

NATURAL RIGHTS V CIVIL RIGHTS

Memorandum of Law

The purpose of this memorandum is to clearly state the difference between civil rights¹ and natural rights². Civil rights are those that are granted by legislators whereas natural rights are unalienable³ which grow out of the nature of man, in other words received via a blessing⁴ from nature's God.

Article III Sec 2: *The judicial power shall extend to all cases, in law and equity*

"Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record, which only proceeds according to common law; it is an inferior court.⁵

INFERIOR COURT: Equity courts, a/k/a civil courts or criminal courts that proceed according to statutory law and are not courts of record. Their jurisdiction and procedure is defined by statute, any court proceeding according to statutory law is not a court of record, which only proceeds according to common law; it is an inferior court where rights are defined by statutes called "civil rights."

SUPERIOR COURT: In Law⁶ courts, a/k/a natural law courts, common law courts, or courts of record⁷ that proceed according to the course of the common law, it is

¹ **Civil rights:** Are rights appertaining to a person in virtue of his citizenship in a state or community. Rights capable of being enforced or redressed in a civil action. Also a term applied to certain rights secured to citizens of the United States by the thirteenth and fourteenth amendments to the constitution, and by various acts of congress made in pursuance thereof. State of Iowa v. Railroad Co., C.C.Iowa, 37 F. 498, 3 L.R.A. 554; State v. Powers, 51 N.J.L. 432, 17 A. 969.

² **Natural rights:** Are those which grow out of the nature of man and depend upon personality, as distinguished from such as are created by law and depend upon civilized society; or they are those which are plainly assured by natural law - Borden v. State, 11 Ark. 519, 44 Am.Dec. 217

³ **UNALIENABLE.** Inalienable; incapable of being aliened, that is, sold and transferred.

⁴ **US Constitution, Preamble:** We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, 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.

⁵ Ex parte Watkins, 3 Pet., at 202-203. cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

⁶ **AT LAW:** [Black's Law 4th edition, 1891] According to law; by, for, or in law; particularly in distinction from that which is done in or according to equity; or in titles such as sergeant at law, barrister at law, attorney or counsellor at law. Hooker v. Nichols, 116 N.C. 157, 21 S.E. 208.

⁷ **COURT OF RECORD:** A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it 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

distinguished from proceeding in equity whereas, “in Law courts” are a natural right given by God.

“The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decisions of a court of record may not be appealed and are binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. The judgment of a court of record, whose jurisdiction is final, is as conclusive on all the world as the judgment of the United States Supreme Court would be. It is as conclusive on the United States Supreme Court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.”⁸

COURTS OF RECORD AND COURTS NOT OF RECORD: The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded.⁹

“The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record. Note, however, that a ‘superior court’ is the name of a particular court. But when a court acts by virtue of a special statute conferring jurisdiction in a certain class of cases, it is a court of inferior or limited jurisdiction for the time being, no matter what its ordinary status may be.

IN CONCLUSION: Equity courts are NOT courts of record and are driven by statutes (human law, civil), presided over by a judge (political), have no power to fine or imprison whose decisions can be appealed and rights are legislated and defined by code or statute. This court has no jurisdiction over the people without their consent.

Law courts are courts of record and are driven by natural law (no statutes), presided over by a jury (the People), have power to fine or imprison for contempt, whose

⁸ Ex parte Watkins, 3 Pet., at 202-203. cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

⁹ 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

decisions are final and can NOT be appealed and rights are given by God called “natural rights.” This court has jurisdiction over the people.