

IN CHAMPAIGN COUNTY COURT  
101 E. MAIN ST, URBANA IL 61801  
www.co.champaign.il.us/circt/

JAMES FRANK OSTERBUR  
2191 county road 2500 E. St. Joseph IL 61873  
<http://www.justtalking3.info>

Vs

STATE OF ILLINOIS  
GOVERNOR; P. QUINN  
207 state house, Springfield IL 62706  
ILLINOIS DEPT OF REVENUE; James R Thompson center, concourse level 100  
W. Randolph st, Chicago IL 60601-3274  
IL Attorney general: 1776 E. Washington st Urbana IL 61803

attorney appears, added for the defense:  
assistant attorney general Joshua I. Grant 500 S. second st. Springfield IL  
62706

DATED: 1/ 8/ 11

CASE #: 10 MR 853

**RESPONSE TO DEFENDANTS, SPECIAL AND LIMITED  
APPEARANCE;** dated February 4, 2011

*The assertion that the court may decide based upon the records and affidavits without a hearing fundamentally preferences and prejudices the courtroom with assumptions not based in fact. Those facts are listed below. **The clear intent being to deny my day in court, with frivolous and irrelevant detail that functions more greatly on the side of a lie/ than justice or the truth.***

The defense affidavits provided, each declare: each of these defendants have been duly notified/ they have appeared in court: and they are at trial in this day. Their only legal action for this filing, my demand: **democracy SHALL RULE by its own law called redress.** Is their complaint, legally notarized for verification: "He did not properly summon us"/ a reality of cowering in the corner, rather than being dignified or respectful of the law.

Is justice and due process served by constitutional law/ OR A frivolous RULE of the court? In serving the government official, until it has been identified

WHO can be served/ there is no threat, which means “leaving a copy with the chairperson or clerk” is sufficient. Answer the question and prove, under constitutional law requiring; YOU the court, TO ESTABLISH DUE PROCESS. Prove the defense was NOT duly informed and fully understands the legal action against them; exhibits “I,J,K”/ prove they are! Prove for me: that this rule, “only a sheriff, coroner, civilian personnel employed by a sheriff, certified detective, court appointed special process server, person appointed by the court, and not a party to the action, or otherwise authorized person may serve process” has more right and authority in the form of justice: than do the people in demanding of their government employees: THAT THE LAW, called redress; SHALL BE OBEYED!

The defense rather proves my case himself: page 3 of the memorandum 2-211 “*in actions against the public, municipal, governmental..summons may be served by leaving a copy with the chairperson...clerk...president...or other officer corresponding thereto in the case...*” There is no mention of who may or may not leave said information! There is no identification of an individual to be served or a specific office: BUT THERE IS the rights provided by article 3 of the US constitution providing that I may indeed take my state to court. Do you prefer federal court? Making certified mail eligible, as is consistent with federal rules for summons: because the mail is not a party to the action/ and I did authorize it to do so on my behalf.

Consequently as has been demanded in the past. **PROVIDE THE NECESSARY PAPERS AND INSTRUCTIONS/ ADDRESSES/ AND NAMES. I will comply, and with that: ALL assertion that the details of this court case can dismiss it: DO COMPLETELY DISAPPEAR!** IT IS your job to do so! Is that NOT what justice and the rule of law demand? Prove it is not so.

**The assumption** of law, by a rule; IS NOT a foundation of justice. The use of rules, without substance is a game without honor/ depicting deceit and defiance of due process instead of rights established. The law governs here/ NOT rules. Democracy exists as law/ not the interference or apathy of people who intend to control, by making frivolous and irrelevant rules.

The foundation of this defense is: that the procedure for summoning an employee of the US government is not sufficient for the state of IL. YOU ARE reminded of “*McCulloch v. Maryland (1819) let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional*”. Or more simply, if its

good enough for the United States of America, its good enough for you.

Article 3 section 2.1 of the US constitution provides “the judicial power shall extend to all cases in law and equity, arising under this constitution.....between a state or the citizens thereof. The jurisdiction of the court is fundamentally secured, as these are each one representatives of this state of IL government. Unless you denounce the authority of federal law.

The defense states: I received the letter sent Ex B CLEARLY INDICATING that they did in fact receive the notice to come to court! In other words all foundations in or of judicial merit: for a proper notice were achieved.

The letter, Ex. B says to the court: The subpoena’s given to me in this case by the clerk’s office....proved insufficient for the police to serve(*hence the letter one day later*). .. You must prove it insufficient”OR provide the necessary subpoena, with all information necessary to me... that is your job”.

My job is too seek justice/ and support duty: the call for fair play and equality/ through justice. Yours is to provide that opportunity through the fourteenth amendment called DUE PROCESS.

Ex. B further states that neither judge leonhard nor judge Difanis can be “unbiased” with regard to me, James F. Osterbur/ because I have taken them both to court. Which began as 10 mr 766: and became another case of complete criminal contempt by the court, which remains moot; and this presiding judge, over the champaign county courthouse. **Due to the fact, judge Difanis presides/ it is then he that refuses to adhere to DUE PROCESS.** Judge Difanis is further accused by me of failing to obey the law, called redress of grievances/ whereby I have informed him of potential criminal consequences: as IT IS OUR LAW! That case continues to proceed as the state supreme court appeal of IL 4-10-679. The job of a courthouse, is NOT to hide from the law, or due process/ it is their job to instruct and apply the law. Rules that interfere, with justice; “be damned”. THE JOB of the IL attorney general:

SECTION 15. ATTORNEY GENERAL - DUTIES The Attorney General shall be the legal officer of the State, and shall have the duties and powers that may be prescribed by law. (Source: Illinois Constitution.) Therefrom having been informed of this fact. It becomes your job to instill upon this court the necessary influence required: so that they do obey the law/ and provide DUE PROCESS, with all means necessary to complete that demand according to the law.

According to the demands of the constitution both state and nation called “we the

people”/ NOT you the employees can do whatever you want.

The current civil case is US district 10-cv-2277 Osterbur v. FBI Therefore exhibit A. Identifying judge Difanis as the presiding judge here: should have caused his recusal from this case. The fact, even with notice; that he did not. Does NOT bode well for your assertion of justice or jurisdiction.

Having received NO NOTIFICATION of the process being undertaken to establish a subpoena/ the court refusing to be involved/ the defendants silent above which party or individual I should serve. The failure of the court to direct and apply the most basic right guaranteed to each and every citizen of this state and nation: ACCESS TO COURT/ proves that I did the best I reasonably could be expected to do under these circumstances. The petition Ex. D illustrates the deficits of the original courthouse subpoenas provided to me. **The police dept stated I must have a courtroom and time for them to be served.** As stated plainly on exhibit d. Again requesting of the court: “kindly correct this matter immediately.....”

The fact this was apparently NOT the appropriate subpoenas for this matter is the courts fault/ not mine, for I do not state or claim to be a lawyer/ thereby dependent upon the court for such minimal matters as these. They failed.

Finding in fact that the court refused to comply with exhibit D. Left me with the option to return back to the court and obtain alternate subpoenas which were then sent on January 5, 2011. The amended complaint speaks for itself.

The three specific people providing affidavits on page 2 of the defendants memorandum have not appeared until this date.

Therefrom and thereby the defendants background proves MOOT before the court/ as neither court/ judge/ or defendant aided or abetted the call for justice: but sought only to impede and proclaim “**a rule not met**”. **Simply because they refused to comply/ not me!**

**The use of a rule to avoid compliance with the law/ or disrupt and thereby destroy the call for justice: is in fact a criminal act. INHERENTLY THE ABUSE AND DISRESPECT, of this people, called the state of IL.**

### **THE DEFENSE ARGUES**

That jurisdiction exists (1) when proper summons has been made. I do not refuse: BUT YOU MUST PROVIDE the proper and legitimate names and addresses for this to exist/ and neither the court nor the defendant has complied.

(2) a general appearance has been filed: did I not file/ pay/ and proclaim I am pro se. Explain to me in detail exactly what I lack/ as was previously demanded and the court failed to do in exhibit B. It is the defendant that fails to present a “general appearance of his lawyers”. They are at fault here, NOT me.

(3) process has not been waived: rather the court has failed to provide due process, thereby granting access to the courts as is guaranteed to me. This case is then colored, by contempt within the judicial and state employees, **who have sought to avoid THE LAW, rather than obey it.**

The defense argues: IL requires “summons may be served ...with the president or clerk or other officier corresponding thereto...” Who better describes the “president of the state of IL, rather than the governor?” Who better describes the clerk, of the IRS other than its representatives in the field: the summons was received/ the proof is now filed. Who better to understand the needs and requirements to be met when filing a lawsuit against the state of IL; than its attorney general?

**I HAVE INDEED MET THIS CONDITION.**

Page 4 suggests only a sheriff.... yet without the proper names and addresses of who to summon/ that is impossible. Exhibit G seeks to identify that problem and correct it. The attorney general’s office fails, and proves contempt for process.

**Prima facie basis understands the cause of this challenge to be BASIC and PLAIN!**

**WE THE PEOPLE NEED OUR CONSTITUTIONAL LAW, CALLED REDRESS OF GRIEVANCES. It is our guaranteed right. Thereby refusal is an act of criminal intent or rebellion against both the people of this state and nation. REDRESS IS THE LAW! There is no option for you/ other than criminal or treasonous acts.**

Other conditional realities and purposes within the law exist as this case: the IL constitution demands.

**Constitution of the State of Illinois Adopted at special election on December 15, 1970** PREAMBLE We, the People of the State of Illinois - grateful to Almighty God for the civil, political and religious liberty which He has permitted us to enjoy and seeking His blessing upon our endeavors - in order to provide for the health, safety and welfare of the people; maintain a representative and orderly government; eliminate poverty and inequality; assure legal, social and economic justice; provide opportunity for the fullest development of the

individual; insure domestic tranquility; provide for the common defense; and secure the blessings of freedom and liberty to ourselves and our posterity - do ordain and establish this Constitution for the State of Illinois. (Source: Illinois Constitution.)

**The preliminary brief as is dated December 2, 2010 clearly indicates that NONE of these demands of the people have been met/ and in fact been defiled/ dishonored/ and disrespected by our employees of government. Thereby redress proves necessary.**

ARTICLE I BILL OF RIGHTS SECTION 1. INHERENT AND INALIENABLE RIGHTS All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed. (Source: Illinois Constitution.)

**Of the many realities inflicted upon “we the people” by our employees of government, the one most clearly disgraced to the majority is a complete failure to obey the economic realities of this day or the past. We must provide our own safe guards because of that fact. Redress is required.**

SECTION 2. DUE PROCESS AND EQUAL PROTECTION No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws. (Source: Illinois Constitution.)

**I, have found the court belligerent to the law called redress/ in open contempt and rebellion against OUR LAW, both state and nation called REDRESS. And willing to disgrace us all, by their refusal to admit, we the people are owners here. The proof is again easily identified by this case/ as is so many others; generated by myself: and the fact, “no redress trial has ever existed inside this state or nation” EVEN THOUGH IT IS THE LAW! That is outright denial of democracy/ and contempt for this people and their laws. By the judiciary.**

SECTION 5. RIGHT TO ASSEMBLE AND PETITION The people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances. (Source: Illinois Constitution.)

**REDRESS of grievances is the people's decision/ as is portrayed by pages 8-10 of the brief filed. I do not demand the court provides me with redress. I DEMAND the court provides "we the people" with our legal right to decide if we shall invoke our authority over this state, as its citizen majority/ through the discovery of a need, as is represented by trial. And subsequent work throughout the counties of this state, so that by vote: WE THE PEOPLE HAVE SPOKEN. And our employees shall then give account, of what they have done. As we demand/ our courts insure, "no liars" here.**

SECTION 6. SEARCHES, SEIZURES, PRIVACY AND INTERCEPTIONS The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized. (Source: Illinois Constitution.)

**My living, and therefrom my life has been seized by frivolous and irresponsible actions of the employees working for we the people of this state called IL. The foundation of taxation is to secure: inherent and inalienable rights among which are life, liberty and the pursuit of happiness. Our employees have failed/ proven clearly by the recent increase in taxes. They are using taxation to make themselves rich, to give themselves pensions and benefits and retirements we cannot have. At our expense!**

**We deserve our authority, as a democracy; to establish WHY this has happened, under redress: IT IS THE LAW. It is our protection under the law, from those who rebel against us. *And it is our right to decide IF THOSE PEOPLE who made us bankrupt/ should be the ones to pay their own debts/ INSTEAD of us. Shall lose their pensions, salaries, healthcare, etc/ JUST LIKE US! Redress is our right to decide/ not your right to refuse an accounting of what you have chosen to do in our name. Our contract with you was and is: we gave you your job, under sworn oath that you would obey the constitutional agreements we have made with each other as citizens of this state and nation. You failed/ and as per that contract: we do demand an accounting of the truth, the reality, and the future created by your leadership and ways. BECAUSE OUR LIVES, have been affected beyond all measure of contractual agreement.***

SECTION 12. RIGHT TO REMEDY AND JUSTICE Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly. (Source: Illinois Constitution.)

**The actions of our employees in this state HAVE jeopardized my life, my happiness, my family, my money, the sanctity and value of my environment and future. Redress is our right to demand why! It is the law/ thereby no possible cause exists to deny what is legally mine. The law, called redress; both state and nation.**

SECTION 13. TRIAL BY JURY The right of trial by jury as heretofore enjoyed shall remain inviolate. (Source: Illinois Constitution.)

**The demand of redress herein is for a jury trial to decide if in fact redress serves this state/ and should go forward as our authority over the state employees of this place called Illinois. AS DEMOCRACY provides. I have a right/ we have a legal right: to demand compliance with our authority as rulers over ourselves.**

SECTION 16. EX POST FACTO LAWS AND IMPAIRING CONTRACTS No ex post facto law, or law impairing the obligation of contracts or making an irrevocable grant of special privileges or immunities, shall be passed. (Source: Illinois Constitution.)

**Democracy is NOT simple surrender of authority to those who have collected sufficient votes or claims of superiority. RATHER democracy is a contract specifically entered into with our most valued employees by their sworn oath: “YES I WILL, follow the demands and purposes of the constitution which is the agreement of this people; AND THEREBY DOES constitute the government which controls us all. Your contract to lead, is based solely on your acceptance of this demand: OBEY THE CONSTITUTION WE PROVIDE! Adherence is not an option/ it is your sworn duty.**

SECTION 23. FUNDAMENTAL PRINCIPLES A frequent recurrence to the fundamental principles of civil government is necessary to preserve the blessings of liberty. These blessings cannot endure unless the people recognize their corresponding individual obligations and responsibilities. (Source: Illinois Constitution.)

**This section of the IL constitution demands it is my duty to provide DUE PROCESS as is available through the law called REDRESS OF GRIEVANCES/ to us all. That we the people may then act as our government, and reestablish the rights and fundamentals we desire most. Our employees have failed, it is required and given credence, value, and reality by this section.**

SECTION 24. RIGHTS RETAINED The enumeration in this Constitution of certain rights shall not be construed to deny or disparage others retained by the individual citizens of the State.

(Source: Illinois Constitution.) In other words, it is the people who hold true power over this government called the state of IL/ not our employees. Redress is our law/ we demand it!

### **JURISDICTION OVER THE DEFENDANTS**

THE FUNCTIONAL PARAMETERS OF THIS CASE, distinguish the entire state of ILLINOIS as being led by those who have failed us all/ who better than the governor to defend against that complaint? There is no one else.

The legal parameters of claiming redress of grievances: REQUIRES that our employees of this state of IL SHALL defend themselves! Who better to represent them than the attorney general of this state? There is no one else.

The foundation of authority as owners within this democracy of this state called ILLINOIS: As OUR POWER OF THE PEOPLE, to demand our authority shall be respected and obeyed. IS FOUND IN THE MONEY CALLED TAXATION. Without our money, our paid taxes; our employees have no authority of their own. This state shall stop. This state of our state, SHALL go forward in truth: as the accounting we demand, in redress. Because if it does not/ WE WON'T PAY. There is no other way. THE DEMAND as in a jury trial to determine and decide the base relationship our employees within the IRS expect to attack us with regard to withholding taxes for democracy MUST exist. My own 2005 taxes withheld for democracy shall be that test.

The defendants failed to do their duty and provide the necessary information required for due process. As state employees they are required to assist and defend the right of trial for each citizen/ NOT avoid it. They failed/ not I. Let them present that information, the summons appropriate, and the people to serve; and I will still comply.

I have served the proper individuals and departments of government. They refused to appear, in defiance of due process: established, by my clear attempts to establish the proper summons.

The serving of a summons long distances from my residence/ is a violation of my right to expect "a fair hearing". The people and places and definitions of those who could have served this summons for me in these places WAS NOT provided, by this court or this state. The certificates establishing payment and receipt of the mail provided by me to the clerk of the court/ AND REFUSED legal status, as corroborating evidence of my intent to comply; by this attorney. Submits an arrogance that suggests, "the law is a game to be played/ my right to due process merely evicted as some toy". Thereby the guilty have sought to

induce dismissal, with contempt, and fraud: is this service to the law/ is this justice for the people? Or is it blatant prejudice and bigotry, with a clear intent to avoid and deny, the law of our constitution both state and nation. Is that not “clear rebellion against this democracy”?

The police stated to me: they could not serve outside their jurisdiction/ nor could they serve without a time and date upon the summons provided by the court. There is no other recourse, than certified mail: and as the defendants have presented proof of receiving those summons. This complaint is moot. YOU WERE SERVED, and refused to show up in court as required. BECAUSE YOU KNEW, and had every opportunity to resolve this matter by legal and proper means and methods/ but chose to fail instead.

It is democracy that now serves this court and these employees with the proof of their authority. **THE LAW OF REDRESS GIVES JURISDICTION TO THE PEOPLE THEMSELVES/ IT DEMANDS THE COURTROOM/ ITS JURY/ as our legal right** AND IT requires the JUDGE: so THERE CAN BE NO LIARS, NO FRAUD, NO CONTEMPT, OR EXCEPTIONS FOR AN EMPLOYEE TO REFUSE. Redress lays the foundation of democracy by proving, WE THE PEOPLE shall rule ourselves! It gives to the attorney general the demand to defend these employees, who must give account: from WE THE PEOPLE, who shall then decide.

The court SHALL OBEY THE LAW, called REDRESS of GRIEVANCES for this state and nation. Or face criminal contempt, or worse.

CONCLUSION: This trial has begun. This defense petition has no merit! It, Fails the test of justice or constitutional intent and the spirit within which it was written. It is an act of defiance, believing the law can be destroyed by a fool.

If you refuse, we go to federal court.

**THIS IS DEMOCRACY, coming to collect what is rightfully ours.** The law will rule! Or you will be proven in open rebellion against this democracy, a traitor to its cause/ or a criminal intent upon defiling the preservation of justice, establishing failure in the court, thereby an enemy of this people.