding documents as well as any legislature or statutes to be created were/are to be controlling and limiting only over those individuals employed or serving in Constitutional or Legislative created positions as well as those who contract with such world-of-man government construct and I am neither one who holds any such position nor am I under any contract or entered into any agreement with any of these constructs, *See Afroyim v. Rusk*, 87 S.Ct. 1660 (1967); *Padleford, Fay & Co. v. The Mayor and Aldermen of the City of Savannah*, (1854).

21) Allegiance and loyalty in the United State is not due to any of the three branches, but from the executive, legislative and judiciary to the natural people, with whom the sovereign power is found and this relationship cannot be severed but by consent of the natural person, *See Afroyim v. Rusk*, 87 S.Ct. 1660 (1967); Founding Documents.

22) Any statute, which in general terms divest any pre-existing rights, freedoms, liberties, privileges or protections will not be applied to the sovereign without express words to that effect. *See U.S. v. United Mine Workers*, 67 S.Ct. 677 (1947).

23) It is incorrect to apply or utilize the tittle of sovereign to refer to any World-of-Man Government constructs, such as the United States, the State of Arkansas, their agencies, department, subdivisions or those who serve in any capacity thereof. The second paragraph of the Declaration of Independence of 1776 states: "*That all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just power from the consent of the governed that whenever any form of*

Government becomes destructive of these ends, it is the right of the people to alter or abolish it."

This founding document of the American Republic goes on further to state: "*But when a long train of abuses and usurpation, pursuing in variably the object evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such Government.*" This is a plain and clear demonstration that those who penned this document decisively acknowledged that the individual living breathing sentient mortal is by and far the natural sovereign superior, this having been established by my Creator, Lord, and King, YHWH, in the beginning, and it is therefore improper and unconstitutional to refer to any World-of-Man Government constructs by the title of sovereign or to infer the powers of sovereign upon them, be they allegedly a state, nation or the like.

24) The original intent, design and purpose of the courts in the American Republic was patterned after the common pleas venue of the English Common Wealth, where one individual took action against another in business matters or an individual sought redress against another person or the "*Government*" for a violation of some secured and protected right, freedom, liberty or privilege. Where the court was an impartial, un-bias, non-interested third party to assure Court Rules and proceeding where adhered to and render a judgment based solely on the evidence adjudicated before a jury. That is to have been and shall be the sole purpose for the court in the American Republic. There is no provision or article to be found in any of the originating documents which permits the World-of-Man Government to independently pursue, persecute or prosecute any natural person from which they derive their just powers or to divest the living breathing sentient natural sovereign mortal of any of their powers of earth, laws of ^{Exodus 18:15-23} nature or unalienable rights as endowed by our Creator, YHWH.^v In fact quite the opposite is found to be expressed in the founding documents. See Hale v. Hinkle, 201 U.S. 43 (1905); U.S.

v. United Mine Workers, 330 U.S. 258 (1947). To say otherwise is to say that the great experiment has failed, thus applying a failing grade to and rendering null and void the documents upon which this Republic was formed and declaring that the United States of America no longer exist as founded.

25) However, with the creation of a criminal division venue and the advent of a state prosecutor, usurping the role of the sovereign or victim proper to make the decision to pursue an action or more so improper when the World-of-Man Government construct presumes to become a victim when no such victim exist, one ends up with the recreation of the King's Bench venue that the founder of the Republic found so abhorrent and abominable as to have expressed that the abuses of the King's Bench as a number of the issues for which they found the need to separate and Declare Independence from the English Monarchy and penned them decisively in paragraphs 11, 12, 16, 18, 21 and 23 of the Declaration of Independence of 1776. In the criminal division venue as with the King's Bench the state court is no longer a impartial, unbiased, uninterested third party but being inextricable intertwined with the state prosecutor and through the simple logic that a house divided against itself cannot prosper by necessity the state court must side with the state prosecutor, with rare exception, who as an interloper has illegally and improperly taken on the role of victim with indifference and insolent as to whether or not there is an actual victim proper and disregarding the choice and option of any victim proper as to proceed or not with an action. This impropriety is demonstrated by Article 5 § 20 of the Constitutional of the State of Arkansas which state: "*The State of Arkansas shall never be made defendant in any of her courts,*" and *Arkansas Code Annotated* § 16-58-101 which states: "*No action shall be entered upon the docket of any court nor any original mesne or final process issued in the action, except in criminal cases and cases where the state is Plaintiff, until the fees for entering the case upon*

the docket and for issuing the writ and the taxes thereon, if any, are paid, bond and security to the approval of the clerk given therefore." In other words the sovereign must pay a fee to access the state court, but the state prosecutor need not pay any fee to access their court, thereby rendering the criminal court venue contrary to the originating documents of the American Republic and unconstitutional in nature, to publish an opinion otherwise is to rule that the documents upon which the United State of America was founded are null and void and the republic which they formed no longer exist as it was intended and designed.

Expressio unius est exclusio alterius

Falsus in uno, Falsus in omnibus

Respectfully Submitted,

24 August 2018

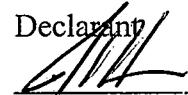
James E. Whitney, Pro-Se
Sui Juris In Propria Persona
#163817
P.O. Box 600
Grady, Arkansas

71644-0600

DECLARATION

I, James E. Whitney a living breathing sentient natural sovereign mortal, do hereby declare and verify, under penalty of perjury in accordance with 28 U.S.C.A. §1746 and 18 U.S.C. A. §1621 that the above statements contained herein are true and correct to the best of my knowledge and belief as executed by my hand this 24th day of Aug 2018 C.E.

Declarant


James E. Whitney, Pro se
Sui Juris In Propria Persona