

**NO:**

**BEFORE THE  
SUPREME COURT OF THE UNITED STATES**

**JAMES E. WHITNEY**

**PETITIONER**

**vs.**

**WENDY KELLY, et al.**

**RESPONDENT**

**ON PETITIONER FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

**CASE # 18-1332**

**PETITION FOR WRIT OF CERTIORARI**

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71644-0600**

**Table Of Contents**

Issues Presented For Review And Consideration

Preface.....iv

List Of Parties.....v

Table Of Authorities.....vi

Federal And State Cases Cited.....xi

Opinion Below.....1

Jurisdiction.....1

Introduction.....2

Constitutional And Statutory Provisions Involved.....4

Statement Of The Case.....6

Reasons For Granting My Petition.....11

Conclusion.....13

Statement Of Incontrovertible Essential Eternal Truths and Material Facts.....14

Declaration / Verification.....20

Certificate Of Service.....21

Certification Of Institutional Filing.....22

Index To Appendices

Appendix A  
Opinion Below

## Table Of Contents (Con't)

Appendix B  
Filing Below

Appendix C  
United States And Arkansas State Constitutional Provisions  
Involved

Appendix D  
Relevant Documents From Below

Appendix E  
Judicial Compliant Against Magistrate  
James T. Kearney

Appendix F  
Code Of Judicial Conduct And Rules  
Of Professional Conduct

## Issues Presented For Consideration

1) Is it not the mission and function of the courts of this republic to hold those individuals in positions of power and authority in the world-of-man Government contracts accountable for their actions, omissions, conduct, and decisions made, protecting the Sovereign people from which they derive their commission; upholding and executing the restraints found expressed in the constitution?

2) By what means and for what purpose does the world-of-man Government construct of the American Republic exist?

3) From where can the claim of Immunity, in any form or fashion, be found for individuals serving or employed in constitutional and/or legislature created positions within the founding documents of the American Republic?

4) Is the living breathing sentient natural mortal not the sovereign over and above the world-of-man Government constructs known as the United States, any of the States of the Union, their agencies, Departments, and sub-divisions or are they to be sub-servant and subjugated to these institutions among men?

5) Should the personal and individual political, ethical and professional views, or moral positions of a Public Servant have any bearing or influence on their actions, conduct, orders, judgments, or opinions during the execution of their duties?

6) Did the United States District Court of the Eastern District of Arkansas, Pine Bluff Division abuse their discretion, acting outside their proper range of choices?

## Preface

Pay heed and hear me, be still and I will speak; If you have what to say, answer me; But if not, listen to me; Be still and I will teach you wisdom. But where does wisdom come? Where is the source of understanding? See! Fear of the Lord is wisdom; to shun Evil is understanding; no man can set a value on the for it is the breath of El Shaddai from which they come. It is not the aged who are wise, nor the elders who understand how to judge. As long as there is life in me, and God's breath is in my nostrils, my lips will speak no wrong, nor my tongue utter deceit. Until I die I will maintain my integrity, I persist in my righteousness and I will not yield; I shall be free of reproach as long as I live. I would not temper my speech for anyone's sake nor show regards for any man, for I do not know how to temper my speech- my maker would soon carry me off. My words bespeak the uprightness of my heart, my lips utter insight honestly, the spirit of God formed me; The Breath of El Shaddai sustains me. You and I are the same before God. I too was nipped from clay. Listen, o wise ones, to my words you who have knowledge, give ear to me; Do you know the Laws Of Heaven or impose its Authority on Earth? For the ear test arguments, as the palate taste food. If God but intends it. He can call back his spirit and breath; all flesh would at once expire, and all mankind return to dust. See God is greater than we can know; The number of his years cannot be counted. He keeps turning events by his stratagems, that they might accomplish all that he commands them throughout the inhabited earth. Whoever confronts me I will requite, for everything under the Heavens is mine - Declares the Lord. Remember, then, to magnify his works, of which men have have sung.

iv  
**List Of Parties**

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

Wendy Kelly, Director  
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Lisa Childress, Corrections Sergeant  
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W. Ryas, Corrections Sergeant  
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Mr. Perkins, Corrections Sergeant, (Terminated)  
Present Address Unknown

Hon. Jerome T. Kearney, U.S. Magistrate Judge  
U.S.D.C., E.D. Ark., P.B. Div.  
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## TABLE OF AUTHORITIES

TANAKH	Page
GENESIS 1:26-27 .....	14
GENESIS 1:28-30 .....	14
EXODUS 13:1-2 .....	14
EXODUS 18:15-23.....	13,17
EXODUS 19:5-6 .....	14
EXODUS 23:24 .....	14
EXODUS 34:10 .....	14
LEVITICUS 19: 15-18.....	14
LEVITICUS 26:46 .....	14
NUMBERS 27:16.....	2, 14
DEUTERONOMY 4:2 .....	14
DEUTERONOMY 13:1 .....	14
DEUTERONOMY 13:5 .....	14
JUDGES (Chieftains) 2:2.....	14
DECLARATION OF INDEPENDENCE 04 JULY 1776 .....	16,17

## TABLE OF AUTHORITIES CONTINUED

	<u>Page</u>
CONSTITUTION OF THE UNITED STATES 17 SEPTEMBER 1787 .....	2,5,11,16
ARTICLE ONE, SECTION EIGHT, PARAGRAPH EIGHTEEN.....	4
ARTICLE THREE.....	12
ARTICLE SIX.....	12
FIRST AMENDMENT.....	2,16
FOURTH AMENDMENT.....	2,16
FIFTH AMENDMENT.....	2,16
EIGHTH AMENDMENT.....	2,16
NINTH AMENDMENT.....	2,16
TENTH AMENDMENT.....	4
ELEVENTH AMENDMENT.....	5
FOURTEENTH AMENDMENT.....	2,16
CONSTITUTION OF THE STATE OF ARKANSAS.....	2,16
PRISON LITIGATION REFORM ACT (PLRA).....	9
FED.R.CIV.P. 32(c).....	9
CONSTITUTION OF THE STATE OF ARKANSAS.....	16
ARTICLE 2 § 1.....	2,16
ARTICLE 2 § 2.....	2,16



## TABLE OF AUTHORITIES CONTINUED

	<u>Page</u>
ARTICLE 2 § 6.....	2,16
ARTICLE 2 § 8.....	2,16
ARTICLE 2 § 9.....	16
ARTICLE 2 § 15.....	2,16
ARTICLE 2 § 29.....	2,16
ARTICLE 5 § 20.....	2,18
A.C.A. § 5-1-109.....	2,16
A.C.A. § 5-1-110.....	2,16
A.C.A. § 5-1-112.....	2,16
A.C.A. § 5-4-501.....	2,16
A.C.A. § 5-27-602.....	16
A.C.A. § 12-49-101, et seq.....	13
A.C.A. § 16-58-101.....	18
A.C.A. § 16-90-107.....	2,16
A.C.A. § 16-19-113.....	2,16
A.C.A. §16-112-122.....	3
A.C.A. §16-12-123.....	3

## TABLE OF AUTHORITIES CONTINUED

	<u>Page</u>
1993 ARKANSAS LAW ACT 550.....	2,16
ARKANSAS SENTENCING GRID STANDARDS.....	2,16
RULE 1.2, ARKANSAS CODE OF JUDICIAL CONDUCT.....	12
RULE 2.12, ARKANSAS CODE OF JUDICIAL CONDUCT.....	12
RULE 2.2, ARKANSAS CODE OF JUDICIAL CONDUCT.....	12
RULE 2.3, ARKANSAS CODE OF JUDICIAL CONDUCT.....	12
RULE 2.6, ARKANSAS CODE OF JUDICIAL CONDUCT.....	12
RULE 1.16, ARKANSAS RULES OF PROFESSIONAL CONDUCT.....	12
RULE 5.3, ARKANSAS RULES OF PROFESSIONAL CONDUCT.....	12
RULE 8.3, ARKANSAS RULES OF PROFESSIONAL CONDUCT.....	12
RULE 8.4, ARKANSAS RULES OF PROFESSIONAL CONDUCT.....	12
RULE 8.5, ARKANSAS RULES OF PROFESSIONAL CONDUCT.....	12
RULE 11, ARKANSAS RULES OF CIVIL PROCEEDURE.....	12
RULE 60, ARKANSAS RULES OF CIVIL PROCEDURE.....	12
RULE 19, ARKANSAS RULES APPELLATE PROCEDURE.....	12
RULE 1-7, RULES OF THE ARKANSAS SUPREME COURT.....	12
RULE 4-2, RULES OF THE ARKANSAS SUPREME COURT.....	12

**TABLE OF AUTHORITIES CONTINUED**

Page

RULE 4-3, RULES OF THE ARKANSAS SUPREME COURT.....2  
RULE 4-7, RULES OF THE ARKANSAS SUPREME COURT.....12  
RULE 6-6, RULES OF THE ARKANSAS SUPREME COURT.....12

**FEDERAL AND STATE CASES CITED**

**(COMMON LAW)**

	<u>Page</u>
Adickes v. S.H. Kress & Co., 398 u.s. 144, (1990).....	6
Afroyim v. Rusk, 87 S.Ct. 1660, (1967).....	2,5,11,16
Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505, (1986).....	6
Bunch v. State, 370 Ark. 3 (2007).....	4
Dole v. Chandler, 438 F.3d 804, (7th cir. 2006).....	9
Farmer v. Brennan, 114 S.Ct. 1970, (1994).....	6
Fehl v. Jackson County, Oregon Supreme Court.....	17
Hale v. Hinkle, 201 u.s. 43, (1905).....	15,17
Hallmark Cards, Inc. v. Murley, 7003 F.3d 456, (8th cir. 2013).....	6,9,11,12
Jones v. Blanas, 393 F.3d 918. (9th cir 2004).....	10
Johnson v. U.S.P.S., 64 F.3d 233, (6th cir. 1995).....	6
National Hockey League v. Metropolitan Hockey Club Inc., 96 S.Ct 2778, (1976).....	19
National Resources Defense Council v. Curtis 198 F.R.D. 4, (D.D.C. 1999).....	9
Parker v. Southern Farm Bureau Ins. Co., 326 Ark. 1073 (1996).....	6
Padleford, Fay & Co. v. The Mayor And Alderman of the City Of Savannah, Georgia Supreme Court (1854).....	16
Sprouse v. Babcock, 870 F.2d 450, (8th cir. 1989).....	6
Stevenson v. Union Pacific R.R. Co., 354 F.3d 739, (8th cir. 2004).....	9,11,12
Thaddeus-X v. Blatter, 175 F.3d 378, (6th cir 1999).....	6

**FEDERAL AND STATE CASES CITED**

	<u>Page</u>
U.S.V. United Mine Workers, 67 S.Ct 677, (1947).....	16,17
IN Re: Will of Pittock, 199 P. 635, 202 P. 216, 17 A.L.R. 218, (1968).....	17

Petitioner Respectfully Request that a Writ of Certiorari be issued to review the judgment below.

### **Opinions Below**

The opinion of the United States Court of Appeals for the Eighth Circuit appears at Appendix A to this Petition and is unpublished.

The opinion of the United States District Court, Eastern District of Arkansas, Pine Bluff Division appears at Appendix A to this Petition and is unpublished.

### **Jurisdiction**

The date on which the United States Court Of Appeals for the Eighth Circuit decided my case was on 22 May 2018.

A Timely Petition for rehearing was denied by the United States Court Of Appeals for the Eighth Circuit on July 2018. A copy of the order denying rehearing appears at Appendix A.

The Jurisdiction of this court is further invoked under 28 U.S.C. §1254(1).

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 that this court will render her opinion on the square and by the compass when reviewing the constitutional provisions, questions of law, and issues of first impression 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, YAWH, in the beginning and the source of Breath of All Flesh, Numbers 27:16, and not by way of any World-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 from Both Staff and Inmates alike.

3) That the sentence of 540 years confinement, under which I am currently being held captive, is a Defacto sentence of Life Without Parole, The Indictment being duplicitous in nature. The sentence Imposed is contrary to and in violation of the Constitutions, Laws, Statues, 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; §16-19-107; §16-91-113; 1993 Arkansas Laws Act 550; Arkansas Sentencing Standards Grid; United States Constitutional Amendments I, IV, V, VIII, IX, XIV; Constitution of the State of Arkansas, Article 2, §§ 1, 2, 6, 8, 15, and 29; Article 5 § 20.

4) That the trial court lacked Rem Jurisdiction, Pearsonam 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 Proceeding.

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.

6) That whenever any Court of Record, Justice of the Supreme Court, or any other Judicial officer receives information or gains knowledge from any Judicial proceedings before them that suggest the possibility that an individual is being held captive illegally against the Constitutions, Statues, Laws, or Treaties of the United States, the States of The Union, or any of their Political Subdivisions. It is required by statute and the duty of the Courts to issue a writ of Habeas Corpus, even though no application or petition has been presented for the writ. See A. C.A. §16-112-122; A.C.A. §16-112-123.



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) My secured and protected rights as expressed in the 5th, 6th, 9th, 10th, and 14th Amendments to the United States Constitution have been violated by the courts below.

2) My guaranteed Constitutional and Statutory right to due process, that being the opportunity to speak and be heard, and it is an opportunity which must be granted at a meaning full time and in a meaningful manner, has been violated by the State Of Arkansas and the courts below.

3) My rights as expressed and secured by clause two of section one of the Fourteenth Amendment to the United States Constitution; "No State shall make or enforce any law 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 processes of law; nor deny to any person within its jurisdiction the equal protections of the law" has been extensively violated by the courts below.

4) The Court's Below have separated far from Federal and State Constitutional and Statutory laws as to have erroneously invalidated and violated my secured and guaranteed protections, as found, Expressed in the Constitution.

5) The courts Below has acted with Legislative intent to usurp protected and secured rights of the Sovereign, The Living breathing sentient natural mortal, not serving in any world-of-man Government positions, and as expressed in the common law, Bunch v. State, 370 Ark. 3 (2007) This is not to be allowed.

6)The language, spirit, and intent of the Declaration Of Independence and the Constitution Of The United States is to limit, contain, and reign in those who chose 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 branch, but also by the other branches of the government by way of checks and balances; Moreover, to the True Sovereigns of the Republic. And as all statues enacted by the legislations are to be only for execution of the powers vested by the Constitutions in the world-of-man Governments, and all others that have been penned and created by the legislation are plain and clearly unconstitutional in their very nature and fact of law. see Article One, Section Eight, Paragraph Eighteen of the U.S. Constitution and Amendment Ten, U.S. Constitution.

7) These Limitations imposed therein, textualized and penned by the founders of the American Republic, Guided by our creator, are to distinctly and decisively imposed such restrictions to prevent a recurrence of the tyranny they experience first hand by such as those who thirst after and lust for power and control over others.

8) The Constitution of the United States (17 Sept. 1787) consist of 7 Articles which express the Duties, Limits, And Responsibilities of the three Branches, Executive, Legislative And Judiciary of the World-Of-Man "Government." Defining the Limits of each of them to impose their will and view of morality upon the Rights, Liberties, Privileges, Protections, or any other such power as Reserved to the Living Breathing Sentient Natural Sovereign Mortal. These Articles, along with the "Bill of Rights," Articles of Amendment I Through X, Act as points of contract which operates only upon those employed or serving in Constitutional and Legislative Created Positions, and Those who contract with the "Government" units; Allegiance and Loyalty in the United States 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. *Afroyim v. Rusk*, 87 S.Ct 1660 (1967); Founding Documents.

9) The Language, Spirit, and intent of the Constitutions of the United States and the State Of Arkansas is to Limit and Reign in those who choose to serve in Public offices. These founding Document of the Republic is 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 Division of the Government, but also by the other Divisions of the Government; Moreover to the True Sovereign of the Republic. However, if there is no civil Remedy Available to the people by which they can hold their Public Servants Accountable, Then the lives lost to Establish and maintain this Republic have been for naught.

10) The Eleventh Amendment has been twisted and misconstrued to provide improper protection for those serving in Constitutional or Legislative 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 protection in any form or fashion; Quite the opposite is found Expressed in the founding Documents of this Republic.

11) There exist between the United States District Court, Eastern District of Arkansas, Pine Bluff Division and the Arkansas Attorney General's Office an In extractably inter twined improper, unethical, and unprofessional Relationship. This is Demonstrated by the Arkansas Attorney General knowing, with certainty, the outcome of a Judicial Ruling before it being Posted for Publishing to all parties, as found expressed by Assistant attorney General Vincont France in the Deposition transcript of 28 June 2017, Appendix E Page 6. Thereby Rendering it impossible for an individual opposing the state of Arkansas to Receive a fair and impartial Hearing or Ruling from the court as secured by the Constitution.

## STATEMENT OF THE CASE

I am of the understanding that although my Pleadings, Motions, and Briefs have been technically sufficient, it has become clear that I have not been sufficiently Articulate in Putting forth the Substance of my claim. Let me attempt to Remedy that with this Petition.

1) The Crux and Basis for this Action Resolve Around being disciplined in Retaliation for Exercising a Protected Constitutional and Statutory Right. The Rule being that filling of Disciplinary charges against a Prisoner, Although, otherwise not actionable under §1983, it is actionable under §1983 if done in Retaliation for his having filed a Grievance pursuant to Established Procedures. Prison officials cannot properly bring Disciplinary action against a Prisoner for filling a Grievance even if it is Determined by those officials to be without merit. See *Sprouse v. Babcock*, 870 F.2d 450, (8th cir 1989).

2) On 06 Nov. 2016 I filed 3 Grievances Against Cpl. Swopes, Appendix D, pgs. 1-3, and while submitting these grievances to Sgt. Childress, per ADC Grievance Policy, I was subjected to the wanton and unnecessary infliction of force by Cpl. Swopes in the Presence of Sgt. Childress, who took no action or corrective measures to cure this blatant abuse of power by Cpl. Swopes, It was not until 08 Nov. 2016 that Cpl. Swopes wrote 2 Major Disciplinarys in Retaliation for the Grievances I filed against her for her failures of duties as a Correction Officer, Cpl. Swopes further Delayed the process of the 2 Major Disciplinarys by not submitting them to the Cheif officer until 10 Nov. 2016, Appendix D, pg. 6, and I was not served these until 14 Nov. 2016.

3) After being subjected to the infliction of unnecessary and wanton force by Cpl. Swopes in the presence of Sgt. Childress, I was locked up in the Iso 4 day room, where to Sgt Perkins Supervisor, Cpl Swopes made it known to him she was taking Retaliatory Action for my submission of Grievances, Additionally in Accordance with ADC Policy, I requested to speak to the warden or the Warden's Representative on duty, Sgt Ryas and Lt. Clemmons were the Representatives on duty on 06 nov. 2016 and they refused to acknowledge my request or take any Action or Corrective measures to cure this plain and clear act of Retaliation and abuse of power, Apendix D, pg.21.

4) It is of further evidence that Cpl. Swopes Reactions to my filing of Grievance against her on 06 Nov. 2016 were purely Retaliatory and an abuse of Power, in that with shift change on 06 Nov. 2016, after a Review by the oncoming shift prison officials of the incident I was returned to both my housing and job assignment and worked under Cpl. Swopes supervision until 13 Nov 2016 when I was placed into protective custody after prison officials recieved threats of Great Physical harm from both Prison Staff and Inmates alike. Appendix D, pgs. 25-26.

5) Government actions, which standing alone, do not violate the Federal Constitution, may none the less be Constitutional Torts if motivated in substantial part by a desire to punish an individual for exercising a Protected Constitutional Right. See *Thaddeus-X v. Blatter*, 175 F.3d 378, (6th cir 1999)

6) In regards to Defendants Childress, Ryas, Perkins, and Clemmons, the rule being that of whether prison officials and requisite knowledge of substantial risk, so as to have a duty to protect a prisoner from harm, is a question of subject to demonstration in the usual ways, inoing inference from circumstantial evidence, and a fact finder may conclude that prison officials knew of substantial risk from the very fact that the risk was obvious. See Farmer v. Brennan, 114 S.Ct 1970, (1994).

7) Additional facts that preclude summary judgment is the conflicting statements made by the defendants themselves and on their behalf by ADC administration officials, raising the issue that there does exist a dispute over the material facts involved. The rule being that summary judgment is to be granted only if the record before the court shows, In Light most favorable to the non-moving party, that there is no genuine issue as to any material fact. See Adickes v. S.H. Kress & Co., 398 u.s. 144, (1990). A material fact being one that might affect the outcome of the suit. See Anderson v. Liberty Lobby, Inc., 106 S.Ct 2505, (1986). Such disputes over the material facts come from conflicting statements found in Appendix D, pgs. 9-13, when compared to the response by Sgt. Childress to the same questions in Appendix D, pgs. 9-13. When comparing the statement made by Ms. Lawrence in Appendix D, pgs. 15-16 to that made by Ms. Williams in Appendix D, pg. 17, as well as her declarations in Appendix D, pgs. 18-20 also show that there is a genuine dispute over material facts with Appendix D, pgs 7-8 showing that my 3 Grievances were rejected as being disciplinary matters, which is not the case at hand. And, the party seeking summary judgment has the burden of showing that there is no genuine issues as to any material facts, See Johnson v. U.S.P.S., 64 F.3d 233, (6th cir 1995). In the instances noted above the defendants themselves raise this issue. Falsus in ono, Falsus in omni bus.

8) A final point of law, the defendants were advised, as well as the court below, as to what I believed to be critical and essential items of material evidence in my original documents to the court, Appendix B, pgs.1-15, the rule being where a party is relegated to having to prove his claim by documents, papers, letters, or other evidence kept by opposing party, the scope of discovery should be broader. See Parker v. Southern Farm Bureau Ins. Co., 326 Ark 1073, (1996). However, the defendants resisted and obstructed the discovery process, refusing to provide critical and essential material evidence in their possession, claiming it to be non-relevant to the proceedings, and the court below permitted this obstruction contrary to the rule that states that the courts must infer from an opposing parties refusal to provide critical and essential material evidence as legal presumption that the information sought is detrimental and/or adversarial to them and as Prima Facia evidence of their desire to suppress the truth of the matter. See Hallmark Cards, Inc. v. Murley, 703 F.3d 456, (8th cir 2013). Even more so when the opposing party had fore knowledge from the on set of proceeding that the material would be sought at discovery and was essential and critical evidence of the claim.

9) There is clear custom and pattern of conduct of the Varner / Varner Super Max Unit staff to take, and is allowed by the administration, retaliatory actions against prisoners and abuse their position of authority, as a result of the filing this case, as well as additional cases and grievances against unit staff and administration I have been subjected to a campaign of harassment, including unprovoked and without cause physical attacks from staff, Appendix D,

pgs. 23-24, even though ADC internal affairs affirmed my allegations as true, this staff was not only not disciplined for her actions but received a promotion with my own personal experience and knowledge combined with the history of this unit and it's sister unit Cummins Unit, where there is a sharing of staff, It is my sincere belief that the level has been exceeding reached that implores that the courts become once again directly involved in the daily administration of this unit as it is plain and clear that the senior ADC Administration has no intent to take proactive action or corrective measures to cure the consistent and ongoing Constitutional and Statutory violations being committed.

10) To deny a man his rights in the presence of the Most High, to wrong a man in his cause of what shall a living man complain? Each one of his own sins? Let us search and examine our ways, and turn back to the lord; Let us lift up our hearts rather than our hands to God in Heaven; for we have all transgresses and rebelled. Yet you champion my cause, O Lord , the wrong done me; oh vindicate my right! You have seen all their malice, All their designs against me. Ample is your Grace! "The Lord is my Portion" I say with full Heart; Therefore I hope in him, the Lord is good to those who trust in him, to the ones who seek.him.

11) From the onset of these proceedings the United States District Court Magistrate and the Arkansas Attorney Generals Office have worked in concert to intentionally and deliberately misrepresent the issues in this matter, needlessly presenting non relevant information put forth simply to confuse and mislead, cause undue delay, waste the time of the Judiciary, and attempting to frustrate me to a point where I would be unwilling or unable to proceed, all the time refusing to provide the critical essential material evidence necessary for me to prove my case. This has been a plain and clear joint endeavor between defense counsel and the Magistrate Judge with them improperly engaging in discussions concerning this matter in the absence of opposing party, as can be seen reflected in the transcript of the deposition taken 28 Jun 2017, Appendix E, pgs. 6-29 where defense counsel, Vincent P. France, admits to having fore knowledge of Magistrate Kearney's Decisions Prior to them being Published to the court clerk, after which Mr. France began and continues to show as terminated by the Arkansas Attorney Generals Office. This improper relationship is further indicated by Magistrate Kearney's proposed findings and recommendations being near verbatim of defense counsel's motions, as if actually prepared by defense counsel himself.

12) The United State District Court Magistrate and the Arkansas Attorney General have persistently put forth that my claim in this instant case involves being retaliated against in the form of being placed in protective custody and having my ability to file grievances thwarted, yet they do not state as to the cause for such retaliation. However my claim does not involve the premises that being placed in Protective Custody was Retaliatory in nature, although policy was only partially complied with, it was the only correct action taken.

13) My claim correctly involves being retaliated against in the form of Great Physical Harm Threats from Both staff and inmates alike for refusing to take any part in participating in the drug trafficking and extortion racket within the unit that involves staff, Inmates, and enforcers outside the unit.

14) Additionally I was subjected to retaliatory actions in the form of unreasonable and unnecessary force while submitting Grievances and fictitious and false major disciplinary reports from Cpl. Swopes, whom the Grievances were filed against for not taking action or corrective measures against the inmates working the breakfast shift for leaving the kitchen area unclean and dishes undone, so they could exit the area and be "searched" by off going security staff. Knowing that the search conducted would be cursory at best and not lead to the discovery of or compromise their trafficking of drugs to General Population. However, if the ongoing day shift security staff were to conduct the search, as they were extremely more likely to perform a proper search they would be discovered.

15) I have also been subjected to a number of additional fictitious and false major disciplinaries in part to keep me at this unit and for my writing of many Grievances to report staff and program issues per the requirements of the P.L.R.A. Statues, which culminated this last January 2018 in a physical attack from staff and held incommunicado and without a shower for 22 days by staff members who are subjects of my grievances and other legal actions.

16) The retaliatory nature of the fictitious and falsified major disciplinaries extended to the disciplinary court review hearings where I was denied my most basic due process rights resulting in nothing more than a mockery of justice and a "Kangaroo Court" proceeding.

17) This is why in my initial filing with the court I sought not only the preservation and protection of essential material evidence to support my claim but also the removal from ADC custody to protect my life, limb, and property for which I was and remain in Great fear for.

18) It has been and remains my position that the material sought in my initial filings and discovery request are germane and essential to support my claim and the court must take the persistent refusal of defendants to provide the information and material sought as legal presumption that it is detrimental and/or adversarial to the defense and as Prima Facial evidence of the defenses desire to suppress the truth in the matter. See Fed.R.Civ.P. 37 (c); Hallmark Cards, Inc. v. Murley, 703 F.3d 456, 460,(8th cir. 2013); Stevenson v. Union Pacific R.R. Co., 354 F.3d 739, (8th cir. 2004).

19) This is further evident by the conflicting statements from defendants themselves , the misrepresenting, and providing false information in supporting declarations these also being an indication that ADC Administration and staff take no issue in making fictitious and misleading claims and statements in the pursuit to avoid liability and litigation. See Dole v. Chandler, 438 F. 3d 804, (7th cir. 2006). Human beings, not being angels, can have their views affected by their own interest. It is perhaps for this very reason that the common law has never considered an exploration of a witness's bias collateral and hs always permitted it to be explored thoroughly. See Natural Resources Defense Council v. Curtis, 189 F.R.D. 4, (D.D.C. 1999), something that was prevented from occurring in the matter below.

20) In light of the fact that I am a Pro Se litigant without any formal legal education or training, it is The Courts Duty, before granting any motion of opposing party or entry of any order or judgment to review and consider as evidence all of a Pro Se Litigants contentious offered in pleadings and motions, where such contentious are based on personal knowledge, set forth in facts that would be admissible as evidence, and where Pro Se litigant attested under penalty of perjury to the truth of the contents. See Jones v. Blanas, 393 F.3d 918, (9th cir 2004).

## Reasons For Granting My Petition

The Honorable High Court should grant my petition based upon:

1) This is a case involving issues of first impressions, Issues of significant Public interest, and substantial questions of law concerning the interpretation of the Constitution, Statues, and Acts of the Legislature. A review of this instant case would help to illuminate unconstitution actions and omissions by Public Servants; Establishing proper Constitutional strict precedents.

2) That the decisions of the courts below are erroneous and conflicting with opinions previously held by other appellant courts and this high court, to the extent that the opinion of this court in Afroyim v. Rusk, 87 S.Ct 1660, (1967) that the people are the sovereign on the American Republic and not the world-of-man Government construct or any individual serving in any position or capacity there of; and is squarely in conflict with the decisions rendered by the courts below in this instant action.

3) That the opinions of the courts below, if allowed to stand, may have a severely adverse effect of the perception of the courts ability for independence, integrity, and impartiality, its function in the checks and balances of power structure that is one of the foundational stones of the Republic, and will negatively effect the Public's confidence in the Judiciary, as it is the courts duty and Responsibility to hold accountable, not protect, all those who serve in any capacity or position within the Governments of the United States, the States of the Union, their agencies, Departments and sub divisions; To the Sovereign, that being the Living Breathing Sentient Natural Mortal, the people. In the American Republic, as in much of the world today, Perception is by and far reality for the many.

4) The Constitution of the United States (17 Sept. 1787) consist of 7 Articles which express the duties, limits, and responsibilities of the three branches, executive, legislative and judiciary of the world-of-man Government. Defining the limits of each of them to impose their will and review of morality upon the rights, liberties, privileges, protections, or any other such power as reserved to the living breathing sentient natural sovereign mortal. These Articles, along with the "Bill of Rights", Articles of Amendment I thru X, act as points of contract which operates only upon those employed or serving in constitutional and legislative created positions, and those who contract with the "Government" units; allegiance and loyalty in the United States is not due to any of the tree 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. Afroyim v. Rusk, 87 S.Ct 1660 (1967); founding documents.

5) No individual serving or employed in any world-of-man Government Construct Constitutional or Legislative created position or capacity is not entitled to immunity in any form or fashion for their conduct or decisions made in the course of their Public Duties and Responsibilities.



6) The courts below have violated and disregarded their duties and responsibilities as expressed in the founding documents and of the spirit of their Pledge, Mission, and Function of being the “Watch Dog” for the people against Tyrannical Power seekers. As intended by the founding members of the republic.

7) The rulings by the courts below sanctioning the State of Arkansas Department of Correction Dissolution of secured and protected constitutional rights retained by prisoners, those being: Presumed innocence in all matters, The ability to submit evidence in support of Innocence to examine witnesses for purpose of clarification and/or impeachment of the statements and testimony; The so called “Disciplinary Court Review” is already a “Kangaroo Court” these rulings will only add to this practice, course of conduct and campaigns of harassments. If the rulings below are allowed to stand it has the potential to become a very dangerous and slippery slope precedent, further degrading prisoner rights which will by necessity increase the number of Eighth Amendment claims.

8) The relationship between the United States District Court, Eastern District of Arkansas, Pine Bluff Division and the Arkansas Attorney General’s office has permitted the Arkansas Attorney General to withhold essential material evidence necessary to support and prove my assertions contrary to common law. Additionally, as held by the courts the refusal to provide the information the opposing party knew would be sought serves as legal presumption that the material sought is detrimental and/or adversarial to the opposing party and as Prima Facia evidence of their desire to suppress the truth of the matter. See Fed.R.Civ.P 37(e); Hallmark Cards, Inc. v Murley, 703 F.3d 456, (8th cir 2013); Stevenson v. Union Pacific R.R. Co., 354 F.3d 739, (8th cir 2004).

9) The Courts Below has departed so far from the customary and common place practices of the judiciary as expressed and defined by The Constitution Of The United States and Federal Statues and 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 Statues and Constitutional Law, and 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 Courts supervisory power as found expressed in Articles Three and Six of the United States Constitution.

10) The courts below have issued rulings and opinions in direct conflict with Federal Statues, 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 all the judiciary, and as such compels this court to take up the matter, rendering a ruling on the square and by the compass. See Rules 1.2, 2.2, 2.3, and 2.6, Ark. Code Judicial Conduct

11) 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 involve itself for the benefit and defense of all the many peoples.

12) If there is no civil remedies 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 live sacrifice to establish and maintain this Republic were all for naught.

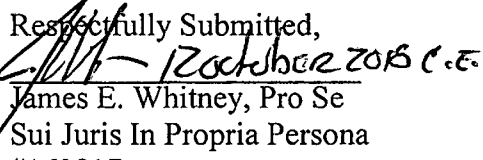
13) This court, as with all courts have a Divine and Constitutional obligation not to protect, but to hold accountable those individuals serving or employed in public positions of trust for their acts, omissions, conduct, and decisions while conducting their public duties as it is defined and expressed in the founding documents of the Republic.

14) That all courts have an ethical and moral duty to act in accordance with the biblical principles upon which the institution finds its foundation. see Exodus 18:15-23. And we must look to the scriptures for how to apply the justice of Elohim. That includes the magistrates being of a righteous and upright nature, trust worthy, spurn ill-gotten gain, and keep their hands from holding bribes.

15) All courts have a responsibility to uphold the highest standards as required of them by the Biblically Based founding documents of the Republic; and to affirm the lower courts decision in this instant case is an out right declaration that these Republic creating documents. upon which all courts receive their authority are no longer valid and therefore dissolve this Republic and all of its institutions in De facto.

It is for these reasons herein that I respectfully request and believe that this Honorable High Court will find it reasonable to review the renderings of the court below for abuses against the Constitution of the United States. The national importance for the Supreme Court to weigh-in and issue an opinion on the square and by the compass on the issues presented , as well as the individual importance to myself and all others currently within this Republic as to just who is accountable to whom and how one is to go about securing this accountability.

Wherefore premises considered, I respectfully request and believe an Honorable Court will find it reasonable to grant me the relief requested in my originating documents; primarily to be transfered away from the custody of Arkansas Department Of Correction; either to the Federal Bureau of Prisons or the Florida Department Of Correction; Both of these options are available to Director Of Arkansas Department Of Correction under A.C.A. §12-49-101, et seq; That I be awarded reasonable compensation for my time and effort expended; be reimbursed for the expenses incurred by the necessity to bring this matter to this Juncture in Proceedings; Plus any and all other relief and expiation that may be Available, Just, and Proper.

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

## Statement Of Incontrovertible Essential Eternal Truths And 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, Numbers 27:16 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 diminish 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 wave 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 allegiances 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 construct or that any world-of-man constitutions operate upon me and therefore subject me to any of their rules regulations or statues 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 statues 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 statues are to limit those in constitutional and legislative created positions or 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 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 theirs to give away, alter, restrict or diminish in any way and they can not be waived under any circumstances 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 statues of the United States or The State of Arkansas. If otherwise, produce the evidence and documentation where I am.

17) The Supreme Court 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 statues and all statues are for the regulation of businesses 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 Varner/Varner Supermax Unit in Grady, Arkansas, being confined and sequestered in a cell 24/7 approximately 8' x 12' in size under Extended Protective Restrictive Housin pursuant to threats of great harm from both staff and prisoners alike since 14 Nov. 2016.

19) The the sentence of 540 years, which I am currently being held captive under, is a de facto sentence of life without parole, the indictment being duplicitous in nature. The sentence imposed in contrary to and in violation of the Constitutions, Laws, Statues, 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 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 Article 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 statues 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 coontract or entered into any agreement with any of these constructs, See Afroyim v. Rusk, 87 S.CT. 1600 (1967); Padleford, Fay & Co. v. The Mayor and Aldermen of the City of Savannah, (1854).*

21) Allegiance and loyalty in the United States is not due 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. 1600 (1967); Founding Documents.*

22) Any statue, 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 title 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.”* The 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 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 a 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 were 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 nature or unalienable rights as endowed by our Creator, YHWH. Exodus 18:15-23. In fact quite the oppiste 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) The Criminal Courts are not constitutional courts, See *Fehl v. Jackson County*, Oregon, Oregon Supreme Court, citing *In Re: will of Pittock*, 199 P. 635, 202 P. 216, 17 A.L.R. 218, (1968). If the Criminal Courts are not constitutional courts; Then by what authority do they operate their “Administrative Units/Courts” against the living breathing sentient natural sovereign mortal via their fines and punishments? Where there is no nexus other than by adhesion of undisclosed fraud to their statues for any liability to attach any style of jurisdiction to the living breathing sentient natural sovereign mortals in their non constitutional courts.

26) 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 founders 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's 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 Constitution of the State of Arkansas which state: "*The State of Arkansas shall never be made defendand 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 States of America was founded are null and void and the Republic which they formed no longer exist as it was intended and designed.

27) The Unconstitutional Criminal Court Venue is used primarily to harass, coerce, threaten, silence, demonize, dehumanize, or otherwise suppress those who voice an opinion or hold a view in opposition to those of the World-Of-Man Government construct power holders. To justify its illegal exitance, it is also utilized on rare occasions as a venue for rendering sanctions and punishments for violations of the Laws of YHWH Elohe Yisrael, for all except those under the protection umbrella of the World-Of-Man Government power brokers.

28) The courts are nothing more than a revenue generating source for the world-of-man Government construct leaders, who already have this nation in trillions of dollars of debt; That can never possibly be repaid or called in as it would be the fidiciaray destruction of the Republic; and these leaders and officials continue to spend money that does not nor will ever exist; counting on securing bonds from private and foreign entities using the potential earnings and lives of the living breathing sentient natural sovereign mortal as collateral for these obligations of record.

## Epilogue

As a pro-se litigant, without formal 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 a pro-se litigants contentions offered in pleadings and motions, where such contentions are based on personal knowledge, set forth as facts that would be admissible as evidence, and where the pro-se litigant attested under penalty of perjury to the truth of the contents, National Hockey League v. Metropolitan Hocke Club, Inc. 96 S.Ct 2778 (1976), some would argue that in one breath I invoke the protections secured by the world-of-man "Government" documents. Then in the next cry that they do not apply to me. However, it is they who are attempting to muddy the otherwise clear water, what I am plainly and clearly stating and as is found expressed in the charter, contract, covenant and social compact and what I claim is true and accurate. The founding documents and their subsequent follow-ons are not controlling or limiting over me. They do not define what I can and cannot do. If you find yourself disagreeing, I challenge you to go back and again read these documents. I as a living breathing sentient natural sovereign mortal am not subjugated to them. They were penned with the intent, purpose and design to secure protections for the natural person from the abuses and corruption of powers previously experienced throughout world history so the such should every be rendered unexperienced by current or future generations.

Expressio unius est exclusio alterius

Falsus in uno, Falsus in omnibus

Respectfully Submitted,

James E. Whitney, Pro Se

Sui Juris In Propria Persona

#163817

P.O. Box 600

Grady, Arkansas

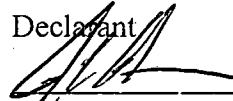
71644-0600



**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 12<sup>th</sup> day of oct 2018 C.E.

Declarant



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