
New York State Supreme Court Dutchess County

• 10 Market Street; Poughkeepsie, NY 12601 •

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JURISDICTION: Court of Record,¹

Petitioner

~ Against ~

INDEX NO: _____

Judge Dennis E Smith, Prosecutor William Grady,
and Court Clerk Carolyn Harkerode

MOVE TO STATE COURT FOR
JURISDICTIONAL CHALLENGE

Respondents

5 **ORIGINATING COURT:** Stanford Town Court
PO Box 436 26 Town Court
Stanfordville, NY. 12581

CASE NO: ██████████

New York State)
) SS

10 Dutchess County)

I, ██████████ one of the People² of New York, hereinafter petitioner, in this court of record, hereby gives Notice of the Removal from the above said court of origin to the above said State Court in the interest of Justice for cause pursuant NYC §19(c).

15 Whereas, collectively Judge Dennis E Smith, Prosecutor William Grady, and Court Clerk Carolyn Harkerode hereinafter respondents, violated plaintiffs right of due process protected by Amendment V of the U.S. Constitution and N.Y. Constitution Article 1 §6 paragraph 2, when respondents concealed or removed petitioners “Jurisdictional Challenge.” Petitioner being a natural person having no prior agreement with any government agency or commercial activities, preserve’s jurisdiction stated above.

¹ **COURT OF RECORD:** Blacks Law; Proceeding according to the course of common law – Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689; Black’s Law Dictionary, 4th Ed., 425, 426

² **PEOPLE.** People are supreme, not the state. - Waring vs. the Mayor of Savannah, 60 Georgiaat 93; The state cannot diminish rights of the people. - Hertado v. California, 100 US 516; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... - CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472].

20 This Action at Law is founded upon a denial of plaintiff's unalienable right of Due
Process protected by the US. Bill of Rights 5th Amendment, 7th Amendment NYS.
Constitution Article I §2 and §6. Blacks Law defines due course of law stating;

25 *"This phrase is synonymous with "due process of law" or "law of the land"
and means law in its regular course of administration through Courts of
Justice."*³ *"By the law of the land is more clearly intended the general law,
a law which hears before it condemns; which proceeds upon inquiry and
renders judgment only after trial."*⁴ *"Law in its regular course of
administration through courts of justice is due process."*⁵

30 Town courts are not courts of record but are in fact "nisi⁶ prius⁷ courts" which means
"unless first," thereby requiring a plea in order to give jurisdiction to said court. Whereas,
petitioner has not pleaded and responded by special appearance"⁸ for the purpose of
testing the sufficiency of the jurisdiction of the "Nisi Prius Stanford Town Court;"⁹
Thereby challenging personam jurisdiction over the petitioner, see "**Verified
Jurisdictional Challenge,**" dated March 25, 2024, attached. The following federal and
35 state courts decision all agree that once jurisdiction is challenged, they must prove they
have jurisdiction.

40 *"Once challenged, jurisdiction cannot be 'assumed', it must be proved to
exist." – Stuck v. Medical Examiners, 94 Ca2d 751.211 P2s 389;
"Jurisdiction, once challenged, cannot be assumed and must be decided."
– Maine v. Thiboutot, 100 S. Ct. 250; "No sanction can be imposed absent
proof of jurisdiction" – Stanard v. Olesen, 74 S. Ct.768; "The law requires
proof of jurisdiction to appear on the record of the administrative agency
and all administrative proceedings" – Hagans v. Lavine, 415 U.S. 528;
45 *"Court must prove on the record, all jurisdiction facts related to the
jurisdiction asserted."* –Lantanav. Hopper, 102 F2d 188; Chicagov. New
York, 37 F Supp 150.; *"The law requires proof of jurisdiction to appear on
the record of the administrative agency and all administrative**

³ Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

⁴ Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629.

⁵ Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225.

⁶ NISI [Lat] unless

⁷ PRIUS [Lat] first, prior, former, earlier

⁸ A Special Appearance is for the purpose of testing the sufficiency of service or the jurisdiction of the court; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction. - Blacks Law; Quoting State v. Huller, 23 N.M. 306, 168 P. 528, 534, 1 A.L.R. 170.

⁹ "Trial court acts without jurisdiction when it acts without inherent or common law authority, ..." - Blacks Law; Quoting State v. Rodriguez, 725 A.2d 635, 125 Md.App 428, cert den 731 A.2d 971,354 Md. 573 (1999).

50 *proceedings*” – Hagans v. Lavine, 415 U.S. 528. Other cases also such as McNutt v. G.M., 56 S. Ct. 789, 80 L. Ed. 1135, Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272, Basso v. U.P.L., 495 F 2d. 906, Thomson v. Gaskiel, 62 S. Ct. 673, 83 L. Ed. 111, and Albrecht v U.S., 273 U.S. 1, also all confirm, that, when challenged, jurisdiction must be documented, shown, and proven, to lawfully exist before a cause may lawfully proceed in the courts.

REASON FOR MOVING TO STATE COURT

55 This move was triggered when respondents collaborated to ignore petitioner’s “Jurisdictional Challenge” and “force a plea under threat” of suspension of petitioner’s privilege to drive and threat of arrest, which would be catastrophic to petitioner’s ability to provide for his family’s wellbeing; **See letter from originating court dated April 8, 2024, attached**; Whereas in fact “*The right of the citizen to travel upon the public highways and*
60 *to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common right which he has under the right to life, liberty, and the pursuit of happiness.*” – Thompson v Smith, 154 SE 579; In effect, as per the Supreme Court decision in the case of Crandall v Nevada, 73 US 35; 18 L Ed (1867) it was decided that; “*Speed limits and other traffic control devices,*
65 *being non-fact-based, are simply an unlawful tax or impost on travel, and thus unconstitutional for the reason cited*” Colorado Article 42-2-101 clearly states, “*Licensing is for commercial drivers, not private citizens.*” Therefore, “*The right to travel is part of the Liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment.*” – Kent v. Dulles 357 U.S. 116, 125. Reaffirmed in Zemel v. Rusk 33 US
70 1. “*Where activities or enjoyment, natural and often necessary to the wellbeing of an American citizen, such as travel, are involved, we will construe narrowly all delegated powers that curtail or dilute them... to repeat, we deal here with a constitutional right of the citizen.*” – Edwards v. California 314 US 160 (1941).

75 Petitioner filed a “Notice of Special Appearance,” Notice of Motion,” a “Verified Jurisdictional Challenge,” and a “File on Demand” giving Court Clerk Carolyn Harkerode notice of Law to file. Respondents concealed or removed petitioners filing from the court record in violation of 18 USC §1512, 18 USC §2071, §175.25, §175.05, and §175.20. Whereas, petitioner directed Clerk Carolyn Harkerode to time stamp petitioner’s “Jurisdictional Challenge” and return it to the petitioner in the provided self-addressed

80 stamped envelope. As a substitute Court Clerk Carolyn Harkerode, Judge Dennis E Smith,
and Prosecutor William Grady colluded to remove or conceal petitioners “Jurisdictional
Challenge” and threatened petitioner with suspension of driver’s license, arrest, and a
criminal record if petitioner does not comply with a plea thereby denying petitioner’s right
of due process by “Challenging Personam Jurisdiction;” See letter from the originating
85 court dated April 8th 2024, attached.

Whereas the Law requires that; “*If any tribunal finds absence of proof of jurisdiction
over person and subject matter, the case must be dismissed.*” – Louisville R.R. Civil
Rights...” “*When it clearly appears that the court lacks jurisdiction, the court has no
authority to reach the merits. In such a situation the action should be dismissed for want
90 of jurisdiction.*” – Melo v. US, 505 F2d 1026, 1030.

WHEREFORE, petitioner moves this court to hear and decide petitioners “Jurisdictional
Challenge” and dismiss the case for lack of personam jurisdiction. See, petitioner’s
original filings challenging personam jurisdiction; Consisting of File on Demand 1 page,
95 Notice of Special Appearance 1 page, Notice of Motion, Verified Jurisdictional Challenge
8 pages, dated March 25, 2024, and commercial code violation, attached.

SEAL

100 _____
[REDACTED], in Pro Per

NOTARY

105 New York State, Dutchess County on this 29th day of April 2024 before me the subscriber, personally
appeared to me known to be the living man describe in and who executed the forgoing instrument and
sworn before me that he executed the same as his free will act and deed.

(Notary Seal)

Notary

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