

Case No. 07-1392

STATE OF TEXAS	§	In The
	§	
Plaintiff,	§	
	§	COUNTY COURT AT LAW OF
v.	§	WALKER COUNTY
	§	
HARMON LUTHER TAYLOR,	§	
	§	
Respondent.	§	WALKER COUNTY, TEXAS

**TAYLOR'S VERIFIED MOTION
TO SHOW AUTHORITY**

Assertion of Rights

Harmon Luther Taylor ("Taylor") asserts all his unalienable rights, privileges and immunities at Natural Law, Common Law and Maritime Law, and all his commercial rights relevant to this state.

Special Appearance

Taylor asserts his special appearance, objecting to the county court's subject matter jurisdiction, personal jurisdiction, and venue.

Motion to Show Authority

Per TX R. CIV. P. 12, Taylor moves that the prosecuting attorney establish his signature authority to participate in this case.

Discussion

The District Attorney has appeared but has not established signature authority to do so in this case.

Taylor has a very strong belief that the case is being prosecuted without authority. Therefore, Taylor demands that the District Attorney prove up his

signature authority to participate in this case.

Taylor also intends for this motion to apply to any and all employees or agents of DAVID P. WEEKS, d/b/a Walker County District Attorney, as well as to WEEKS, himself. Taylor has a very strong belief that even WEEKS has no signature authority to prosecute this case; hence, no agency authority to delegate.

Agency can't be presumed; it must be proved.

Key to the whole issue here is that agency cannot be presumed, and the party asserting agency carries the burden to prove it. *See Schultz v. Rural/Metro Corp.*, 956 S.W.2d 757, 760 (TX App. – Houston [14th Dist.] 1997, no writ); *Zuniga v. Navarro & Assocs., P.C.*, 153 S.W.3d 663 (TX App. – Corpus Christi 2005, pet. denied) (citing *Bernsen v. Live Oak Ins. Agency*, 52 S.W.3d 306, 309 (TX App. – Corpus Christi 2001, no pet.)); *Alamo Cmty. Coll. Dist. v. Browning Constr. Co.*, 113 S.W.3d 146 (TX App. – San Antonio 2004, pet. dism'd) (citing *S. County Mut. Ins. Co. v. First Bank & Trust*, 750 S.W.2d 170, 172 (TX 1988)); *Disney Enters., Inc. v. Esprit Fin., Inc.*, 981 S.W.2d 25, 30 (TX App. – San Antonio 1998, pet dism'd w.o.j.); *Gray v. Black*, 267 S.W. 291 (TX Civ. App. 1924) (agency is not presumed; wife cannot be presumed to be husband's agent). “[O]nly an alleged principal's words or conduct that are represented to the third party can clothe an alleged agent with apparent authority. [*BML Stage Lighting, Inc., v. Mayflower Transit, Inc.*, 14 S.W.3d 395, 401 (TX App. – Houston [14th Dist.] 2000, pet. denied)].” *Coleman v. Klockner & Co. AG*, 180 S.W.3d 577, 588 (TX App. – Houston [14th Dist.] 2005, n.w.h.) (*Coleman*). In short, the alleged agent's word, alone, never proves agency.

Therefore, where agency has been challenged, as it is, here, and where it's presumed into existence over that objection, the burden of proof has been shifted. *Beard v. Banks*, 542 U.S. 406 (2004) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)); *Scott v. Harris*, ___ U.S. ___, 127 S. Ct. 1769 (2007) (citing *United States v. Diebold*, 369 U.S. 654, 655 (1962)) (summary judgment presumptions are *against* movant). *Mullaney v. Wilbur*, 421 U.S. 684 (1975) (citing *In re Winship*, 397 U.S. 358 (1970)) (to relieve plaintiff of burden is to violate Due Process); *Heiner v. Donnan*, 285 U.S. 312 (1932) (fraud context).

Taylor also challenges the related concept that where there is no specific finding of fact, the presumption favors the implied finding, thereby turning the matter into a sufficiency of evidence matter when on review. *Cf. Coleman*. Without a specific finding, which specific finding Taylor here requests, it may *also* be a *sufficiency* point, but before that, it's a *shifting of the burden* point.

Challenge is to both actual and apparent authority.

Taylor challenges the Walker County DA's Office's signature authority, both as to actual authority and as to apparent authority. Actual authority doesn't exist. Actual authority arises where the principal authorizes the agent. *See Cameron County Sav. Ass'n v. Stewart Title Guaranty Co.*, 819 S.W.2d 600, 603 (TX App. – Corpus Christi 1991, writ denied). What Taylor hereby demands that WEEKS do is establish is the **entire** chain of agency, from (A) STATE OF TEXAS to (B) the minutes in the authorized book authorizing that first agent or employee, to (C) how WEEKS gets involved in the matter, at all, to (D) how anyone else in the DA's Office

purports to come by his/her respective agency authority at all.

Without that proof, no one with that DA's Office has signature authority.

Apparent authority doesn't exist, either. STATE OF TEXAS has said absolutely nothing to Taylor about anything about any agency in any DA's Office, or in anyone or anything else, as far as that goes. And, again, the Record is absolutely silent when it comes to evidence regarding such communications. STATE OF TEXAS, in particular WEEKS and his staff, has the burden to prove agency. *See Schulz, etc., supra.* Again, where that burden is presumed and not compelled proved, the burden has been shifted. *Cf. Coleman.*

WEEKS has no signature authority.

Bottom line, Rule 12 relief should be granted when WEEKS can't prove up any authorized agency by STATE OF TEXAS for this case.

Request for Relief

Premises Considered, Taylor requests that the Walker County DA's Office, generally, and WEEKS and any assigned DA, in particular, be compelled to prove up their signature authority. Upon such failure to do so, Taylor requests that this case be summarily dismissed.

Submitted by,

/s/ Harmon Taylor
Harmon Luther Taylor
I reserve all my rights
7014 Mason Dells Drive
Dallas, Texas 75230

Affidavit of Harmon Luther Taylor

STATE OF TEXAS §
COUNTY OF DALLAS § ss. KNOW ALL MEN BY THESE PRESENTS

Before me, the undersigned Notary, acting territorially to “this state,” “UNITED STATES,” and “UNITED NATIONS,” personally appeared HARMON LUTHER TAYLOR, (“Taylor”), known by me, and who, upon administration of oath or affirmation by me, declared and deposed as follows:

I am Harmon Luther Taylor. I am at least 21 years of age, and I am competent to make this Affidavit. I have personal knowledge of these facts, and these facts are true and correct.

Assertion of Rights

I assert all my unalienable rights, privileges and immunities at Natural Law, Common Law and Maritime Law, and all my commercial rights relevant to a place called this state. Any waiver of rights will be specific, in writing, and of Record.

The Walker County DA’s Office has no signature authority

I have a very firm belief that the Walker County DA’s Office has no signature authority to prosecute this case. This follows from my very firm belief that they cannot establish agency, as discussed in the foregoing motion.

The facts asserted in this motion are true and correct. In particular, I have received no information justifying WEEKS’ actual or apparent agency authority to act on behalf of STATE OF TEXAS.

Further, Affiant sayeth not.

/s/ Harmon Taylor
Harmon Luther Taylor, Affiant

Signed and sworn to before me on this the _____ day of September, 2008, for which note my seal and signature.

Notary Public Signature (seal)

(If seal is not by stamp, or not legible)

My Commission Expires:

Notary Public Printed Name

Certificate of Service

By my signature below, I certify that on this the _____ day of September, 2008, I served a true and correct copy of this motion on the following:

DAVID P. WEEKS
Walker County DA
1036 11th Street
Huntsville, TX 77340

Hon. GREG ABBOTT
Attorney General's Office
300 West 15th Street
Austin, TX 78711

/s/ Harmon Taylor
Harmon Luther Taylor