

*[Redacted and Uncorrected – Published as received]*

Superior Court district 27 B  
Lincoln County Court

Rodney -Dale ;Class  
Private Attorney General  
[Redacted] Street  
High Shoals, NC 28077  
Living man as the Declarant

Case # 13 CRS 50407

CASE # 13 CR 050407  
on Appeal

Vs

Administrative Law Judge

STATE OF NORTH CAROLINA *et,al*  
& LINCOLN COUNTY  
Both Fictitious Entity  
No Corpus delecti or Real Party of Interest

Objection to the District Attorney  
Motion to Dismiss

Motion to Strike Motion to Dismiss

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NOW, COMES The Declarant Rodney Dale Class in his official position as a Private Attorney General and a 14th amendment section 4 Bounty Hunter (here in after Declarant) to file this document named Objection to the District Attorney Motion to Dismiss Motion to Strike Motion to Dismiss into the clerk of court of the Superior Court district in Lincoln County Court.

The Declarant will remind the DAs office and the Appeals Court that all parties are receiving wages from the public for public offices to which they serve. The Declarant

is also entitled to his time under equal consideration to be paid for by the County/State for lawyer Fee at \$250 an hour as there is an uncertain time in the scheduling for the Declarant to appear before the Court. The Declarant is required to remain all day long on the pretext that there might be or possibly be a hearing that day. The DAs office is abusing this court by failing to state or set time for hearing and is abusing its public office which can be classified as official oppression under North Carolina statutes.

In 10 Halsbury's Laws of England (3d ed.), Criminal Law, p. 615, it is stated: "Any public officer is guilty of oppression if while exercising, or under color of exercising, his office he inflicts upon any person from an improper motive any illegal bodily harm, imprisonment, or any injury other than extortion. Oppression is a misdemeanor at common law."

In 2 Wharton's Criminal Law ? 1898 (12th ed.), it is stated: "It is a misdemeanor at common law for a public officer, in the exercise or under color of exercising the duties of his office, to abuse any discretionary power with which he is invested by law, from an improper motive. In such cases the existence of the motive may be inferred either from the nature of the act or from the circumstances of the whole case."

### **I Right to appeal**

1. The Declarant point to a 15A – 1430 1(c) Judge Ali P. Paksoy did not and has not file his entry of judgment.

(c) **Within 10 days of entry of judgment**, notice of appeal may be given orally in open court or in writing to the clerk. **Within 10 days of entry of judgment**, the defendant may withdraw his appeal and comply with the judgment. Upon expiration of the 10-day period, if an appeal has been entered and not withdrawn, the clerk must transfer the case to the appropriate court.

2. The Declarant while in court March 26, 2013 did indeed state that he was, going to file an appeal on the record.
3. Judge Ali P. Paksoy did reply that, that was my right to file into the Superior Court that into the Appeals Court put on the record in the transcripts.
4. Declarant in his motion to vacate filed March 27 2013 also addressed that the Declarant did not waive his rights to an appeal.
5. The Declarant has not been notified by the court or by Judge Ali P. Paksoy of such entry of judgment.
6. The Declarant has notified both the District Court and the Superior Court of an appeal because this States Constitution was violated were trial by jury was a requirement.

## **II Clean hands Doctrine**

7. The Declarant will point out the phrase “clean hands doctrine” or “unclean hands” as the court system has created this phrase to be used.

### **Clean hands doctrine or unclean hands**

A rule of law that a person coming to court with a lawsuit or petition for a court order must be free from unfair conduct (have "clean hands" or not have done anything wrong) in regard to the subject matter of his/her claim. His/her activities not involved in the legal action can be abominable because they are considered irrelevant. As an affirmative defense (positive response) a defendant might claim the plaintiff (party suing him/her) has a "lack of clean hands" or "violates the clean hands doctrine" because the plaintiff has misled the defendant or has done something wrong regarding the matter under consideration. Example: A former partner sues on a claim that he was owed money on a consulting contract with the partnership when he left, but the defense states that the plaintiff (party suing) has tried to get customers from the partnership by spreading untrue stories about the remaining partner's business practices.

8. Clean hands doctrine deals with bad faith and acting in a manner that does not violate your contractual agreement to the public office.
9. The Declarant has obtained rulings from the Administrative Court in Raleigh as well as the Attorney General's Office out of Raleigh stating who not law enforcement.
10. Under the clean hands doctrine the Sheriff Department had to have the authority to arrest out on the street handcuff and detain.
11. North Carolina statutes for the Sheriff Department don't give such authority to its deputies which are backed up by the administrative ruling and the Attorney General's Office opinion in Raleigh.
12. The Declarant pointed out that there was no search warrant and no warrant for his arrest and pointed out that the Declarant hold position as law enforcement by congressional mandate.
13. The Declarant addressed the fruit of the poison tree in his appeal brief that any evidence obtained by unconstitutional means or without a proper search warrant and a Miranda warning such evidence was not admissible.
14. The Declarant will continue to point out the filings into the Arrangement Court that was never addressed by the DAs office.
15. The Declarant again points to the fact that the Arrangement Court being Administrative Court violated its administrative procedures under Ch. 150B Article 1 150 B for administrative procedures.
16. The Declarant will continue to point out that the DAs office again has failed to dispute, rebut or deny this Declarant filing from the Arrangement Court until we came

before Judge Ali P. Paksoy and still failed to address the Declarant paperwork even in the District Court.

17. The DAs office came into the district court violating the equity clause of "bad faith" in the Court and received equity in Court costs and fines to which a breach of their contract to the public office of honest service and in breach of their bar oaths of integrity was violated.

18. The Declarant will point out that those who work in the DAs office has had schooling and education and is aware of the statutes of this State.

19. The DAs office cannot claim ignorance of not knowing this State's own legislation on proper procedures on how to present a court case under criminal procedures, evidence code, civil procedures and this State statute on a proper search warrant.

20. The Declarant has pointed out that the DAs office started out with "Unclean hands" and violated the "Fruit of the Poison Tree" and now asking the Appeals Court to cover it up.

### **III Procedures Violation**

21. The Declarant will point out that the DAs office is now making issues of procedures when it ran an inquisition for hearing instead of constitutional or even an administrative court under this State's statutes as written by this State's legislation.

22. The DAs office cannot sit back and refuse to address the Declarant paperwork that has been filed into the case in his defense just because it is self-incriminating and self convicting if the DA's Offices would answer it.

23. The DAs office cannot breach its public obligation to honest service while receiving wages and benefits to the public office to which they were appointed or hired.

24. The DAs office cannot violate the rules of law, deny a fair and impartial hearing, and breach the very oath to uphold the Constitution, disregard this State's statutory legislation to how court hearings are to be conducted and then claim that the Declarant didn't follow 15 A – 1431 (c) when Judge Ali P. Paksoy has intentionally failed to enter a judgment in writing and notify this Declarant of such decision.

#### **IV Motion to strike Motion to Dismiss**

25. The Declarant is entitled to a trial by jury in the Superior Court and to have a jury makes the decision as the Declarant was denied a trial by jury in the District Court as required by the States Constitution.

26. Again the DAs office is running an inquisition and not a trial by this State's legislation and requirements under the Constitution of this State.

*Ex parte Milligan*, 71 [U.S.](#) (4 [Wall.](#)) 2 (1866), case in which the U.S. Supreme Court ruled that the federal government could not establish military courts to try civilians except where civil courts were no longer functioning in an actual theatre of war.

#### ***“Quote from Ex parte Milligan”***

No graver question was ever considered by this court, nor one which more nearly concerns the rights of the whole {119} people, for it is the birthright of every American citizen when charged with crime to be tried and punished according to law. The power of punishment is alone through the means which the laws have provided for that purpose, and, if they are ineffectual, there is an immunity from punishment, no matter how great an offender the individual may be or how much his crimes may have shocked the sense of justice of the country or endangered its safety. By the protection of the law, human rights are secured; withdraw that protection and they are at the mercy of wicked rulers or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of

the extent of the struggle to preserve liberty and to relieve those in civil life from military trials. The founders of our government were familiar with the history of that struggle, and secured in a written constitution every right which the people had wrested from power during a contest of ages. By that Constitution and the laws authorized by it, this question must be determined. The provisions of that instrument on the administration of criminal justice are too plain and direct to leave room for misconstruction or doubt of their true meaning. **Those applicable to this case are found in that clause of the original Constitution which says "That the trial of all crimes, except in case of impeachment, shall be by jury," and in the fourth, fifth, and sixth articles of the amendments. The fourth proclaims the right to be secure in person and effects against unreasonable search and seizure, and directs that a judicial warrant shall not issue "without proof of probable cause supported by oath or affirmation." The fifth declares**

that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor be deprived {120} of life, liberty, or property without due process of law.

And the sixth guarantees the right of trial by jury, in such manner and with such regulations that, with upright judges, impartial juries, and an able bar, the innocent will be saved and the guilty punished. It is in these words:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

27. Because the State and the County has operated in "bad faith" and with unclean hands from the very beginning the Declarant is entitled to his appeal and have this case overturned due to unethical behavior, breach of their contract to the public office, and

obtaining equity in court by unethical practices and obtaining costs and finds from the Declarant by means which would violate Title 18 USC section 1961.

28. For these reasons named above is enough to Strike the DAs “Motion to Dismiss”

29. United States Congress and this State’s legislation has agreed to the Constitution has been the law of the land and has created Rules of Court rules, rules of evidence, and criminal procedure to ensure that a defendant is trying properly without shortcuts and without the prosecutor’s office running an inquisition in the courtrooms.

30. The Declarant will remind the Appeals Court and the DAs office that our forefathers laid out the Constitution and the duties of the three branches of our government and especially congressional which created the inferior courts to ensure if a lower court disregards the rights of the citizens that the citizens would stand a chance in a court of appeal to overturn lower court’s decision.

31. Our Congress did not pass legislation for the courts to run inquisitions to have the defendant found guilty and all rights are denied because there’s equity to be made and retirements to be gotten from such inquisitions. These nows becomes a conflict of law and violate procedures under United States Code Title 28 judiciary and judicial procedures section 455.

32. For all the above named reasons the DAs office lack subject matter and jurisdiction to file any motions to dismiss before Superior Court.

### **V Issue at hand**

33. Does not the United States Congress have such legislative authority to grant federal grants to the States, create administrative agencies, create tax laws, pass laws such as the Federal Reserve act of 1913, the emergency banking act of 1933, the Social Security act



of 1935 that the state receives each fiscal year roughly \$1 million from each live birth, give grant to federal programs such as the State Justice Institute, Judicial Center Institute, American Association Motor Vehicle Administrators, National Drivers Registration that regulate how the State's operates and are required to come in compliance under such regulations.

34. Now, The issue before the Superior Court is this; The United States Congress has the legislative authority to create laws like these listed above,

35. Now does not the United States Congress have the same legislative authority to create laws that give non-public officials the authority to act as a Private Attorney General and Bounty Hunter to enforce statutory law as law enforcement

36. And

37. Hold accountability against those who hold public office

38. And

39. Abuse such public office in each State and hold them accountable under title 42 USC sections 1983, 1988, title 18 USC sections 241, 242, and 1961

40. And

41. Charge them under the 14<sup>th</sup> amendment section 4 of the United States Constitution. In the same manner as This State Attorney General's Office or the County DAs office

42. And

43. This States bail bondsman to act as law enforcers whenever such surety bonds are violation for that public office

44. Or

45. a breach of their fiduciary duty

46. Or

47. Oath to the public office pursuant to the Federal Statutes, State Statutes

48. And

49. Both Constitutions that was sworn to uphold upon entering such office.

### **Conclusion**

The Declarant now moves the Superior Court to strike the DAs office Motion to Dismiss as it can only be taken in Bad Faith and Frivolous and Incomprehensible as the DAs office has failed to address any of the Declarant paperwork in any previous hearing before this.

For the DAs office to object that the Declarant failed to follow 15 A – 1431 (c) is a frivolous argument as the DAs office representing the State of North Carolina and Lincoln County came into this case with unclean hands and fruit from the poison tree. This is enough justification to have the DAs Motion to Dismiss, dismissed with prejudice and to allow the Declarant request for an appeal to move forward.

Rodney -Dale ;Class  
Private Attorney General  
[Redacted] Street  
High Shoals N.C. 28077  
Bounty Hunter Seal

Private Attorney General Seal

Proof of Service

NOW, COMES, the Declarant Rodney- Dale; Class in his official position as a Private Attorney General and a 14th amendment section 4 Bounty Hunter (here in after Declarant) to file this document named Objection to the District Attorney Motion to Dismiss, Motion to Strike Motion to Dismiss by the Declarant into the clerk of court of the superior court on this day of \_\_\_\_\_ in the month of \_\_\_\_\_ in the year of our Lord 2013 AD

Rodney -Dale ;Class  
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**[Redacted]** Street  
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cc

Prosecutor office  
Lincoln County Courthouse  
PO Box 874  
Lincolnton, NC 28092