

Illinois Appellate Court
201 w. Monroe st. Box 19206
Springfield IL 62794

Out of the CIRCUIT COURT, OF CHAMPAIGN COUNTY ILLINOIS;
located at 101 E. MAIN ST. URBANA IL 61801

JAMES FRANK OSTERBUR
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VS

STATE OF ILLINOIS
city of Gifford IL

The appeal of case 2011 TR 022442
DATED: 6/ 28 / 12

APPEAL # 4-12-0429

Motion to include the fine of \$10,000.00 against
State of ILLINOIS/ /champaign county court.

RE: MOTION FOR IMMEDIATE decision
on the demand by Champaign county court/ for payment, PRIOR to the conclusion of this appeal
Has failed, the foundation called DUE PROCESS.

WHETHER by the excuse, or the reality of a rule in the court. The foundation of our legal system: is, The critical reality of our promise as a society, whose job it is by the judiciary, to prove: **THAT WE WILL HAVE JUSTICE.** That we will NOT be attacked without cause. That we will have the full legal right, to a fair and just hearing: without the tainting, the destruction, or the reality of UNFAIR TREATMENT. That we will have not only the opportunity to appeal, but the protection of the court in that process so as to know the facts, and be informed of any discrepancy: for JUSTICE, and not oppression.

I informed the court of appeals, that my business/ my income/ my work/ and my reality of employment cannot be separated from the need to transport myself, tools and equipment from going to that work. I stated to the appellate court in this motion: that they must reply before 6/ 26/ 12. It is now 6/28/ 12; because my license is threatened on 6/ 29/ 12. No reply is given.

That means, the Fiduciary responsibility of the court 34 N.E. 2d 68, 70 to protect my life, to justify and accredit any and all actions taken against me: **HAS BEEN DENIED. That is contempt for the process of law/ and for me.**

The elemental difference between a conclusion of fact, and a conclusion of law/ is the rule. The elemental difference between a democracy and a tyranny is: the freedom, and the foundation in law, to establish “the rule is wrong”. Where the rule overcomes JUSTICE AND FAIR PLAY, a tyrant is exposed. The critical and real contract with our judiciary as a people: **to establish justice and fair play so says the constitution. Has been denied/ and supplanted with rules,** that are inconsistent with life, the purpose of society which is to be happy and safe from all predators. The critical truth of democracy: Which is to provide the maximum amount of freedom to each individual/ and the least interference, by those who would rule us, just because they believe themselves to be superior: FAILS. That means, the court is in ruins/ the judiciary in open rebellion.

CONSTITUTION OF THE STATE OF ILLINOIS
(as amended to 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 liberty to ourselves and our pos-

terity - do ordain and establish this Constitution for the State of Illinois.

The foundation of this appeal is: THAT I AM OWED JUSTICE AND FAIR PLAY, not a rule. THAT FREEDOM, where no threat exists IS CONSISTENT with the responsibility taken. THAT A JURY is, societies demand to remove the ruler and his rules/ so that truth and life shall find justice through the people themselves. THAT a rule is nothing more than the insistence of a few, we are experts/ until society gives it more. That this courtroom in 22442 was tainted from the beginning, with the insistence that “this rule” is like a god/ 95% compliance is not enough: I, MUST BE PERFECT.

Within that framework set apart by the courtroom itself: you fail the test of DUE PROCESS. The right and the guarantee, that my/ our lives come first before any rule; and as equals before any law. None are perfect/ therefore this is anarchy: the intentional attack, on democracy (*we rule ourselves*) itself. **Due process by the fourteenth amendment US; states NO STATE shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.**

You, have taken that law, and set it aside with your rule, and insistence for perfection: and attacked not only freedom as it was intended to be/ but the economic stability of my own life, by attacking one of the requirements of my work. That is illegal, work is immune from attack. The privilege to drive is equal to the privilege we give as a people to the police: equals under the law. Therefore a subpoena to prove or disprove “predator” is valid. The foundation to work is NOT A PRIVILEGE/ it is a requirement of life and society: therefore you suggest and stand prepared to enforce a rule in direct opposition to the fourteenth amendment. For nothing more than your pride, “the police are always right”. It ain’t so!

The fourteenth amendment continues: ...;nor shall any state deprive any person of life, liberty, or property, without due process of law;..

I AM DUE, the fundamentals of liberty: “...the right to earn a living”. That is NOT SUBJECT to your rules. That is a guarantee of the constitution both state and nation. Where no evidence of a threat exists/ then there is NO opportunity to interfere in freedom allowed. That is the purpose and definition of freedom in democracy at its core, called individuality. But that is not liberty, which is the right to intervene in freedom for the sake and safety of society itself. LIBERTY conceives of what we need as a society to govern ourselves, without

accepting rulers or their rules. Therefore liberty is limited to the laws, that define and protect our lives. But more critically LIBERTY MEANS: **it is up to the jury** to decide if an action taken by any other, and applied to themselves: is more than freedom will allow. The jury in 22442 was never given the opportunity to decide anything, but the rule. That is not their job, and it is a tainted jury that was dissolved of their 7th amendment US rights and duties.

The 7th amendment states: in suits at common law (*common law, the assumptions of one group versus the reality of freedom for all citizens. OR more distinctly common law is: ..."derived from principles rather than rules; it does not consist of absolute, fixed , and inflexible rules, but rather of broad and comprehensive principles based upon justice, reason, and common sense."* 37 N.W. 2d 543, 547),

where the value in controversy shall exceed twenty dollars (which means in all such cases, *THE FINE/ THE PENALTY is absolutely a part of the case itself, and cannot be refused or denied the jury to know; exactly what they are deciding for. This jury was denied/ THAT IS ILLEGAL*)

The 7th amendment goes on to say: "...the right of a trial shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

Or more simply, the foundation of a jury trial is, that they the jury; shall decide for society by justice and fair play / RATHER THAN THE RULE, in all matters that are not criminal. The rule is revoked, let the people decide.

The subversion of this court is: that they have determined to bring me to criminal court/ so says the court. **To convict, and libel me as a criminal:** because I did not come to a full and complete stop at a stop sign, where no threat of any kind existed. 95% compliance is not enough/ one mile per hour, and being responsible for oneself is not enough: only perfection will do. Only the demand of the ruler/ the expert, is allowed.

The critical compliance with that rule cannot assume or assert, that it is perfect/ it is not. If the rule is not perfect, then the reality is measured by flaws. We then return to the 14th amendment US "...nor deny to any person within its jurisdiction the equal protection of the laws."

Contrary to the claim: "I must be perfect"/ comes the reality, DEMOCRACY IS ABOUT protecting ourselves from those who claim to be superior/ who insist that they are the experts, and they can and will rule our lives whether we like it or not. Whether they can justify their claim to be ruler or not.

The law, by constitutional contract says, “I AM EQUAL, under the construction of justice/ and the need called FAIR PLAY”. Therefore the foundation of every expert is called upon to justify and explain: If you can take away my possessions/ rule my life/ infiltrate my business, thereby my home; and subject me to punishment. THEN YOU MUST be absolutely correct, (If I must be perfect/ then so must you) and your demand must be CRITICALLY NECESSARY: or you have gone too far. **That is the jurisdiction of democracy.**

In terms of this stop sign. The reality is, “my way is better/ for those competent enough to understand and be responsible for their own actions”. Driving up to a stop sign in the normal fashion/ looking both ways then, and proceeding thereafter expecting and testifying “I didn’t see nothing”. Becomes a tragedy too many times/ because the fact is: That the construction of a vehicle includes obstructions, which if the timing is just right/ can in fact hide a vehicle; giving the driver a false sense of security. People die, in this situation. My method, used as needed; respects the fact that an obstruction limits my view. Therefore if I proceed the last twenty feet or so, very slowly/ I WILL get an exposure to all traffic, as the obstruction changes its position, and the road is fully viewed. Adding in, I look both ways from the beginning of highway exposure; so as to be aware of what is or is not coming. Means, I am: Commonly informed to a far a greater extent, than the average driver coming to a full and complete stop at a sign. The reality is, I have proven better by my personal driving history; for me: that is a decision called freedom. Even though, that does not mean perfection/ it does mean, a clear and responsible purpose that in no way justifies the penalty received.

The court fails.

This appellate court fails: I demand protection and explain: “For my life/ property/ business and income” under the law. I explain and they know: there is a time limit/ and they refuse any and all facts/ and or information as requested; regarding this case.

Instead returning by an illegal action: **Denied** to the class action suit that discovers and defends the constitution of this state and this nation: **THE LAW CALLED REDRESS.**

Denied is the right to examine and identify whether we the people are being preyed upon by a policing agency within the city of Gifford..

Returned In two days/ wherein this motion for immediacy was

established, and identified by proof of service as well. (Same mailing/ same service). You know its true.

“....This champaign court attacks my drivers license/ as my basic work is to move from place to place: for the repair and maintenance of “broken, or failing things...”

“...REMOVE THIS FAILURE of the court/ or prove that I must pay the fine today, even though this matter as is proven by this appeal: HAS NOT been settled yet.”

Due process gives me the right to know the law, from a judge. It is NOT up to me to know/ you bring me to court. It is up to you to clarify, protect, and prove by defending the constitutional guarantee: That I shall be free, under the law. Not exempt from a rule/ but examined by a jury that was not deceived: for justice and fair play. These are the foundations provided under our constitutional contract with you. We do NOT provide the judiciary with “ruler and rules over us”. RATHER we provide ourselves with a jury that decides based upon life and realities that exist in our society. So says the constitution. The difference is freedom. I did not receive that jury/ as the law provides. I have not received DUE PROCESS in this matter of subjecting me to criminal law: which then makes us all CRIMINALS. And gives those who call themselves rulers, the means to oppress us all.

I have now paid the fine on this day 6/28/12 by check number #3033 drawn on the Gifford state bank. Because it matters, if I can pick up my mother at the nursing home, where she feels imprisoned/ if I do not. (your failures expand). IF that proves to be insufficient, and I am further attacked: I guarantee, I am not done gathering an audience for these matters: to review JUSTICE in this state called IL; as of yet/ I have not even begun. The fine/ the demand for punishment; will grow.

proof of service:

I, James F. Osterbur, do hereby declare and prove that I have sent in this day June 28, 2012 by first class US mail service/ with postage prepaid. A copy of this filing within the appellate court described above; and to **Illinois Appellate Court; FOURTH DISTRICT
201 w. Monroe st. Box 19206 Springfield IL 62794**

Champaign County courthouse 101 E. Main, Urbana IL 61801

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