

IN THE ARDMORE MUNICIPAL COURT
LIMESTONE COUNTY, ARDMORE, ALABAMA

MUNICIPALITY OF ARDMORE,
Plaintiff,

v.
Arthur Hirsch,
Accused.

Case Number: MC09-71

NOTICE AND DEMAND

(Notice to agent is notice to the principal, and notice to the principal is notice to the agent. Govern yourself accordingly.)

I, Arthur Hirsch, the accused, give notice and demand by right to the parties listed below and state as follows:

NOTICED PARTIES

WILLIAM G. MATHEWS (Ardmore Municipal Court judge)
CHADWICK WISE (as prosecutor and town attorney)
SANDRA TUCKER (clerk-magistrate)
RICKY MITCHELL (mayor)
BILLY RAY HALL (council member)
BILLY SHANNON (council member)
MELODY DUFFEY (council member)
MARY HOBBS (council member)
GEORGE "MOODY" KING (council member)

1.0 SUBJECT MATTER JURISDICTION

1.1. LIMITED JURISDICTION: That Ardmore Municipal Court ("this court") is a lower/inferior court of limited jurisdiction. It *must* adhere to U.S. Supreme Court and Alabama Supreme Court holdings re. jurisdiction.

1.2. NO JURISDICTION PRESUMPTION: That state and federal courts have consistently held that subject matter jurisdiction is never presumed in a court of limited jurisdiction but must be proven.

*“Jurisdiction in such a case is never presumed. . .” Goodwater Warehouse Co. v. Street, 137 Ala. 621, 34 So. 903; Village of Waynesville v. Pennsylvania R. Co., 354 Ill. 318, 188 N.E. 482. See authorities cited in Birmingham Electric Co. v. Alabama Public Service Com., 254 Ala. 11947 So.2d 449. (Emphasis added.) **ALABAMA PUBLIC SERVICE COMMISSION v. MCGILL**, 260 Ala. 361, 363 (1954)*

*“Unless the authority exists, the acts are coram non iudice, and void. And the rule is universal. . . The jurisdiction is never presumed. These are principles too familiar to require a reference to authorities.” (Emphasis added.) **IN RE KAINÉ**, 55 U.S. 103, 144 (1852)*

*[W]hich are courts of limited jurisdiction and whose jurisdiction is never presumed but must always be found in the strict letter of the law. (Emphasis added.) **WYNNE v. UNITED STATES**, 217 U.S. 234 238 (1910)*

*“Jurisdiction is never presumed in a court of limited jurisdiction.” Morris v. Dooley, 59 Ark. 483, 28 S.W. 30 (1894). (Emphasis added.) **BONNELL v. SMITH**, 322 Ark. 141, 147 (1995)*

*“Jurisdiction is never presumed, cannot be conferred by consent, and cannot be waived.” Powell v. Stover, 65 S.W.3d 322,324 (Tex. 2005) (orig. proceeding). (Emphasis added.) **IN RE JOHNSON**, 14-09-00782-CV (Tex.App.-Houston [14th Dist.] 10-20-2009)*

*“Unless the authority exists, the acts are coram non iudice, and void. And the rule is universal, that in the case of magistrates, or other persons of limited or special jurisdiction. . . their acts or proceedings, must first show affirmatively that they possessed jurisdiction or authority to act in the matter. The jurisdiction is never presumed. These are principles too familiar to require a reference to authorities.” (Emphasis added.) **IN RE KAINÉ**, 55 U.S. 103, 144 (1852)*

*“Proper adjudication depends on the existence of subject matter jurisdiction at all times throughout the duration of the case. Never presumed to exist. . . subject matter jurisdiction must be affirmatively demonstrated by the party seeking to invoke it before the court may proceed to the merits of the case.” Philadelphia Federation of Teachers v. Ridge, 150 F.3d 319, 323 (3d Cir. 1998); Development Finance Corp. v. Alpha Housing & Health Care, Inc., 54 F.3d 156,158 (3d Cir. 1995). (Emphasis added.) **NORTH JERSEY MEDIA GROUP, INC. v. ASHCROFT**, (N.J. 2002), 205 F. Supp.2d 288, 292*

1.3. JURISDICTION CHALLENGED: That the record shows that I have filed into the docket over a six month time period, numerous verified challenges to this court's jurisdiction, supported by facts and law, including the following *unrebutted* documents:

- (a) NOTICE AND DEMAND
- (b) NOTICE OF OBJECTION AND DEMAND
- (c) NOTICE OF LACK OF SUBJECT MATTER JURISDICTION and DEMAND FOR SHOW CAUSE HEARING
- (d) MOTION TO DISMISS FOR LACK OF JURISDICTION
- (e) NOTICE OF MAGISTRATE TUCKER'S MISCONDUCT and MOTION TO DISMISS FOR LACK OF JURISDICTION
- (f) DISQUALIFY ARRESTING OFFICERS - CHALLENGE TO JURISDICTION
- (g) OBJECTION TO ARRAIGNMENT IRREGULARITIES AND JUDGE-ENTERED PLEA and MOTION TO WITHDRAW "NOT GUILTY" PLEA
- (h) AMENDED MOTION TO DISMISS FOR LACK OF JURISDICTION
- (i) PRE-TRIAL MOTION TO DISMISS

1.4. BURDEN OF PROOF ON PLAINTIFF: That it is the duty of Plaintiff's attorney/prosecutor, CHAD WISE, to bear the burden of proof in establishing subject matter jurisdiction on the record with admissible evidence upon challenge, but to date he has failed to do so—zero response. The courts have held as follows:

"Once a party challenges the trial court's jurisdiction. . . the burden of establishing jurisdiction is on the plaintiff." (citing Menchaca v. Chrysler Credit Corp., 613 F.2d 507 (5th Cir. 1980) (Emphasis added.) CRUTCHER v. WILLIAMS, 1050893 (Ala. 3-14-2008) at p. 6, 7

"Once jurisdiction is challenged, it must be proven." (Emphasis added.) HAGANS v. LAVINE, 415 U.S. 528, 533 (1974)

"Once jurisdiction has been challenged, the plaintiff bears the burden of proving the existence of jurisdiction." (Emphasis added.) WINES v. LAKE_HAVASU BOAT MFG., INC., 846 F.2d 40, 42 (8th Cir. 1988)

*“As courts of limited jurisdiction, the court never presumes jurisdiction. Viqueira v. First Bank, 140 F.3d 12, 16 (1st Cir. 1998). The burden to demonstrate the existence of federal jurisdiction falls upon the party asserting jurisdiction.” (Emphasis added.) **HERNANDEZ v. ESSO STANDARD OIL CO. (P.R. 7-10-2008), page 4***

1.5. FIDUCIARY DUTY BREACHED: That judge WILLIAM MATHEWS and prosecutor CHADWICK WISE have a fiduciary duty to answer me as a litigant in the instant case with respect to my nine substantive challenges to this court’s subject matter jurisdiction, but they have refused to do so in breach of their duty, and have thereby engaged in violating my civil rights and committed fraud through their silence.

*“A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him. . .” (Emphasis added.) **McNALLY v. UNITED STATES, 483 U.S. 350, 371, 372 (1987)***

*“Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading.” (Emphasis added.) **UNITED STATES v. PRUDDEN, 424 F.2d 1021 (5th Cir. 1970)***

1.6. FALSE PRESUMPTION: That the record shows this court has falsely and stubbornly presumed subject matter jurisdiction without basis throughout all the proceedings to date, despite my above-referenced rebuttal challenges to the contrary. WILLIAM MATHEWS in collusion with CHAD WISE has intentionally and purposely denied me a forum hearing for testing subject matter jurisdiction, and has thus trespassed upon and damaged my constitutionally secured rights to liberty, to due process, to equal protection of the laws, and to impartial justice without denial or delay.

1.7. FRAUD AND ESTOPPEL BY ACQUIESCENCE: That the record shows that prosecutor WISE has remained silent for nearly six months as to my nine challenges to jurisdiction. By his silence, CHAD WISE has oppressed, trespassed on and abused many of my constitutionally secured rights, has engaged in fraud (see below), and has caused damage and injury to me by his inexcusable gross neglect of duty. Because prosecutor WISE, in connivance with WILLIAM MATHEWS, has refused to answer me and has remained silent when he had a legal duty to speak, therefore, he and this court are now estopped by acquiescence from further proceedings due to fraud.

*“When silence becomes a fraud, it will operate as an estoppel.” Staton v. Bryant, 55 Miss. 261, 272 (1877) (Emphasis added.) **LENOIR v. ANDERSON, 2008-CA-00148-COA***

(Miss.App. 2009)

*“An intentional misrepresentation, made through a statement or silence, can easily amount to “fraud” sufficient to warrant punitive damages. See § 6-11-20(b)(1) (“Fraud” includes “intentional . . . concealment of a material fact the concealing party had a duty to disclose, which was gross, oppressive, or malicious and committed with the intention . . . of thereby depriving a person or entity of property”) (emphasis added); § 6-11-20(b)(2) (“Malice” includes any “wrongful act without just cause or excuse . . . [w]ith an intent to injure the . . . property of another”) (emphasis added); § 6-11-20(b)(5) (“Oppression” includes “[s]ubjecting a person to . . . unjust hardship in conscious disregard of that person’s rights”).” (Emphasis added.) **BMW OF NORTH AMERICA, INC. v. GORE, 517 U.S. 559, 588-589 (1996)***

*“Fraud in its elementary common law sense of deceit. . . includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud.” (Emphasis added.) **McNALLY v. UNITED STATES, 483 U.S. 350, 371, 372 (1987)***

*“Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately.” (Emphasis added.) **UNITED STATES v. PRUDDEN, 424 F.2d 1021 (5th Cir. 1970)***

1.8. COURT PROCEEDINGS IN FRAUD – ACTIONS VOID: That all proceedings by this courts without jurisdiction have been fraudulent, under color of law and void, and any further actions by this court are null and void. CHAD WISE has proven nothing on the record with admissible evidence and is operating maliciously and oppressively in fraud under color of law. This instant case is permeated with fraud and is vitiated.

*“Fraud vitiates everything it touches. . .”**BOWMAN v. PRESLEY, 2009 OK 48; 212 P.3d 1210, 1220***

*“It is a stern but just maxim of law that fraud vitiates everything into which it enters.” **RADIOHACK v. COMSMART, 222 S.W.3d 256, 260 (Ky.App. 2007)***

1.9. OFFICIAL LIABILITY – VOID JUDGMENTS: That this court and its officers assume full liability for damages where they act without subject matter jurisdiction and all judgments are

void.

"A judgment of a court without jurisdiction is void. An appeal will not lie from a void judgment." (Emphasis added.) Harvey v. City of Oneonta 715 So. 2d 779, 781 (Ala. 1998) . . . To be free from liability the act must have been done by the judge in his judicial capacity in a matter within his jurisdiction. Lange v. Benedict 73 N.Y. 12. Where the court has no jurisdiction of the subject matter, its proceedings are void and the judge can derive no protection from them. Broom v. Douglass, 175 Ala. 268, 57 So. 860; Savacool v. Boughton, 5 Wend. (N.Y.) 170; Bigelow v. Stearns, 19 Johns. (N.Y.) 168. In 46 Am.Jur.2d § 75 P. 145 it is stated: ". . . all judges, whether of superior or inferior jurisdiction, are liable for their acts if they act entirely without jurisdiction", citing in footnote numerous cases including Yaselli v. Goff (Ca. 2) 12 F.2d 396, Aff'd 275 U.S. 503, 48 S.Ct. 155, 72 L.Ed. 395, and Rammage v. Kendall, 168 Ky. 26, 181 S.W. 631, stating: "Where the judge acts illegally, outside the limits of his jurisdiction, he becomes a trespasser, and is liable in damages as such." Some courts have held that where courts of special or limited jurisdiction exceed their rightful powers, the whole proceeding is coram non iudice, and the judge is liable to an action by the party injured. 46 Am.Jur.2d Judges § 77. [fn4] (Emphasis added.)

IN RE TIP-PA-HANS ENTERPRISES, INC., (1983) 27 B.R. 780

*"A court is obligated to vigilantly protect against deciding cases over which it has no jurisdiction because "[i]t would amount to usurpation and oppression for a court to interfere in a matter over which it has no jurisdiction, and its pronouncements in respect thereto would be without force, and its decrees and judgments would be wholly void. This is a universal principle, as old as the law itself." Wilkinson, 221 Ala. at 256, 128 So. at 364. **CRUTCHER v. WILLIAMS, 1050893 (Ala. 3-14-2008) at p. 6, 7***

1.10. DISMISSAL IS ONLY LAWFUL ACTION: That without subject matter jurisdiction proven this court has no authority to schedule an arraignment, enter a plea, schedule a trial, make a settlement offer, issue a capias, retain seized property or bail money, etc. The only lawful action it can take is to dismiss this case with prejudice. A void judgment or lack of subject matter jurisdiction will not support an appeal and will result in more sustained damages.

*"A court without subject-matter jurisdiction `may take no action other than to exercise its power to dismiss the action. . . . Any other action . . . is null and void.'" State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999) (quoting Beach v. Director of Revenue, 934 S.W.2d 315,318 (Mo. Ct. App. 1996)). (Emphasis added). **UNDERWOOD v. ALABAMA STATE BOARD OF EDUCATION, 1071464 (Ala. 12-4-2009)***

“Any action taken by a court without subject-matter jurisdiction — other than dismissing the action — is void.” *Montgomery County Commission, 11 So. 3d at at 192. (Emphasis added.) EX PARTE STATE OF ALABAMA, 1080927 (Ala. 10-23-2009) Page 7*

“Any action taken by a trial court without subject-matter jurisdiction is void.” *State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999) JEAN v. JEAN, 1080989 (Ala. 9-18-2009) page 7*

“A void judgment will not support an appeal. . . .” Colburn v. Colburn, MONTGOMERY v. MONTGOMERY, 2080400 (Ala.Civ.App. 10-30-2009)

“Any action taken by a trial court without subject-matter jurisdiction is void. *State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999). Furthermore, “a void order or judgment will not support an appeal.” Gallagher Bassett, 991 So. 2d 697, 701 (Ala. 2008). (Emphasis added.) JOHNSON v. NEAL, 1070443 (Ala. 10-23-2009)*

“‘When a party without standing purports to commence an action, the trial court acquires no subject-matter jurisdiction.’ State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1028 (Ala. 1999). Action taken by a trial court lacking subject-matter jurisdiction is void. 740 So. 2d at 1029. Of course, ‘a void order or judgment will not support an appeal.’ Gallagher Bassett Servs., Inc. v. Phillips 991 So. 2d 697, 701 (Ala. 2008).” (Emphasis added.) MILLER v. RILEY, 1080032 (Ala. 10-30-2009)

“If the court has no jurisdiction of the subject matter for judgment there can be no jurisdiction giving effect to process or pleadings.” *ARMSTRONG v. OBUCINO, 300 Ill. 140, 141*

“And we have further held that even a court of general jurisdiction has no power to do any act or render any judgment affecting persons or property, unless the particular act or judgment is brought within its jurisdiction according to law. (People ex rel. Brundage v. Righimer, 298 Ill. 611.) These are general principles upon which substantially all courts are in agreement.” *HERB v. PITCAIRN, 384 Ill. 237 (1943), 51 N.E.2d 277*

1.11. TREASON TO THE CONSTITUTION: That if this court or its officers act where they do not have jurisdiction to act, they are engaged in an act or acts of treason.

"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution." *Id.*, at 404 (Emphasis added). *U.S. v. Will*, 449 U.S. 200, 216, 101 S.Ct, 471, 66 L.Ed2nd 392, 406 (1980) *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5L.Ed 257 (1821)

"No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it." (Emphasis added.)

COOPER v. AARON, 358 U.S. 1, 3, (1958)

2. NO IMMUNITY

2.1. NO JUDICIAL IMMUNITY: That there is no immunity for judge WILLIAM MATHEWS or any of the other judicial officers proceeding illegally without subject matter jurisdiction under color of law or violating my constitutionally secured civil rights. Any further acts and/or omissions by Ardmore employees will result in additional damages under 18 U.S.C. § 242 and 42 U.S.C. § 1983. (See ATTACHMENT - copy of federal complaint #CV-10-HGD-0134-S)

"Where the judge acts illegally, outside the limits of his jurisdiction, he becomes a trespasser, and is liable in damages as such." (Emphasis added.) **IN RE TIP-PA-HANS ENTERPRISES, INC.**, (1983) 27 B.R. 780

"Where the court has no jurisdiction of the subject matter, its proceedings are void and the judge can derive no protection from them." (Emphasis added.) **BROOM v. DOUGLASS**, 175 Ala. 268, 57 So. 860

"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." (Emphasis added.) **OWEN v. INDEPENDENCE**, 100 S.C.T. 1398, 445 U.S. 622, 623, 635, 638 (1980) [re. 42 U.S.C. § 1983 civil rights violation law suit]

2.2. NO MUNICIPAL IMMUNITY: That the U.S. Supreme Court has held that municipalities do not have immunity from federal civil rights violation law suits, e.g., 42 U.S.C. § 1983.

"Held: A municipality has no immunity from liability under [42 U.S.C.] § 1983 flowing from

its constitutional violations and may not assert the good faith of its officers as a defense to such liability.” Pp. 635-658.

“Where an immunity was well established at common law and where its rationale was compatible with the purposes of [42 U.S.C.] § 1983, the statute has been construed to incorporate that immunity. But there is no tradition of immunity for municipal corporations, and neither history nor policy supports a construction of [42 U.S.C.] § 1983 that would justify the qualified immunity accorded respondent city by the Court of Appeals.” Pp. 637-644.

“By its terms, § 1983 creates a species of tort liability that on its face admits of no immunities.” *Imbler v. Pachtman*, 424 U.S. 409, 417 (1976). Its language is absolute and unqualified; no mention is made of any privileges, immunities, or defenses that may be asserted. Rather, the Act imposes liability upon “every person” who, under color of state law or custom, “subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.”^[fn16] And *Monell* held that these words were intended to encompass municipal corporations as well as natural “persons.”

“But there is no tradition of immunity for municipal corporations, and neither history nor policy supports a construction of § 1983 that would justify the qualified immunity accorded the city of Independence by the Court of Appeals. We hold, therefore, that the municipality may not assert the good faith of its officers or agents as a defense to liability under § 1983.” *OWEN v. INDEPENDENCE*, 100 S.C.T. 1398, 445 U.S. 622, 623, 635, 638 (1980) [*re. 42 U.S.C. § 1983 civil rights violation law suit*]

3.0 SCORE CARD

3.1. DAMAGE FROM ALLEGED OFFENSE: That damages/injuries resulting from my alleged offense, evaluated in real terms, are as follows:

- (a) Damage to property: None.
- (b) Damage or injury to persons: None.
- (c) Damage to personal rights: None.
- (d) Breach of the peace/disturbance: None.

3.2. DAMAGES FROM ARDMORE PERSONNEL: That the damages resulting from acts and/or omissions by Ardmore personnel, evaluated in real terms, are as follows:

(a) Damages to my constitutionally secured rights:

- right to procedural and substantive due process – denied;
- right to equal protection of the laws – denied;

- right to be secure in Plaintiff's person and possessions from unreasonable seizure and searches – violated;
- right to warrantless arrest and imprisonment *only* upon affidavit of probable cause – violated;
- right to warrantless search and seizure *only* upon affidavit of probable cause or strict exceptions – violated;
- right to bear arms – denied;
- right to freedom of religion – denied;
- right to freedom of speech – denied;
- right to liberty, freedom of movement, locomotion – denied;
- right to have compulsory process for obtaining witnesses and evidence – denied;
- right to remain silent in criminal proceedings so as not to incriminate oneself – violated;
- right to be informed as to the nature and cause of alleged offense in the first instance – denied;
- right to receive a timely copy of the charging instrument (complaint) – denied;
- right to have no excessive bail required upon release – violated;
- right to notice of trial in the first instance – denied;
- right to a fair, impartial, neutral, detached judge – denied;
- right to a fair, impartial and meaningful hearing – denied;
- right to have challenge to subject matter jurisdiction heard before trial date – denied;
- right to have Plaintiff's case tried in a court of competent jurisdiction – denied;
- right to speak fully in ones own defense – denied;
- right to open and free access to the courts – denied;
- right to access government documents and records necessary for Plaintiff's defense – denied;
- right to initiate civil causes of action (e.g., counter claim) in Defendants' municipal court – denied;
- right to have Plaintiff's case administered justly without sale, denial or delay – denied;
- right to have all Plaintiff's pleadings filed in the docket – denied;
- right to obtain a copy of the case docket – denied;
- right to speedy trial – denied;
- right to trial by jury – denied;
- right to have Plaintiff's case fully adjudicated according the rule of precedent and procedural norms – denied;
- right to participate in legal process free of threats, fear and intimidation tactics – violated;
- right to safe, sanitary, and humane jail cell conditions – denied;
- right to privacy – violated;
- right to full and complete discovery process in preparation for trial – denied;

(b) Other damages include, but are not limited to, the following:

- economic damage, e.g., cost of defense, i.e., office supplies, postage, travel expense, etc.,
- lost time (irretrievable) from domestic responsibilities, i.e., giving primary care to aged parent with special health needs requirements,

- damage to physical and emotional health,
- damage to reputation,
- lost economic opportunities damages,
- opportunity interest damage,
- interruption of relationship with medical and nursing home institutions–damaged,
- damages from pain and suffering, etc.

(c) Damages from state statutory, tort and/or common law offenses include, but are not limited to, the following:

- false arrest and imprisonment;
- assault;
- battery;
- breach of duty;
- breach of oath of office;
- trespass to chattels;
- trespass vi et armis (trespass with force of arms);
- trespass de bonis asportatis (trespass for goods carried away);
- trespasser ab initio;
- trespass on the case;
- continuing trespass;
- permanent trespass;
- joint trespass;
- intentional tort;
- personal tort;
- negligence;
- complicity and failure to prevent criminal activity;
- outrageous conduct;
- misprision;
- theft of property;
- theft of services;
- extortion;
- coercion;
- obstructing of governmental operations;
- tampering with governmental records;
- interfering with judicial proceedings;
- failure to disclose conflict of interest;
- intimidating a witness;
- tampering with a witness;
- terrorist threats.

(d) Damages to taxpayers, i.e., wasted money spent on the malicious, oppressive, and abusive prosecution of this case: (? unknown) salaries, overtime, insurance premiums, retirement plan contributions, employee benefits, perks, vehicles and maintenance, supplies, office space overhead expense, damage awards, etc. All of this and more for what purpose?

3.3. THE REAL CRIMINAL(S)?: That it should be obvious who the real criminal(s) are from looking at the above costs involved from damages incurred.

4. NO APPEARANCE

4.1. GROUNDS: That I will *not* be attending the sham trial proceedings on Wednesday, January 27, 2009 at 8:30 a.m. for the following reasons:

4.1.1. COLOR OF LAW: That this court is operating under color of law since it lacks subject matter jurisdiction on the face of the record, and for numerous other reasons set forth in the nine aforementioned documents I filed into the docket which are too numerous to list here. Whatever jurisdiction this court may arguably have had has been lost because of the egregious due process and equal protection violations. Further, the prosecutor has not rebutted my jurisdictional challenges in six months and is estopped by acquiescence from continuing to prolong this case and further abuse my constitutionally secured rights to liberty and to my property.

4.1.2. FEAR OF ARMED THREATS: That I will not expose myself or be subjected to the possibility of this court, once again, using fear and intimidation tactics by the local S.W.A.T. Team accompanied by an unlawful warrantless search and seizure at the courthouse door as on August 26, 2009. I will not be imposed upon by this court and its cronies to endure the undue risk, expense, humiliation, or indignity of attending a sham proceedings under color of law, void of jurisdiction and proper statutory procedures.

4.1.3. INCREASED DAMAGES: That my attendance would needlessly exacerbate the liability for damages of the Town of Ardmore and its employees

4.1.4. NO PROTECTION OF MY CONSTITUTIONALLY SECURED RIGHTS: That this court is warring against my rights in violation of duty. I have a right to due process and equal protection of the laws. I have a right to liberty unrestrained by color of law kangaroo courts. I have a right to have fair, equal, just, impartial hearing in court. I have a right to have my case heard in a court of competent jurisdiction. If I were to attend on 01/27/10I would have no protection of my basic constitutionally guaranteed civil rights, but could only expect to receive more biased, contemptuous and abusive treatment from this court and its officials. There will be no good faith fundamental fairness shown by an impartial judge who follows and obeys constitutional and statutory law. This court will not provide me with mandatory constitutional safeguards as expressed by the Alabama Supreme Court:

“It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon.” (Emphasis added.) EX PARTE RHODES, 202 Ala. 68, 71 (1918)

4.1.5. NO AUTHORITY TO ACT: That this court has no authority to hold a hearing/trial without subject matter jurisdiction. Its *only* lawful act can be to dismiss this case with prejudice. It cannot make a settlement offer, schedule more proceedings, or render a valid judgment that is appealable. It would be a waste of time and money to attend a hearing with void proceedings. To be forced to attend a sham proceeding (a nullity) with no due process is unconstitutional and need not be observed per the U.S. Supreme Court holding as follows:

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.” NORTON v. SHELBY COUNTY, 118 U.S. 425, 426

Also,

“If the court has no jurisdiction of the subject matter for judgment there can be no jurisdiction giving effect to process or pleadings.” (Emphasis added.) ARMSTRONG v. OBUCINO, 300 Ill. 140, 141

4.1.6. CONCLUSIVE PRESUMPTION: That this court has conclusively presumed my alleged guilt from the start without hearings, factual evidence, or trial, which is a constitutional violation of my right to due process, and removes subject matter jurisdiction from the court. The sole objective of this court from the beginning was clearly to get a conviction (judicial lynching) and generate revenue regardless of how unlawful the process may be or how many of my constitutionally secured rights were violated.

“If any question of fact or liability is conclusively presumed against the accused it is not due process of law.” ZIEGLER v. R.R. CO., 58 Ala. 594; WILBURN v. McCALLY, 63 Ala. 436.

“No judgment of a court is due process of law if rendered without jurisdiction.” SCOTT v. McNEAL, 154 U.S. 34. BONNER v. GORMAN, 213 U.S. 86, 87 (1909)

5.0 DEMAND

5.1. DEMAND BY RIGHT: That I hereby below make the

following DEMANDS BY RIGHT under the authority of the Alabama Constitution (1901), Article I, §§§ 2, 35 & 36:

- (a) DISMISS this case with prejudice by written ORDER immediately for lack of subject-matter jurisdiction;
- (b) ORDER the immediately return of my property, *i.e.*, my gun, holster, and five rounds of .22 cal. ammunition;
- (c) ORDER the immediately return to me of the \$750.00 bail plus 10% simple interest;
- (d) ORDER the Town of Ardmore, Alabama to immediately reimburse me in the amount of \$105.00 for the impounding of my car plus 10% simple interest;
- (e) ORDER the expungement of my record within the Ardmore police department including all emails, letters, memo, reports, fingerprint cards, etc. and written proof of the same certified under oath by the police chief.

I hereby solemnly affirm and declare under penalty of perjury under the laws of the United States of America that the foregoing NOTICE AND DEMAND is true and correct to the best of my knowledge and belief.

Executed on January 25, 2010.

Arthur Hirsch, accused and Unalienable Rights Claimant
3121 Buffalo Road
Lawrenceburg, Tennessee 38464

“We Dare Defend Our Rights” – Alabama State Motto

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE AND DEMAND was mailed via pre-paid mail this 25th day of January, 2010 to the following:

Clerk - Ardmore Municipal Court USPS Certified Mail #7008 0150 0001 7526 1980
26494 1st Street
Ardmore, AL 35739

Chad Wise, Esq.
317 W. Market St.
Athens, AL 35612

William G. Mathews, Judge
117 South Marion Street
Athens, AL 35611

Ricky Mitchell, Mayor
26641 2nd St.
Ardmore, AL 35739

Billy Ray Hall, Councilman
26204 7th St.
Ardmore, AL 35739

Billy Shannon, Councilman
29537 Gatlin Rd.
Ardmore, AL 35739

Melody Duffey, Councilwoman
29210 1st Ave., W.
Ardmore, AL 35739

Mary Hobbs, Councilwoman
29120 1st Ave., W.
Ardmore, AL 35739

George King, Councilman
c/o Town of Ardmore
26494 1st St.
Ardmore, AL 35739