

Case No. SC-2008-CR-006252

STATE OF GEORGIA,	§	IN THE
	§	
Plaintiff,	§	MUSCOGEE COUNTY
	§	STATE COURT
V.	§	
	§	
WILLIAM A. ARNOLD,	§	
	§	
Respondent.	§	

**DUE PROCESS AFFIDAVIT
AND BRIEF**

AFFIDAVIT OF WILLIAM A. ARNOLD

Under the penalty of perjury of the laws of the State of Georgia, I, WILLIAM A. ARNOLD, depose, declare, certify, verify, and state, that I am at least 21 years of age, that I am competent to make this Affidavit, and that the statements of fact are within my personal knowledge and are true and correct.

Any statement of law is within my best efforts to understand the law and to the best of my understanding and belief.

Overview

Trial is presently scheduled for Monday, 9 March 2009.

Today is Thursday, 5 March 2009.

I have not been arraigned. As already documented, I have no intention of waiving Arraignment.

The first copy of the charging instrument, the Accusation, was hand-delivered to me by a prosecutor. That first copy was not filestamped. The filestamped copy mailed to me by regular mail is filestamped as of 11 February. Thus, I still maintain that I have yet to be served with any charging instrument. As already documented, I have no intention of waiving Notice.

I am not in the “transportation” business. I am not an “operator” or a “driver.” Therefore, all of these things that STATE OF GEORGIA wants to compel

me, via malicious criminal prosecution, to do are things that have no relevance to me. I have no intention of being compelled to enter into any “transportation” business.

I have no known commercial agreement of any type, kind, or nature with STATE OF GEORGIA. I have no intention of being compelled into any such agreement, under any choice of law, via threat of malicious criminal prosecution.

I have no “ID card” issued by or approved by STATE OF GEORGIA, and I want no such thing. I have no intention of being compelled into any political/religious affiliation with “church of STATE OF GEORGIA” via threat of malicious criminal prosecution.

And, there is no real clerk’s office or function with this court. Except for manning the filestamp, the prosecutor and the clerk are one in the same, here, for all practical purposes.

It is my perception that the people running this court mean well. Based on my limited experience, it is also my perception that there are very few who appear before this court who care about such things as Due Process to the same level I do. Somehow, being a veteran enhances my appreciation for the concepts that people risk taking bullets, bombs, and blades for and risk shedding blood to protect. One concept that separates barbarian nations from civilized nations is a notion popularly called Due Process. Another concept that distinguishes America is Separation of Powers.

It is impossible for anyone appearing before this court to obtain anything remotely resembling Due Process, because the prosecutor is, for all practical purposes, also the court’s clerk. Except for filestamping documents, the clerk’s job is performed by the prosecutor’s office.

The Details Of The Events To Date

2008 Dec 5

At or about 9:00 a.m., local time, I was stopped by a motorcycle cop for the crime of expired tag. At that time, the windows were rolled up and the doors were locked. I rolled down the window just a little bit in order to talk with the cop. He asked me for a name and address. I gave them my name and a mailing address. He asked for a birthday, and I told him. The officer asked for a driver’s license, registration, and proof of insurance. I asserted my rights from the instant that stop was initiated. I asked what the stop was for. He told me. I asked him whether I was under arrest. He asked me if I

wanted to be. I said no. So, he said, "Ok, then give me the keys." I asked if he had a gun. He said yes, so I gave him the keys. It didn't take but a few moments before there were four police cars and another motorcycle cop at the scene. My hands were on the top of the steering wheel the whole time. One of them said, "This is an order. Get out of the truck." I asked him if he had a gun. He said yes. I said, "Ok. I'll get out of the truck." I reached over to unlock the seatbelt. He immediately asked, "What are you doing?!" I stopped and told him what I was doing. He said, "Ok. Open the door." I opened the door. I finished talking off the seatbelt, and they put me in handcuffs. There was no rough stuff, which I appreciated. They put me in the police car, and then they proceeded to search the truck. They never showed me a warrant.

Then they took me to the Muscogee County jail. At the jail, the first thing they did was take me to the medical person, who took my blood pressure, which measured "high" according to their standards. As a result, they took me to the hospital.

At the hospital, I was given medication for the high blood pressure, and then I was taken back to the jail.

At the jail, they took my clothes and my property. I was put in pajamas, and I was put in a holding cell by myself, until the shift change. I had declined to sign anything, and they started calling me "uncooperative."

They never offered me an opportunity to make a phone call.

At the shift change, at 3:00 p.m., local time, they took me to booking, again. I hadn't signed any documents. The medical process started, again. Someone checked my blood pressure, again. About the time he finished with the blood pressure, he started asking the medical questions, including whether I was ashamed or embarrassed for being arrested. I said no. Did I feel like killing myself? Definitely not! Had I tried to commit suicide before? No. He asked about disabilities, and medications, and a series of typical questions.

I tried to see what the blood pressure numbers were, but I wasn't allowed to. The machine was turned so as to prevent my ability to see the numbers. As I leaned over to see it, he turned the machine off. He handed me a sheet and told me to sign on the bottom. I declined. I didn't know what the consequences of signing or of not signing anything were. "Sign it, or I'll show you what it means!" I knew exactly what he was talking about, namely being naked in the suicide jacket in an isolated cell. I told him I'm all the more not going to sign anything under that type of threat. "Ok, go in that room and take off your clothes, glasses, and watch. When you're ready to sign, you let

me know.” So, I was naked except for the jacket thing and feeling cold. At this time, they took my glasses and my watch.

I was put on suicide watch, without clothes, just the suicide (padded, sleeveless jacket, no other clothes), for being “uncooperative.”

What does “uncooperative” mean, here? I did not sign any documents, and I did not give any SSN.

Since all the holding cells were full, I was put into a different room with another fellow, who was also naked except for that jacket thing. It made no sense to me that someone on “suicide watch” would have a roommate. And, I was more than concerned that if someone put in that room really was suicidal, they may also be homicidal. So, I talked with him about various things. He wasn’t suicidal, either. He just needed medication, and he knew that if he saw a doctor, he’d probably get the medication he knew he needed. About 20 or 30 minutes after I got there, a doctor came by to visit him, which doctor both proscribed a medication for him and released him.

From that point, I started requesting to see a doctor, which was around 5 or 6 p.m., all of which requests were denied. I continued, repeatedly, to ask to see a doctor, through the night and into the next morning. The one reply I got was “Are you ready to complete booking?” I told them that I had no intention of signing any papers. They never responded to me, again. I could hear the conversations about me, with the regular use of the term “uncooperative.” They also denied me toilet paper, toothbrush, and all other hygienic items. I did get a few sheets of toilet paper on Saturday morning, about 24 hours into the experience.

There was no way to lay down, no way to rest, no way to get comfortable, at all. The solid concrete is very cold. It was, at most, about 8 foot by 10 foot. The experience was very physically uncomfortable.

I also recall that one of the medications given me was a diuretic. When I needed to go to the restroom, they let me. But, my mouth got very, very dry. I mentioned that, with some difficulty, because talking was difficult with that dry of a mouth. I was offered a glass of water, conditioned upon my signing the papers. I declined. With a change of heart, my “custodian” gave me the glass of water, anyway.

At regular intervals, every few hours, someone would ask me whether I wanted to “complete booking.” That translated into whether I wanted to sign documents or not. I didn’t want to sign any documents.

Dec. 6

Recall that the first indication of there being any Accusation even *filed* was as of 11 February 2009.

About an hour before court, they had me change back into the pajamas, and then they put a group of us, which number changed, maybe 12 to 14 total while I was there, in a room that was so cold that we may as well have been put into a meat locker. It was freezing cold. I remember being one who was put in there very early and then one of the last ones to be released back out of it. Some of the younger guys did exercises to try to stay warm. I had to put my arms into the body of the pajamas. I did not put my arms in the sleeves, even after a *lot* of verbal coercion by the law enforcement people to put my arms in the sleeves. I was freezing.

At or about 9:00 a.m., local time, I was taken before a judicial officer presiding in the non-jury, court-of-no-Record forum ironically called “Recorder’s Court” for purposes of commitment and arraignment. I specifically made inquiry throughout the entire courtroom as to whether anyone there had a claim against me. There was no response.

The judge transferred the case to this state court.

There was no Notice for any commitment hearing. There was no Notice for any Arraignment. There was no Notice of anything.

The “Recorder’s Court” judge entered a responsive plea on my behalf, but that was without any confirmation of agency authority to do so from me. It was also very obviously premature, since there was nothing to which to plea responsively, because STATE had not even filed, much less served, any Accusation. There being nothing for which a plea of anything, except lack of jurisdiction in the court, was even legally competent to assert, I refused to plea.

A public defender tried to participate on my behalf. I objected to such “representation.” The objection was not ruled on, and the public defender just kept right on going.

The entire time I was in court, I never put my arms in the sleeves of the pajamas. I was still very cold from the pre-trial meat-locker experience.

Immediately after court, they took my picture. They wanted me to sign papers, again, which I refused. So, they told me to take off my clothes, which I refused. They continually pestered me for an SSN. When they threw the

suicide jacket at me and threatened me with taking off my clothes by force, I took off the pajamas and put on the jacket, again. The rough stuff started as they pushed me back down the hall toward my cell.

At or about 8:00 p.m., the money for bond arrived.¹ I was released on Bond about 9:00 p.m., which is to say I was in custody for about 36 hours.

My property was returned to me after release, because it included my little pen knife, my glasses, and my watch. The traffic “tickets” were also in the property envelope. I knew the cop had issued several tickets, but that was the first time I had seen them. Thus, even if a “ticket” were ever a competent substitute for an Accusation, the “Recorder’s Court” entered a *responsive* plea on my behalf, without any authority from me to do so, before I had even been given the “tickets.”

At the time of my release, I was emotionally and physically exhausted. I signed papers, purportedly receipts for my property, but I was not given a copy at the time, and they have never served a copy of those papers on me.

2009 Jan 9

I received in the mail a Notice of Arraignment from the prosecutor’s office for Jan. 30 in this (Judge Prather’s) court. As of this date, Jan. 9, I had received no Accusation and no Complaint, not even a non-filestamped copy.

Jan. 12

I received a list of statutes, without any date of filing, from Solicitor’s Office. See Local Rule 39.3.

Jan. 29

I filed my Demand for Witness List.

Jan. 30

This is the day scheduled for the Arraignment. While there, I filed my Special Appearance and my Plea to the Jurisdiction documents, along with my Formal Declination to Plea, and my Waiver of Right to Representation and Motion to Appear *Pro Se*.

When my case was called for the Arraignment, I objected to the lack of

¹ As family and friends started looking for me, they called various places, eventually considering calling the jail. They asked why I was being held, and they were told that I was being “uncooperative.”

Indictment/Accusation/Complaint, thus to the lack of Notice, thus that there was nothing to which to plea responsively. I noted, again, that there was no claim, sworn complaint, or any “complaint by agreement” filed, much less served. In response, the judge told the prosecutor to give me a copy of the Accusation. She did. She gave me several documents.²

Feb. 9

I filed my General Demurrer, my Formal Non-Waiver of Arraignment and 10-Day Motions Period, my Formal Request for Assignment of Reporter, and my First Motion for Discovery and Motion to Shorten Response Period.

I also requested a Docket Sheet. The clerk told me to contact the prosecutor’s office. I thought she was somehow greatly misinformed and resolved to follow up on this the next day.

Feb. 10

I called the clerk’s office and talked with someone via phone. I was told where to go find the clerk’s office in the courthouse.

Feb. 11

At or about 9:00 a.m., local time, I went to the identified floor to find the clerk’s office, thus the Record for this case. All the doors were locked, and all the rooms/offices on that floor, including the judge’s chambers, were closed for remodeling, except for the prosecutor’s office. I found no clerk’s office on that floor. I went back to the clerk’s office and reconfirmed, in person, the information I had received by phone the day prior. They were sure that they had no way to provide me a copy of any Docket Sheet, and they didn’t have any suggestion other than contacting the prosecutor’s office. I was told, again, that the prosecutor’s office is where I would find the Record and get a Docket Sheet. One of them said, “We don’t get the case file until the case is closed.”

Still not believing what I was hearing, I went back to the identified floor and hallway and knocked on the door to the one office that is not being remodeled, which is the prosecutor’s office, but received no answer. So, I waited in the hall for someone to show up.

When someone did show up, I asked for a copy of the Docket Sheet. The lady wanted to be helpful and gave me my trial date. I responded that what I was

² On the arrest report, one of the cops wrote down that he thought I was a mental case. At some point, I’m going to need to see this officer’s license to practice medicine, as well as the medical licenses of all who “diagnosed” me as suicidal.

looking for was the Record, in particular a copy of the Docket Sheet as to what has been filed in my case. She asserted that nothing would be in the Record except what I had filed. That conversation led to confirmation that I needed to contact the prosecutor's office to find the Record and to get a copy of the Docket Sheet. I was told that the person I needed to contact was Cecelia Hailes. She's the prosecutor on my case. She was not in at the moment. I left my name and phone number and returned home.

Cecelia Hailes called around 10:30 a.m., local time. I recognized her voice from the discussions with her on 30 January, and she confirmed that she was the prosecutor in the courtroom that first time I had been there for the scheduled Arraignment. She gave me enough information about the events that occurred that morning that only she would know to satisfy me that I was talking, in fact, with Cecelia Hailes. I told her what I had been telling everyone else, namely that I was looking for a Docket Sheet for what's in this case. She confirmed that the prosecutors are the ones who maintain the court's Records. From her description of the situation, I was satisfied that there was no sinister intent in the matter, but rather that this was simply a humanly practical and immediate solution to the problems they perceived regarding maintenance of the court's Records in that building at that particular time. She confirmed that she had given me a copy of everything in the prosecutor's file, a/k/a the court's Record, when I was there for the Arraignment. I told her that I didn't find any filestamped copy of any charging instrument in that set of materials, and that I needed a Docket Sheet. She was sure there was a filestamped copy of the Accusation in the file but agreed to send me a copy of that filestamped document.

12 Feb

Mailed by the prosecutor to me was another copy of the Accusations, this time showing a filestamp, which is of 2009 Feb 11, and the time of day is 11:00 A.M. This is very shortly after my phone conversation with Hailes.

I still assert my objections to Notice, including Service and insufficiency of Service.

Further, Declarant sayeth not.

Executed on 5 March 2009

/s/ William A. Arnold
William A. Arnold, Declarant

BRIEF

No Notice

To this day, Arnold has received no Notice of any charges against him. There must be Notice. *Smith v. O'Grady*, 312 U.S. 329 (1941) (*O'Grady*). Arnold does not waive Notice.

Related to this, Arnold does not waive Arraignment nor the time period after Arraignment during which certain motions may be filed. Since there has been no Arraignment, that time period has yet to start.

Also, Arnold does not waive his need to have a reasonable time period to prepare a defense, should STATE ever decide to serve Arnold with Notice of any charges against him.

No Commercial Nexus

STATE has no standing. There is no agreement for STATE to enforce, by any mechanism, civil or criminal. There is no commercial nexus. Arnold is not an “operator” or a “driver.” Arnold is merely a “traveler.”

No Separation of Powers

There's little doubt that the prosecutors mean well. And, there's little doubt that they are sincere as Mother Theresa. Arnold has no reason to think or to suggest that those directly involved harbor a sinister motive.

However, simultaneously, and in the very same breath, there's no way under the heavens that we can say, as a nation, that we've taken up arms to defeat

tyranny, time and time again, just to turn right around and let the executive authority run the judicial branch, in particular the maintenance of the judicial Records! Not only that, but also a party, a party, to this litigation, and not just the party, but the lawyer for the party, IS the court clerk, the custodian of the Record, for this case. This is the same circumstance for all the other cases pending before this court, as well, namely, the custodian of Records IS the prosecutor for that case.

It doesn't matter what the reasons for this outrageous, even consciousness-shocking, violation of Separation of Powers is. It may be innocent from the outset, or it may be brilliantly planned. The current activity may be the practical, engineering, stop-gap solution, or it may be part of a long-term ploy to get people used to the idea of tyranny and dictatorship. Whatever the cause, there can never be a presumption of "innocent intent" where what is happening is such an egregious, hideous obliteration of the Separation of Powers concept.

Arnold has a substantial understanding of Due Process. When the irs and doj tried to railroad him, at sentencing, with charges never before seen or heard of, Arnold simply, and strenuously, objected.³ There were no such charges in any Indictment; there was no such evidence at trial; and Arnold most certainly didn't agree to that "evidence" at and for sentencing. As it turns out, Arnold had argued, in May, 2003, the very essence of both the *Blakely* case, *Blakely v. Washington*, 542 U.S. 296 (2004) (state sentencing analysis), and the *Booker* case, *United States v.*

³ Arnold learned the hard way about the commercial nexus in the "income tax" setting. **"Taxpayer" means "Fiduciary,"** which is a matter for another time.

Booker, 543 U.S. 220 (2005) (*Booker*) (federal sentencing analysis), a year, and a year and a half, respectively, before that analysis was applied by the Supreme Court. To the prosecutors, and to the trial and appellate courts, Arnold was just another crazy “tax protestor.” Thus, to many people’s shock and amazement, the Solicitor General agreed that there was a *Booker* problem, and, in the end, Arnold obtained relief in and by the Supreme Court. *Arnold v. United States*, 544 U.S. 1058 (May 31, 2005). The legal reality is a wicked paradigm shift, to be sure.

Arnold understands Notice, commercial nexus, and Separation of Powers, all of which were challenged ferociously in that “income tax” case, by the feds, in a way very similar to the way STATE is challenging those bedrock, American concepts, here. There are a lot of people in this nation who want to be lawless Nazi’s, and there are many in positions of leadership who want this nation to “go Nazi.” That is still not going to happen on Arnold’s watch. This Separation of Powers issue, where the prosecutor is ***also*** the clerk of the court ***and*** the custodian of the Record, is so outrageous as to be conscious-shocking.

The lawful ruling for this case is dismissal of all charges. The lawful ruling for ***all*** cases where the prosecutor is also the court clerk and custodian of Records is dismissal of all charges.

Respectfully submitted,

/s/ William A. Arnold
William A. Arnold
I reserve all my rights

[address redacted]
[City, State, Zip redacted]

Certificate of Service

By my signature below, I certify that on this the 6th day of March, 2009, I have served a true and correct copy of this document by hand or by certified mail as follows:

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Complimentary Service is also made as follows:

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/s/ William A. Arnold
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