

**In UNITED STATES APPELLATE Court
For the SEVENTH CIRCUIT of the UNITED STATES OF AMERICA
219 S. DEARBORN ST CHICAGO IL, 60604
<http://www.ca7.uscourts.gov>**

APPELLATE CASE # 11-1639

**THE CASE APPEALED: 10-2257 Judge David G. Bernthal; presiding.
US district court for the central district of IL/ Urbana div.**

**Titled: the legal determination of constitutionally guaranteed: first
amendment redress law!**

**THE REVIEW OF DEMOCRACY IN THIS APPEAL FOR JUSTICE: or
more simply, “do we the people own this nation or not”?**

dated: April 4, 2011

**JAMES FRANK OSTERBUR
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VS

**United States of America
Internal Revenue Service/ dept of the Treasury; 1500 Pennsylvania ave NW DC
20220
the Solicitor General ROOM 5614, Department of Justice,
950 Pennsylvania ave, NW Washington DC 20530-0001
the US Attorney General US dept of Justice 10th and Constitution avenues NW
Washington DC 20530
the President Barrack Obama; 1600 Pennsylvania ave NW , DC 20500**

**Plaintiffs response: to the issues of constitutional law/ avoided by the defense.
his “rule to show cause”.**

The court knows that in clear and concise definitions of Constitutional law/ wherein this appellant has demanded the simple truth: that REDRESS OF GRIEVANCES a first amendment right guaranteed to all the people by the constitution of this United States of America. Controls the courtroom, and the judge. You have NO discretion/ it is the law/ by oath you have committed yourselves to obey. That is a simple fact.

There are NO ISSUES of jurisdiction: there is merely the question of whether the judicial employees/ leadership of this government, working for our democracy as: “WE THE PEOPLE: who rule ourselves by law”. Must obey our constitutional demands or not? Do they instead: the judicial Claim to be superior to this people and their law/ is correct, or not? The constitution commands the judge and the court to obey that constitutional law, called redress of grievances: Want to, or not. Simply yes or no! An act of rebellion or treason against the people to refuse; simply yes or no?

Every court in this nation is required to obey the constitution of this UNITED STATES OF AMERICA, is that not fact. Every courtroom in this nation is required to assist and establish the guarantees of each and every citizen of this nation without jurisdictional issues. Because that is fundamentally and functionally the job of both courtroom and judge; GRANTED to you by your oath of office that said: “I shall obey and protect the guarantees and duties of this constitution for this nation called the United States”. Prove me wrong.

Every court/ every judge, in America is required to uphold the fourteenth amendment guaranteeing me not only the rights granted by the constitution/ **but the jurisdiction that cannot be denied in the matter of constitutional law. Due process is not discretionary/ it's the law.** What is guaranteed to me/ us cannot be dismissed without the law established as true. Therein you stand as criminals, fully intent upon an active and vile rebellion against the people of this USA. BECAUSE you honor them not. Your actions seek to destroy the foundation and fabric of constitutional authority/ and subjugate it to the failure of employees too lazy or vile to accept their duty. This case is no less than the supremacy of law within this nation. This case is no less than the supremacy of constitutional authority over every employee and inferior law in this nation. That means: it is a matter of treason to find yourself on the side of those who believe they can usurp and deny the constitution or this people. Let the people decide.

The foundation order of this nation, upon each and every employee in government is the same/ and that goes even more so to each and every employee in the judiciary. Again it reads:

you shall accept *“WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.”*

The reality of work accomplished by the evidence in court throughout this case is very simply this: Every single demand made upon the court, its judge, its lawyers from the people; by the constitution: upon you, has been not only discarded/ but rebelled against, by each litigant and member of the legal bar, in this case. You know what the law is. With full and clear knowledge that to deny, defraud, and disperse constitutional law is a criminal act. You know, that the defense of a nation depends upon you/ and still you rebel against the foundation of this society, its very democracy. That is a crime, to stand against the constitution of America and establish a barrier against all it stands for. That is, the act of a traitor to this nation. I suggest you relent, immediately.

As to “final orders” granted by the court, or not! They are irrelevant apart from the criminal case that comes next. YOU STOLE, or are attempting to STEAL; my legitimate constitutionally guaranteed rights. *“A right inestimable to me/ us, and formidable to tyrants only”* You the judiciary are in fact attempting to STEAL OR DISCARD, every democratic truth and promise to us all/ because the constitution is NOT subject to your denial or dismissal/ it rules over you; because it rules over us all. It is, “all or nothing/ you have no authority to tear it apart”. You have failed in its entirety to prove me wrong on even the tiniest scale of justice/ and instead use the violence of irrelevant and erroneous detail in an attempt to use weapons which cannot legally deny a constitutional right. But that is your intent: it consists instead of law/ as rebellion against the laws and rights of a citizen/ every citizen, in this USA. That is illegal, and I will be charging the members of this judiciary; with treason, in criminal court, if it becomes so. While you may feel safe, at this time snugly hidden behind closed doors/ locked behind guards and gates. It is entirely possible that there shall be people outside those walls that believe a constitutional guarantee is in fact the law, and a right that cannot be denied. Not by you, or me. That makes you, and the judges/ defendants listed: the criminal defendant, in a case of treason against the USA. Not me threatening you, what can I do/ rather it is the law threatening you through the constitution; and WE THE PEOPLE who hold that our rights as a democracy shall be enforced. This is a demand to identify and establish: DOES THE

CONSTITUTION RULE this nation or not? Its our nation, not yours. Let the people decide.

There is no immunity to hide behind in the denial of constitutional law. The criminal act which is to use the courtroom of this USA against the nation itself/ against everything it stands for and promises to this people; is functionally an act of war. That is not a small or indiscriminate matter/ but reeks of the possibility: there shall be an interest/ there shall be a result in media and community. A war on you, by the people for their rights/ and for their nation by law, not rulers over them. It is their choice, not mine.

This is not a civil rights case, which suggests there is room for arbitration and mediation or compromise; there is not. **This is a constitutional rights case; which demands the contract of America to its people SHALL be enforced by the law.** Even if that law brings the judiciary itself, to trial/ they are equal/ not superior, the law decides. THAT is what it means to be a democracy: we the people rule ourselves, by law! Not a game, a reality.

The failure in all aspects of America as is apparent through the tragedies in money and other obvious consequences of the employees we hired; to work for this nation, GRANTS the right to demand accountability. That fact needs no further dispute. **That, Establishes the right to withhold taxes in a direct intent to explain to our employees that we will have our democracy as established.** That democracy is: WE THE PEOPLE, shall rule over ourselves/ by law. THAT LAW governs your ability to say no/ to redress of grievances. And the law proves, you have no right to do so/ consequently a criminal act, and more so; an act of rebellion or worse. Let the people decide.

Under constitutional law, you have no right to consent or deny the substantive disposition of this case by a judge. The constitution controls/ the judge is its servant, NOT its authority. The constitution demands your obedience or accuses you of rebellion against this UNITED STATES OF AMERICA. That, is the fact of law. It's a choice, to obey and do your duty for America choosing for democracy and the people. OR, it's a choice, to deny the constitutional guarantees afforded and protected by the constitution of this USA, and defy the people/ attempt to destroy the law/ and participate in this treason. The intent to remove our authority, as WE THE PEOPLE, under the constitution of this USA. Make your decision. Because criminal court comes next/ if not the supreme court. Its your choice. **Or obey the law and establish redress of grievances/ providing the courtroom; and doing what the people require: for this nation called America.**

You have a contract with this nation: we gave you a job, and that job was to uphold, defend, protect, and obey the constitution of this USA. The complete and substantive failure of the judiciary and legal services of this USA, along with their respective defendants at trial being: the US attorney general/ US solicitor general/ US President/ and US dept of treasury; IRS. Each of whom are employees bound by that same oath and contract to uphold, defend, protect, and obey the constitution of this USA. Shall not stand, or the democracy that is America dies/ because that is what you are asking to do. To kill the US constitution and declare its promises null and void. THAT IS, An act of treason, without doubt/ punishable “by the people”. There is NO IMMUNITY for that/ not for anyone, least of all the judiciary. “You know the law/ you took an oath”/ therefore it is blatant and severe; an act of defiance against we the people; that is so extreme its called treason .

Legal text offers: that due process is “fundamental fairness (*you deny the constitution exists; you cannot rewrite it to suit you*).....questioned as to legitimate or lawful objectives here (*the reality is you choose to abuse the law/ destroy the intent of the constitution/ and demand you are the authority rather than the constitution. That is open rebellion; against this nation called America*)..... my goal/ my demand: is the constitutional right called redress of grievances according to the first amendment (*prove me wrong, and I go away/ along with all criminal consequences*”. *Fail to prove me wrong, and YOU are not only violating the law; but rebelling against the nation itself. That is a criminal act, and a felony; because this law has true and real value to me, and to the nation itself*)....**the legitimacy of this entire nation to hear the right of redress, and accept its cost for themselves is absolutely proven real/ by the “signs of the times”**. We are **threatened by true catastrophe in many ways**. Whereas your decision is: “Let this nation die/ it deserves nothing called constitutional right”. Or more simply: the employees bind together to say: **WE ARE THE DAMN RULERS HERE/** get out, to the people, and to me. How is that not traitorous? Where is the respect between government employees and their function deliberately associated with constitutional law, and me, or this people/ as each one is guaranteed the same right as am I? The reality of your words dictates and demands: respect does not exist in this trial, the excuses are absurd. Rather than law, the sewer has been revealed: **a true and illegitimate conspiracy by the judiciary to deny and defraud me and the people of America, of our constitutional first amendment right called redress of grievances**. Proven in courtroom after courtroom, by undeniable evidence. An act not only called desertion of duty/ but clearly treason, that comes

from the “top down”/ fully established by the [US supreme court in case 08-1339](#). You are not rulers/ thereby you have NO authority over the constitution. **It belongs to us, which means clearly and simply: WE SHALL have the final say!** You made an oath to get your job; to be subservient to the constitution. Consequently you are now approaching criminal, and more. The game is over. Decide for the nation, to obey WE THE PEOPLE/ or you do establish: the judiciary and leaders, in war against the people of this United States of America. Let the people decide.

Your excuses listed, DO NOT come close to substance or merit in cases of constitutional law/ therefore they are excused or removed; with prejudice. **I have given no consent to allow for the consideration of this case as a civil case. This is a constitutional law case/ and you have no substantive defense against the demands to obey constitutional law, and provide to each and every citizen such as me: the RIGHTS granted to me by the constitution of this UNITED STATES.** My right exists. Your excuse does not/ neither does ANY assertion of the lack of jurisdiction have merit: as this is constitutional law, and EVERY JUDGE AND EVERY COURTROOM is demanded that they shall not only know, protect, and serve that law within that court. But you gave an oath, under penalty of law to serve the constitution and this people, and establish the authority of the constitution. Open rebellion against the constitution; brings that penalty to bear. Let the people decide.

You lie in a courtroom of law: by asserting “any litigant” may consent to the determination of civil cases as well. By that assumption, anyone may simply walk out of court/ by saying, “I don’t consent to trial”. That is open and literal defeat of trial, by the power of arrogance and failure to protect the law; an absolute heinous disgrace. That is absolute corruption within the courtroom of this USA/ it is a lie, because it serves no purpose called justice. **PROVE ME WRONG.**

As to a final appealable order, the district judge has had his say. He played a game and lost. There are no issues of jurisdiction, this is constitutional law; prove me wrong.

Constitutional law is the jurisdiction of every courtroom in this nation/ the authority required to give the judge his or her power to decide by the law. Prove me wrong. Constitutional law IS OBEYED: by providing justice, protection, and obedience to the constitution itself: under the authority of WE THE PEOPLE, chose this for ourselves. It is a fundamental requirement of every courtroom, judge, and lawyer in this nation; to obey the constitution; therefore it is the jurisdiction provided to the people in all aspects of constitutional law, in every

courtroom. Prove me wrong. **Constitutional law is NOT** “A NON-jurisdictional waiver provision”/ that is a lie. Constitutional law, is mandatory obedience by the judiciary and its lawyers for the people; or dismissal with penalties beginning as contempt, and moving beyond to treason. The court moves to interests involving criminal conspiracy, “and the mob attempt, by associated members”: to control the constitution and vacate its authority by developing a tight-nit cluster of fools; who believe the LAW, as is the constitution, has no power over them.

The defense assigns to me “like this prisoner”/ in this matter of constitutional rights. Suggesting that the nation, every citizen herein, who is guaranteed the laws and rights of the constitution itself: is nothing more than imprisoned by this judiciary and legal defense. Arguing: “deceit as established by rules, and ultimate authority over the constitution, by dismissal”/ makes them rulers over us. It is not so. Having acted to steal and take away the constitution and its declaration of democracy: that, “we the people shall rule ourselves, through this law”. These acts are, fundamentally an act of war against this USA. Because it seeks to oust the ruler of this nation called WE THE PEOPLE. Our authority over the constitution as our law. And it places those acting as the judiciary/ these leaders, in our employ; as our rulers; instead of employees. Did they not make their own law and rules of the court instead/ throwing out this constitutional law called redress. Is that not, disbanding/ defrauding/ disrespecting justice, honesty, fair play, truth, and this people; by replacing life and guaranteed rights with a damn rule, with innuendo, lies (I can’t understand; other cases), deceit (frivolous, even though it’s a constitutional right; other cases) and more. Indeed they did.

I have objected to the report and recommendation within the time frame granted by the district court. By your own admission this case has not been closed by the district court. THEREFORE IT IS VALID and true. Even though by all means of reality, we have moved by the guarantees of due process into the appellate court, and now the “ends of justice” must be proven true, or not true; here.

The defense argues, that a prisoner’s mail not being delivered to him is the same or equivalent **with this case: on constitutionally guaranteed rights FOR EACH AND EVERY CITIZEN IN THIS USA.** The defense is a liar/ as these cases have absolutely nothing in common in truth or law. This line of defense is, excused or removed; with prejudice.

The appellee’s defense relied heavily upon “the waiver argument” because he had NOTHING else to argue with/ as is evident again in this “rule to show

cause”. Because there is nothing else to argue over: **redress is the law/ as is justice/ fair play/ due process/ constitutional guarantees/** and criminal prosecution of those who deliberately act in defiance of the laws and their oaths provided to this nation. Stating “WE SHALL OBEY the constitution of this USA”. When in fact, they do the opposite as proven in this court of “law”.

MAKE YOUR DECISION.

CONCLUSION

THIS constitutional case, involving first amendment rights for each and every citizen of this USA, is under appeal here. That means in fact: the district judge DID give his final judgement on the foundation argument established by trial 10-2257. That judge Bernthal chose to elude and dismiss the constitutional demand for redress of grievances as the cause and purpose of trial, which was CLEARLY ESTABLISHED. By the words of his report and recommendation: the realities established by the defense: all actions and intent of that report and recommendation was to steal my rights away to proceed. The defense having established that as true. MUST NOW FILE his own complaint against the judge Bernthal: because it is illegal to subvert justice, usurp the constitution, deny due process (*which participates as the right to receive judgement on the argument given in court; by its purpose, which was redress of grievances*). I received NO such due process of law/ despotism instead. Rather than obeyed, the law is denied, the judge in contempt, at a minimum. A criminal act established as fact. The defense is reminded his job: IS TO SERVE JUSTICE, AND THE NATION/ it is not serve the other employees. Simple as that/ anything less is a denial of oath.

Therefore the law provides to me a new court: a court that shall hear and order the equitable action of a citizen demanding his guaranteed rights under the constitution of this USA. The only true jurisdictional issue here is: HOW BEST, should the people of this America/ brings these enemies to justice, because the courtroom is proven corrupt.

The demand of trial remains the same: establish redress of grievances in the courtroom for this people called the United States of America. As is the law, by HONEST AND TRUE, constitutional INTENT, and guarantee.

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redress law!**

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“do we the people own this nation or not”?**

dated: April 4, 2011

IT IS HEREBY DECLARED, I, JAMES F. OSTERBUR HAVE MAILED, or DELIVERED,
TO THE US APPELLATE COURT, AND EACH OF THESE DEFENDANTS; A TRUE
AND CORRECT COPY OF THESE COURT FILINGS, WITH THE PROPER POSTAGE
ATTACHED. IN THE US MAIL SERVICE/ **ON THIS DATE April 4, 2011**

As proof of service in this case, to the addresses so affixed.

**JAMES FRANK OSTERBUR
2191 county road 2500 E St. Joseph, IL 61873**

<http://www.justtalking3.info>

VS

United States of America

Internal Revenue Service/ **dept of the Treasury**; 1500 Pennsylvania ave NW DC 20220
the Solicitor General ROOM 5614, Department of Justice,
950 Pennsylvania ave, NW Washington DC 20530-0001
the Attorney General US dept of Justice 10th and Constitution avenues NW Washington DC
20530

the President Barrack Obama; 1600 Pennsylvania ave NW , DC 20500

this document titled:

Plaintiffs response to the issues of constitutional law/ avoided by the defense.

his “rule to show cause” dated April 1, 2011

added is:

US attorney for the central district of IL

DAVID H. HOFF 201 S. Vine st. Suite 226 ste 218 Urbana IL 61802 / us attorney
one copy to the US DISTRICT COURT, 201 S. Vine st ste 218, Urbana IL 61802
One copy to: US appellate court 219 S. DEARBORN ST CHICAGO IL, 60604