

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

March 13, 2015

To: Mr. Jimmie Lee Green, Jr., GDC961894, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

Docket Number: A15A1178 **Style:** Jimmie L. Green, Jr. v. The State

Your document(s) is (are) being returned for the following reason(s).

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IN THE COURT OF APPEALS OF GEORGIA
STATE OF GEORGIA

Republic De Jure

In Esse, In Propria Persona, Natural Person,
Jimmie Lee Green, Junior; Sui Juris,
JIMMIE LEE GREEN GDC# 961894 / Trust / PERSON
Aggrieved Party / Petitioner

VS.

THE STATE OF GEORGIA, et al
CHATHAM COUNTY SUPERIOR COURT, INC.,
Respondant

CASE/CAUSE No: A15A 1178

(Direct Appeal)

Motion For Leave To File An
Amended Complaint And
Amended Enumeration of Errors

MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT
AND AMENDED ENUMERATION OF ERRORS

Petitioner, (ex rel) Jimmie Lee Green Junior, Sui Juris, pursuant to Rule 15(a) and 19(a), Fed. R. Civ. P., request leave to file an Amended Complaint:

INTRODUCTION

A. What many of the victims accused of maritime "crimes" don't realize is that admiralty and maritime jurisdictions were merged with the law and equity jurisdictions in 1966 (See: Federal Rules of Civil Procedure, notes to Supplementary Rules for Certain Admiralty and Maritime Claims). Citing: F.R.C.P. Rule 1; Rule 81; Rule 2; Rule 9(h); Rule 38(e) and the broad language of Title 27, Code of Federal Regulations, part 72.11 makes almost all crimes whether or not they are Federal or States crimes "commercial crimes". In the Propeller Genessee Chief, *Supra*, it was revealed that admiralty courts have jurisdiction over interstate commerce, so it would follow that the crimes listed in 27 CFR 72.11 are cognizable in an admiralty or maritime court and such are commercial courts. If the criminal accusations that plague the courts today are not in the jurisdictions of common law or equity, they must be in admiralty or maritime jurisdictions. And though admiralty and maritime jurisdictions are virtually indistinguishable, Bouvier's definition of a "Maritime cause" as those arising from maritime contracts whether made at sea or on land fits the bill. The Constitution grants the Courts only two Criminal Jurisdictions, Common Law or British Maritime Admiralty Law Tribunal. Their jurisdiction is entirely penal; "An action upon penal statute" is defined as: an action for the recovery of a penalty given by statute. The word "penal" is inherently a much broader term than "criminal" since it pertains to any punishment or penalty and relates to acts which are not necessarily delineated as criminal.

B. Notice that Georgia has a Code of Criminal Procedure, but not one Criminal

law. That's right, there is no Criminal Code and not one criminal law in Georgia, but, there is a Penal Code that is just chock full of "offenses" and more are being added every time the legislature convenes. see, U.S. v. McClain, 545 F.2d. 988, rehearing den. 551 F.2d 52 (5th Cir. 1977), "Power of punishment is vested in the legislature, not in the judicial department, it is the legislature, not the court, which is to define a crime, and ordain his punishment." see also; *Slusser v. State*, 232 SW 2d 727, 1949, "the legislature may declare that the doing of certain acts, shall constitute the offense of sodomy, and may ignore, if it sees fit, the common law elements of the offense."

In summary and according to the courts, the legislature defines crimes, can create crime, while ignoring the common law elements of a crime and mandate the punishment for the crime it creates. There is no crime unless it is created by the legislature. These creations of the legislature are most certainly maritime "crimes". The Georgia legislature has certainly exercised its power to extend the maritime jurisdiction. This explains why the judge can amend or reverse a jury verdict, jail jurors for contempt if they don't do what the judge tells them to do, prosecutor denies witnesses on behalf of defendant, as in my case, omit evidence in favor of defendant, etc..., the jury is just there to make the sheep think that there is a trial by jury, which is an Advisory Jury.

Law, equity, admiralty and maritime, the once separate and distinct jurisdictions are now neatly rolled in to one set of rules, tried in the same courtroom with the same judge, on the same docket and with nothing posted for the public to distinguish the different jurisdictions from one another.

AMENDED ENUMERATION OF ERRORS Part II

1. Petitioner Motions this Court to Dismiss Under Rule 12(b) for Lack of Jurisdiction, In proper Venue, In sufficient Service of Process, Failure To State A Claim To Which Relief Can Be Granted, and Denial of Allocation:
 - (a) the petitioner never pleaded to the jurisdiction of the court; Indispensable Party
 - (b) the amount in controversy has not had the sum or value specified as by 28 U.S.C. § 1332;
 - (c) the petitioner is not subject to the personal jurisdiction of this court;
 - (d) venue is improper (this petitioner does not reside in this corporation and no part of the events or omissions giving rise to the claim occurred against the entity created by the government / or court;
 - (e) petitioner has not been properly served, as shown by the attached affidavit of Detective Dennis;
 - (f) the complaint fails to state a claim upon which relief can be granted;
 - (g) non joinder of true injured party, no pleading the reason for Nonjoinder; and
 - (h) denied the right of Allocation, Rule 32(a) entitled to him;
 - (i) denied a common law trial, seventh amendment of U.S. Constitution.

REASONING

C.: This Court should grant leave freely to amend a complaint. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

- Jurisdictional facts: Those matters of fact which must exist before the court can properly take jurisdiction of the particular case, as, that the defendant has been properly served with process, that the amount in controversy exceeds a certain sum, that the parties are citizens of different states, etc. *Noble v. Union River Logging Railroad Co.*, 147 U.S. 165, 13 S.Ct. 271, 37 L.Ed. 123.
- Laches: Conduct of party which has placed other party in a situation where his rights will be impaired and his defenses embarrassed is the basis of laches. *State v. Abernathy*, 159 Tenn. 175, 17 S.W. 2d 17, 19.
- Failure to state cause of action: Failure of the plaintiff to allege sufficient facts in the complaint to maintain action. In other words, even if the plaintiff proved all the facts alleged in the complaint, the fact would not establish a cause of action entitling the plaintiff to recover against defendant. The motion to dismiss for failure to state a claim is also sometimes referred, see Fed. R. Civ. P. 12(b)
- "Courts in administrative issues are prohibited from even listening to or hearing arguments, presentation, or rational." *ASIS v. U.S.*, 568 F.2d 284.
- The Seventh Amendment preserves the right to a jury trial "[i]n suits at common law." U.S. Const. amend. VII
- Due Process Violation
Citing: *Jackson* 206 Fed. Appx. at 968; *Hughes v. Stafford*, 780 F.2d 1580; *Slater v. Chatman*, 147 Fed. Appx. 959; *Harris v. Champion*, 48 F.3d 1127
- "Jurisdiction can be challenged at any time." and "Jurisdiction, once challenged, cannot be assumed and must be decided." *Basso v. Utah Power & Light Co.*, 495 F.2d 906, 910; see also *Struck v. Medical Examiners* 94 Ca 2d 751, 211 P.2d 389; see also *Bonner v. Bonner*, 272 Ga. 545, 533 S.E. 2d 72 (2000)
- The right to allocation: see, *Green v. United States*, 365 U.S. 301 (1961); *Taylor v. United States*, 285 F.2d 703; *U.S. v. Anderson*, 987 F.2d 598, 599 (5th Cir. 1991).
- "[A] court cannot create a claim which [a plaintiff] has not spelled out in his pleading" (internal quotation marks omitted); *Payne v. Secy of Treas.*, 73 F. Appx 836, 837 (6th Cir. 2003) (affirming sua sponte dismissal of complaint pursuant to Fed. R. Civ. P. 8 (a)(2) and stating, "[A] either this court nor the district court is required to create Payne's claim for her").
- Citing: O.C.G.A. 13-5-4 Mistake of fact or law.

REMEDY

- Motion to Amend see O.C.G.A. 9-14-48
- Moves for dismissal on the ground that upon the facts, and the law the plaintiff has

Shown no right to relief. Citing O.C.G.A. 9-11-41

- Contracts of maintenance or champerty, express or implied, are void and unenforceable. Sapp v. Davids, 176 Ga. 265, 168 S.E. 62 (1933).
- Protection of right; citing, Hines v. State, 41 Ga. App. 294, 152 S.E. 616 (1935). Citing, Green v. United States, 355 U.S. 184, 187, 2 L.Ed. 2d 199, 78 S.Ct. 221, 77 Ohio L.Abs. 202, 61 ALR2d 119.
- Plea of nolo contendere constitutes former jeopardy. Fortson v. Hopper, 242 Ga. 81, 247 S.E. 2d 875 (1978). O.C.G.A. 17-17-95.
- Nolle prosequi entered after jeopardy attached, amounts to acquittal. Reynolds v. State, 3 Ga. 53 (1847); Franklin v. State, 85 Ga. 570, 11 S.E. 876 (1890).
- O.C.G.A. § 9-11-12(h)(3) mandatory dismissal.

Jurat

I declare under the penalty of perjury under the law of the UNITED STATES CODES that the above is true and correct to the best of my knowledge and honorable intent. Respectfully submitted this 10th day of March 2015; 1435 M.C.

I Am: (signed) Leon Hampton (signed)
Natural Person, In Propria Persona:
U.C.C. 1-207, 1-308; 1-103.
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Recourse

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing documents. Service was made by placing the same in an envelope, and with sufficient postage affixed, placed in the U.S. Mail, and on this day mailed to the party(s) as follows: [5-16-13 The clerk shall notify all attorneys]

Clerk of Appellate Court of Georgia
COURT OF APPEALS OF GEORGIA
477 Trinity Ave., S.W., Suite 501
Atlanta, GA. 30334

Clerk of Supreme Court
SUPREME COURT OF GEORGIA
244 Washington St., S.W.,
572 State Office Annex
Atlanta, GA. 30334

This 10th day of March 2015; 1435 M.C.

I Am: (signed) Leon Hampton (signed)
Natural Person Inpropria Persona
UCC 1-207, 1-308; 1-103
All Rights Reserved, Without Prejudice;
Recourse