

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ROBERT BROWN, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-14-299234-1

Docket No: 85061

RECORD ON APPEAL VOLUME 9

ATTORNEY FOR APPELLANT
ROBERT BROWN, JR. # 6006120,
PROPER PERSON
330 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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1 jurisdiction over it.

2
3 BOUVIER'S, *Law Dictionary* (1856) Maxim:

4 Frustr feruntur legis nisi subditis et obedientibus

5 Laws are made to no purpose unless for those who are
6 subject and obedient. 7 Co. 13.

7
8 LEVITICUS 20.2

9 "And you shall not walk in the statutes of the nation which
10 I am casting out before you; for they commit all these things,
11 and therefore I abhor them." Cf. LEVITICUS 18.3

12
13 ACTS 5.29

14 "We ought to obey Yahweh rather than men." Cf. 2 TIMOTHY 3.1-5.

15
16 COKE, Litt. 70

17 No man warring for God should be troubled by secular
18 business. [Cf. 2 Timothy 2.4]

19
20 4. BLACKSTONE, Commentaries, §§ 68-9

21 (stating that, under the law of nations "safe-conducts"
22 or "passports" is expressly or impliedly granted to the subjects
23 of a foreign power in time of war; or committing acts of hostility
24 against such as are in amity, league, or truce" with the nation
25 wherein they reside.

26
27 DANIEL 9.26-27 (NIV)

28 "...the Anointed One will be cut off...: War will continue until the end..."

ARGUMENT

1. THE RELIGIOUS HISTORY OF MAN: HOLY ISRAEL AND THE PROFANE COMMON PEOPLE

Throughout the religious history of man, the *Holy Scriptures* (Genesis - Revelation) record the existence of Yahweh, which is the Unique proper name of the One "divine" Father and absolute King of heaven and earth, as revealed to His holy children called the *Israylites*. Under the *Israylite* system of faith, "Yahweh is One" (absolutely). DEUTERONOMY 6:4. Scholars classify this form of worship as "monotheistic". More properly and simply put: Yahweh is not *two* or *dual*, having no equal or exact opposite to His being. Nor is He *three* or *triune*, having no plurality to His being. It is thus, *One will* that controls the history of man. Because Yahweh is One, there is no equal, or exact opposite, or plurality of wills, that govern the history and destination of man. This conception is unique to *Israyl*, as a corporate body, or spiritual corporation.

On the other hand, the same *Holy Scriptures* also show that all other nations have a "divine" Father over them whom the *Israylites* describe as *Satan the Devil*. From the perspective of the *holy Israylites*, these terms "personify" the nature and character of all systems of faith among the *unholy, profane, common* people of the world. It made no difference to a *holy Israylite* whether a nation

1 believed in many gods or "claimed" they believed in one
2 "divine" being, if the name of that being was not Yahweh.
3 Since, in no case can the existence of Yahweh be discounted,
4 it necessarily follows that, to an Israylite, these unholy
5 common people do not worship the absolute only One. Hence,
6 none of their systems of faith are governed by the One will
7 of Yahweh. What remains, then, for all nations to worship,
8 can only naturally be a *Lie* and *Satan* (meaning "Adversary")
9 against the One will of Yahweh. Scholars classify the
10 systems of faith among the nations as "*polytheistic*", which
11 alludes to their *imaginations* that creation is subject to
12 the will of others.

13 From the perspective of *holy Israyl*, the condition
14 that fallen man is necessarily in, without Yahweh, is that of
15 a *profane State*. Naturally, they do not belong to the One
16 Holy Church, which has the One absolute King over it. Most
17 nations only have an "*idea*" that there must be One absolute
18 King of heaven and earth, to whom they owe subjection. But
19 they believe not, or know not, that His proper Name is Yahweh.
20 Nevertheless, as the common profane people in this country
21 knowingly form their *common Union*, without the One absolute
22 King, they point to His Supremacy by use of the ancient "*ideal*"
23 Canaanite title "*El*", from whence the origin of the term "God"
24 is derived and translated from.

25

26 I will now follow the allusions to Yahweh in the processes
27 of how the *common* people establish their own *Union* and
28 secular government, as a natural separation from the One Holy Church.

2. THE LAWS OF YAHWEH ARE SUPREME: ALLUSIONS IN MAN'S LAW
THAT HIS LAWS ARE INVIOLEABLE

KEILW. 191:

The law of God and the law of the land are all one.

ROBIN V. HARDAWAY, 1 Jefferson 109, 114, 1 Va. Reports Ann. 58, 61 (1772):

The laws of nature are the laws of God, whose authority
can be superceeded by no power on earth. A legislature must
not obstruct our obedience to him from whose punishments
they cannot protect us. All human constitutions which contra-
dict his laws, we are in conscience bound to disobey. Such have
been the adjudications of our courts of justice. And cited 8 Co.
118. a. Bonham's case. Hob. 87; 7 Co. 14. a. Calvin's case.

CALEB NELSON, *Sovereign Immunity*, 115 Harv. L. Rev. 1559 (2002):

The content of the general law of nations, in turn, was
thought to depend partly on the immutable law of nature...

2. ROLL. R. 298

When laws imposed by the state fail, we must act by the
law of nature.

1 BLACKSTONE, *Commentaries on the Laws of England*, 841

This law of nature, being co-eval with mankind and dictated
by God himself, is of course superior in obligation to any other.
It is binding over all the globe, in all countries, and at all times:

1 no human laws are of any validity, if contrary to this.

2

3 1 BLACKSTONE, *supra*, at §54:

4 Those rights then which God and nature have established,
5 and are therefore called natural rights, such as are life and
6 liberty, need not the aid of human laws to be more effectually
7 invested in every man than they are; neither do they receive
8 any additional strength when declared by the municipal laws
9 to be inviolable. On the contrary, no human legislature has
10 power to abridge or destroy them, unless the owner himself
11 commit some act that amounts to forfeiture.

12

13 THE BOISI CENTER PAPERS ON RELIGION IN THE UNITED STATES, *Separation*
14 *of Church and State*:

15 According to this view [of the Declaration of Independence],
16 God is to be acknowledged as the creator of humankind and
17 source of "inalienable" rights; but government is properly under-
18 stood as a human, not divine, institution whose authority
19 and power is derived from citizens themselves, not from
20 God. [emphasis mine]

21

22 BOUVIER'S *Law Dictionary* (1856): *Maxim of Law*:

23 Rights never die.

24

25 1 BLACKSTONE, *supra*, at §120:

26 For the principal aim of society is to protect individuals in
27 the enjoyment of those absolute rights, which were vested in them
28 by the immutable laws of nature.

22.

3. THE SECULAR ALLEGIANCE ESTABLISHED BY THE COMMON PEOPLE, AND THEIR PRESERVATION OF THEIR RIGHT TO CHANGE

From the perspectives of both holy Israyl and profane commoners, man owes First Allegiance to the absolute King, the Creator of heaven and earth. Since, by "divine" will, the First Man created, obviously had no equal, or society, to be subject to.

From the perspectives of both holy Israyl and the profane commonwealth of England, the reason behind what makes everyone owe "natural allegiance" to their kings, ultimately points to the absolute King of heaven and earth, who established their kings. The people are in a Union with its "divinely" appointed king, as subjects to the absolute "divine" King. Thus, the people's tie of allegiance to the king is aimed at establishing a "divine" connection and allegiance to its absolute "divine" King, which they may not "naturally" have.

1 BLACKSTONE, *supra*, at § 354

Allegiance is the tie or *ligamen*, which binds the subject to the King, in return for that protection which the King affords the subject.

1 BLACKSTONE, *supra*, at §§ 356-357

ALLEGIANCE, both express and implied, is however distinguished by the law into two sorts or species, the one natural; the other local. Natural allegiance is such as is due from all men

1 born within the king's dominions immediately upon their birth.
2 For immediately upon their birth, they are under the king's
3 protection. Natural allegiance is therefore a debt of gratitude;
4 which cannot be forfeited, cancelled, or altered, by any change
5 of time, place, or circumstance, nor by anything but the united
6 concurrence of the legislature.

7
8 1 BLACKSTONE, *supra*, at § 358:

9 LOCAL allegiance is such as is due from an alien, or stranger
10 born, for so long time as he continues within the king's
11 dominion and protection: and it ceases the instant such
12 stranger transfers himself from this kingdom to another.

13
14 1 BLACKSTONE, *supra*, at § 361:

15 And this maxim of the law proceeded upon a general
16 principle, that every man owes natural allegiance where
17 he is born, and cannot owe two such allegiances, or serve
18 two masters, at once.

19
20 From the legal ideas of the profane commonwealth, it is
21 obvious that others within their secular kingdom can only owe
22 one allegiance: "local allegiance"; since it is obvious that the
23 common people constitute an inferior and limited, profane secular
24 State. No Church sovereign, or any other foreign sovereign within,
25 or born within its limited kingdom, can owe it any, but one ("local")
26 allegiance.

27 Prior to creating any secular government, it is from the
27 view of the profane commoners, that they are entering into

1 a secular "civil" society, and from thenceforth do they owe its
2 secular king allegiance. Thus, it must be borne in mind that the
3 profane common people constitute a secular "aggregate" corpo-
4 ration, or democratic "society", which accordingly is, and
5 can only be, presumed to naturally belong to such a secular
6 State from birth, thereafter. This secular "society", then, that
7 is tied to its secular king (a Corporation Sole) in allegiance,
8 is not presumed to be official members of that Corporation
9 Sole, let alone born as such.

10 But since there exists for the common people of England
11 (and in early America) a Union of Church and State, the people
12 reserve the Liberty to change their "situation", by entering
13 into religion. Remember: no legislature can abridge these rights.

14
15 1 BLACKSTONE, *supra*, at § 130

16 "Next to personal security, the law of England regards,
17 asserts and preserves the personal liberty of individuals.
18 This personal liberty consists in the power of loco-motion,
19 of changing situation, or removing one's person to whatever
20 place one's own inclination may direct."

21
22 Should a commoner enter into religion or spiritual
23 Corporation, he necessarily leaves "civil" society and its secular
24 Corporation; thus becoming "civilly dead".

25

26 1 BLACKSTONE, *supra*, at § 128

27 "The civil death commences if any man... enters into
28 religion." [CF. VILLALON v. BOWEN, 70 Nev. 456 (1954)]

25.

1 Upon entering the spiritual Corporation of the Church,
2 secular courts no longer have jurisdiction over such a "spiritual"
3 member. He can no longer be held to the inferior moral
4 standards of the common profane people. The "spiritual"
5 member is subject to spiritual magistrates of the Church,
6 and their spiritual interpretation of the law's standards,
7 etc.

8 It is obvious that, because the common people are
9 profane and subject to their own "experiences", their "legal"
10 moral standards can deteriorate to a "spiritually" intolerable
11 level, by a mere two-thirds majority rule. The "natural"
12 allegiance to such a "civil" society, therefore, is premised
13 on a legal fiction that a person was receiving the "benefits"
14 or "advantages" of its Union.

15
16 1 BLACKSTONE, *supra*, at § 121

17 But every man, when he enters into society, gives up
18 a part of his natural liberty, as the price so valuable a
19 purchase; and in consideration of receiving the advantages
20 of mutual commerce, obliges himself to those laws, which
21 the community has thought proper to establish.

22
23 1 BLACKSTONE, *supra*, at § 41

24 But municipal or civil law regards him also as a
25 citizen, and bound to other duties towards his neighbor,
26 than those of mere nature and religion: duties, which
27 he has engaged in by enjoying the benefits of the common
28 union.

Obviously, however, it is a legal fiction that everyone is bound to such obligations, since they are enforced upon everyone by a mere presumption of naked assent. Formal allegiance is only required of public officials. And any "benefit", moreover, can be outright rejected.

BOUVIER'S, *Law Dictionary* (1856): MAXIM:
Potest quis renunciare pro se, et suis, juri quod pro se introductum est.

A man may relinquish, for himself and his heirs, a right which was introduced for his own benefit. See 1 Bouv. Inst. n. 83.

BOUVIER'S, *supra*, MAXIM:
Invito beneficium non datur.
No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69.

BOUVIER'S, *supra*, MAXIM:
Nihil tam naturale est, quam eo genere quidque dissolvere, quo colligatum est.

It is very natural that an obligation should not be dissolved but by the same principles which were observed in contracting it. Dig. 50, 17, 35. See 1 Co. 100; 2 Co. Inst. 359.

BOUVIER'S, *supra*, MAXIM:
Scriptae obligationes scriptis tolluntur, et nude consensus obligatio, contrario consensu dissolvitur.

Written obligations are dissolved by writing, and obligations of naked assent by similar naked assent.

1 BLACKSTONE, *supra*, at §§ 356-357

"But besides these express engagements, the law also holds that there is an implied, original, and virtual allegiance, owing from every subject to his sovereign, antecedently to any express promise; and although the subject never swore any faith or allegiance in form."

By the same principles, then, it necessarily follows that, allegiance to a "foreign" king is likewise effected without a formal agreement/contract. See, e.g., 8 USCS, § 1481 (Ann) (citing, REVEDIN v. ACHESON, (1952, CA2 NY) 194 F.2d. 482). It only needs to be remembered, then, that Yahweh is a "foreign" king with regard to the State. And because Yahweh and the Holy spiritual Church pre-existed the State, it is clear that the common people, in their natural profane state, preserved their right to Atonement or Re-conciliation to whomever the "divine" absolute "foreign" King proved to be. Thus, although the common people did not attempt to establish the "divine" kingdom of Yahweh or any other perceived absolute "divine" king, it is nevertheless reasoned that their majority "right" to create a secular government is their participation as subjects in His Eternal Laws.

BRENNAN, *Against Sovereignty*, 82 Notre Dame L. Rev. 101, 135 (2006):

"The natural law that gives birth to this right of ours to self-government is itself our intelligent participation as human subjects in the Eternal Law, the mind of the sovereign God sweetly disposing all things to their proper ends."

From the perspective of the common people of early England, having a Union of an existing national Church and State, its two-thirds secular majority-rule necessarily placed the Church in the minority, being "holy". The Church members, then, being contemplated as "re-born", thus have a "natural allegiance" to, and sovereign immunity of, the "divine" King. They are now a superior spiritual Corporation, having immunity from the jurisdiction of secular courts. The State acknowledged this as a "privilege" called "Benefit of Clergy". See 4 BLACKSTONE, Comm. 88 358-9; and 367. Later, however, the king of England made himself Head over the Church as well, and then "abolished" their immunity, by Acts in 1531 & 1547.

For the common people of the UNITED STATES, however, the implications of allegiance and a change of allegiance, necessarily have different effects, since there is no human king or national Church to which they can be bound in "natural allegiance" to. The same is true for holy Israyl, which must also be counted within the minority of the two-thirds majority rule that established such a profane secular government. These effects prevent interference with Israyl's immunity.

4. THE COMMON PEOPLE'S UNION OF CHURCH AND STATE:

ITS VALIDITY WITH RESPECT TO HOLY ISRAEL

(A) ENGLAND'S UNION OF CHURCH AND STATE: AN ACT OF TREASON FOR HOLY ISRAEL

In England they have their Magna Carta (Great Charter), ensuring the rights, liberties, and powers of both Church and State. This instrument functions as a Treaty, which is a Covenant and agreement/contract. For the profane common people, such a Covenant may seem "logical" and necessary for its Union of the "king" (a Corporation Sole) and Church (a Corporation Sole). Because both Corporations Sole equally use all persons as its "agents", the profane people who constitute a lay Aggregate Corporation are protected from being "swallowed up" or overtaken by such a Corporation Sole. The default recognition of the common people as a profane Corporate body is preserved, and unchangeable, at least, from the perspectives of their own human laws.

From the perspective of the Law of Yahweh, however, such a Covenant cannot possibly include holy Israel, because Israel is already bound with an "Everlasting Covenant" to Yahweh alone. GENESIS 17:7; HEBREWS 13:20-21. And as such, His law prohibits Israel from making a Covenant/Treaty with the profane gentile nations. EXODUS 23:32, 34:12-16; DEUTERONOMY 7:2-4; and 23:6.

HENSFIELD CASE, 11 F. Cas. 1099 (1793):

"Whenever doubts and questions arise relative to the validity, operation or construction of treaties, or any articles in them, those doubts and questions must be settled according to the maxims and principles of the laws of nations applicable to the case." [See NELSON; and 2 Roll. R. 298, supra, at p. 21]

Thus, while a nation may, by a legal fiction, deceive itself into presumptively making Israyl a part/ner of its "Union", the Law of Yahweh is clear that it is not possible for Israyl to lawfully bind itself in Treaty with nations that Yahweh has clearly established as hostile enemies. Such an impossibility is manifest by the fact that, such a treasonous offense against Yahweh would, at the same time, make Israyl infamous and consequently barred from even making an Oath.

BOUVIER'S, supra, MAXIM:

Felonia implicatur in quolibet proditione.

Felony is included or implied in every treason. 3 Co. Inst. 15.

BOUVIER'S, supra, MAXIM:

"Repellitur a sacramento infamous.

An infamous person is repelled or prevented from taking an oath. Co. Litt. 158."

Furthermore, the nation that imposes such an instrument upon Israyl, necessarily makes itself a conspirator or instigator

1 in making Israyl presumptively guilty of "willfully" committing
2 the offense of Treason against Yahweh.

3
4 BOUVIER'S, supra, MAXIM:

5 Plus peccat auctor quam actor.

6 The instigator of a crime is worse than he who
7 perpetrates it. 5 Co. 99.

8
9 Cf. 4 BLACKSTONE, Comm., §§ 81-83, and 87

10 (Defining Treason as a "betrayal" or "breach of faith"
11 of a "natural, a civil, or even a spiritual relation" between
12 the Sovereign and his subject, to that of a "foreign prince")

13
14 And a "foreign prince", says Blackstone, is an "enemy",
15 since he "owes no allegiance" to the other, id., at § 83. (citing,
16 inter alia, the "pretended" authority of the "pope")

17
18 Put another way, because Yahweh and His Son called
19 the "Messiah" are both a "foreign" Sovereign/King with
20 respect to the Gentile nations, they are necessarily "enemies"
21 in contemplation of law. The entire Biblical history of Israyl
22 and its Law demonstrates this fact. EXODUS 23:22; JAMES 4:4.

23 And because they are the Supreme power over mortals, they could
24 not stoop to bind themselves to an inferior enemy, let alone their
25 children.

26
27 BOUVIER'S, supra, MAXIM:

28 Postestas suprema seipsum dissolvere potest, ligare non potest.

1 Supreme power can dissolve, but cannot bind itself.

2
3 THE SCHOONER EXCHANGE, 11 U.S. (7 Cranch) 116 (1812) (noting presumption):
4 "[T]he sovereign cannot be considered as having imparted to the
5 ordinary tribunals a jurisdiction, which it would be a breach of
6 faith to exercise.... The remedy is by opposing Sovereign to Sovereign,
7 not by subjecting him to the ordinary jurisdiction."

8
9 Furthermore, the law of England was clear that the clergy of Church
10 are not members of its secular State, let alone its secular Civil
11 society — being civilly dead.

12
13 1 BLACKSTONE, *supra*, at § 384.
14 "The lay part of his majesty's subjects, or such of the people
15 as are not comprehended under the denomination of clergy, may be
16 divided.... That part of the nation which falls under our first and
17 most comprehensive division, the civil state, includes all orders of
18 men, from the highest nobleman to the meanest peasant; that
19 are not included under either our former division, of clergy, or
20 under one of the two latter, the military and maritime states."

21
22 Even in the U.S., the exclusion of the Church from the State
23 is acknowledged.

24
25 McDANIEL v. PATY, 435 U.S. 618 (1975)
26 "[T]he church itself is a thing absolutely separate and distinct
27 from the common wealth." (citing, 5 Works of John Locke 21)

1 The logic, and indeed the compelling reason for a secular
2 State's statute law needing to exclude clergy, can be easily
3 understood by the fact that statute law does not extend
4 into the subjective domain of morals or religion.

5
6 J.G. SUTHERLAND, Statutes and Statutory Construction, § 8 (1891)
7 [Statute law] is a rule of civil conduct, because it does not
8 extend into the subjective domain of morals or religion.

9
10 1 BLACKSTONE, *supra*, at §§ 119-20
11 "For the end and intent of such laws belong only to regulate
12 the behavior of mankind, as they are members of society, and
13 stand in various relations to each other, they have consequently
14 no business or concern with any but social or relative duties."

15
16 Again, the Church or Clergy are not a part of civil society,
17 but a Spiritual or Religious "thing," being civilly dead. It is, there-
18 for, the profane common lay people that have formed a
19 majority-rule Union that subjects themselves to an ever-
20 changing "civil" law meant to reflect their "common" profane
21 nature. Israel or the Church of Yahweh, on the other hand, are
22 bound to conform to an eternally fixed moral or religious
23 standard, called the Torah.

24 And because there is a presumption that a foreign Sovereign
25 "cannot be considered as having imparted to the ordinary tribunals
26 a jurisdiction, which it would be a breach of faith to exercise,"
27 it necessarily follows that, the common people or civil State
28 did not intend to make the Church treasonous, as a matter of law,

1 but preserved and acknowledged its separateness (sacredness)
2 and distinct Sovereign immunity. Otherwise, the Church would
3 not have had the Benefit of Clergy. Furthermore, it was not until
4 the King of England usurped or else made himself the Head of the Church
5 that gave rise to his Acts to abolish her immunity, in order to
6 deal with the encroaching power and abuse of the Catholic Church.

1 5. THE SEPARATION OF CHURCH AND STATE CORPORATIONS AFTER THE
2 UNITED STATES DECLARED ITS INDEPENDENCE FROM ENGLAND
3
4

5 The UNITED STATES was established by the Crown of England
6 as a mere vassal state and corporation; under its control like any
7 other business.
8

9 HELVERING V. STOCKHOLMS ENSKILDA BANK, 293 U.S. 84 (1934)

10 The United States is a corporation. [citations omitted]
11

12 CLEARFIELD TRUST CO. V. U.S., 318 U.S. 363 (1943)

13 " Governments descend to the level of a mere private
14 corporation and take on the characteristics of a mere private
15 citizen..."
16

17 At the time of the UNITED STATES' alleged "independence"
18 from the control of England, it is important to keep in mind
19 that the King of England was the Head of both State and
20 Church; both of which are classified as Corporations Sole.
21 That is, the King is a Corporation Sole and the Church
22 also. The State proper, being the "people", is an inferior
23 Aggregate Corporation, or Body Corporate. Although the
24 UNITED STATES is only an Aggregate Corporation, notice the
25 nature of the power that it transferred to itself after its
26 independence.
27
28

1 THE PEOPLE v. HERKIMER, 4 Cowen (NY) 345 (1825)

2 The people have been ceded all the rights of the king,
3 the former sovereign...

5 HENNESSY v. RICHARDSON DRUG CO., 189 U.S. 25 (1903)

6 "The sovereignty has been transposed from one man to
7 the collective body of the people, and a subject of the king
8 is now a citizen of the state."

10 Although the king of England had previously passed Acts in
11 1531 & 1547 abolishing the Church's immunity called *Benefit of Clergy*,
12 those Acts did not, and indeed could not, apply to the Sovereign
13 or king himself.

15 LEWIS v. FISHER, 80 Md 139, 30 A 608

16 A statute which treats of persons of an inferior rank cannot
17 by any general words be so extended as to embrace a superior.

19 SIMONIAN v. UNIV. & COMM. COLLEGE SYS., 122 Nev. 187 (2006)

20 ... the word 'persons' ordinarily excludes the sovereign [unless]
21 the king is named therein by special and particular words.

23 THE PEOPLE v. HERKIMER, 4 Cowen (NY) 345 (1825)

24 The people or sovereign are not bound by general words
25 in statutes, restrictive of prerogative right, title or interest,
26 unless expressly named. Acts of limitation do not bind the
27 king or people.

1 It is obvious, then, that the new Supreme Sovereign (the "People")
2 of the UNITED STATES retained and intended to preserve the
3 immunity of the independent Sovereign Church, called: Benefit
4 of Clergy. This is plainly manifest by the fact that the UNITED
5 STATES did not even abolish the Benefit of Clergy until Acts
6 of 1790 and 1827! And again, like its former Sovereign (King), the
7 abolishing Acts do not apply to the Sovereign (the "People"). It
8 can only apply to 'persons', which term is used to designate a
9 person of a rank less than that of the Supreme Sovereign;
10 or who is otherwise not granted or privileged with such power of,
11 or greater than, the Sovereignty of the "People". An ambassador
12 or the President of the UNITED STATES, for example, are such
13 individuals that are granted or else privileged with the Sovereign
14 power and immunities inherent in the "People". But this is
15 the Sovereign power at the secular State level, a civil
16 Body politic; or Aggregate Corporation. The UNITED STATES
17 does not have a Corporation Sole, who is an individual
18 Priest-king, acting as the Head over the Church, which
19 is a holy (separate) and distinct "divine" Sovereignty. At
20 least One that is not yet realized or acknowledged.

21
22 But as a Body necessarily has One Head, so
23 also does a Nation (aggregate corporation) necessarily
24 have One King or Priest-king (Corporation Sole) over it. Or
25 as a Wife necessarily has One Husband (Head), so also
26 does the Wife only count as his Body; which is under him.
27 And so the UNITED STATES, although it is barred from creating
28 a national Church, the secular Nation or Body corporate has

made it clear that, in legal contemplation, it indeed has a
"divine" Head over it.⁽¹¹⁾

4 USCS, § 4 (stating, the UNITED STATES is:
"one nation under God..")

At this point it is necessary to show the critical
differences between the nature and purposes of a State,
and Church as Corporations. Because the Sovereign immunities
of the Church are inherent, or else gained by individual
members, just as those of the State are. And the former
(inherent) way needs no formal "application" of approval by
certain individuals. The King's sons or household, for example,
do not need to formally "apply", by application, for the
Sovereign immunities or protections that their Father/King
is obligated to shield them with, as a matter of duty and
right. It is also an absurdity to 'think' that One who is
the absolute Supreme Sovereign King would need to stoop
to an inferior Sovereign, so as to be "granted" permission to
exercise its Supreme Sovereign immunities by an inferior's
formal "application".

① MAITLAND, The Corporation Sole, 16 L.Q. Rev. 335 (1900)

A corporation is an aggregation of head and body: not a head by itself, nor a body by itself.

6. THE NATURE AND PURPOSES OF CORPORATIONS

In early or primitive societies, individuals were sued and testified against, generally, by their actual accusers. As societies and kingdoms grew, it became impractical for kings or individuals to make actual appearances to "accuse" another in court. And so a common device derived from business practices, called a "Straw Man", was employed to act as the "persons" in the suit. Simply put, a "person" functions in one or two capacities: one natural; the other artificial.

1 BLACKSTONE, Commentaries on the Laws of England, §§ 119-20

Persons also are divided by the law into either natural persons, or artificial. Natural persons are such as the God of nature formed us: artificial are such as created and devised by human laws for the purposes of society and government; which are called corporations or bodies politic.

1 BLACKSTONE, *supra*, §§ 460-61

"CORPORATIONS, by the civil law, seem to have been created by the mere act, and voluntary association of their members."

Remember: the "People" of this Nation are assumed to have voluntarily assented to be the Corporation called the UNITED STATES.

1 BLACKSTONE, *supra*, §§ 456-58

The honour of originally inventing the political constitutions entirely belongs to the Romans...

The first division of corporations is into aggregate and sole. Corporations aggregate consist of many persons united together into one society.... Corporations Sole consist of one person only and his successors, in some particular station, who are incorporated by law, in order to give them some legal capacities and advantages, particularly that of perpetuity, which in their natural persons they could not have had. In this sense the king is a sole corporation; so is a bishop;... [and] so is every parson and vicar.

ANOTHER division of corporations, either sole or aggregate, is into ecclesiastical and lay. Ecclesiastical corporations are the members that compose it are entirely spiritual persons; such as bishops; certain deans, and prebendaries; all archdeacons, parsons, and vicars; which are sole corporations.... These are erected for the furtherance of religion, and the perpetuating the rights of the church.

1 BLACKSTONE, *supra*, § 372

"A PARSON, *persona ecclesiae*, is one that hath full possession of all the rights of a parochial church. He is called parson, *persona*, because by his person the church, which is an invisible body, is represented; and he is in himself a body corporate, in order to protect and defend the rights of the church (which he personates) by a perpetual succession.

[T]he most numerous order of men in the system of

ecclesiastical polity, are the parsons and vicars of parishes."

Another aspect of corporations, is that they are either *Public* or *Private*. In his *Commentaries*, William Blackstone is writing from the perspective of England having a *Union of Church and State*, both of which are *Public* corporations. The State is a *Public* corporation, to the extent that its authority is broad and recognized as over the lesser *Private* domain. An established national Church, therefore, must also be a *Public* corporation if it is to be in a *Union* with the *secular State* and its laws. Every other church whose spiritual mission and teachings that were not in harmony with the Anglican Church of England can only be a *Private* limited corporation.

As any reasonable person could have foretold, England's *Union of Church and State*, and its respect for each others *Sovereignty* was doomed to failure at its inception. The State is *secular/worldly* and its Church was alleged to be *holy/spiritual*, which are literal opposites and naturally antagonistic to one another. And the Church was not equal to the State in its law making ability; and yet they were both attempting to mutually depend upon one another. Enter the usurpation of the King.

After its independence, the UNITED STATES has obviously made no attempt to repeat England's folly. Hence, it has maintained its divorce (separation) of Church and State.

ZORACH v. CLAUSON, 343 U.S. 306 (1952)

... there shall be no concert or union or dependency one on the other [of Church and State]... Otherwise, the State and religion would be aliens to each other - hostile, suspicious, and even unfriendly. [emphasis mine]

GARRY, *The Myth of Separation*, *Hostra L. Rev.*: Vol. 33: Iss. 2 (2004)

"Although the early Americans may have believed in separation of church and state, they believed in dividing church from state, not God from state."

By its Constitution, the UNITED STATES is barred from establishing a *National* Church, but it is not barred from establishing a *State* Church. If one considers the fact that *Scripture* depicts Yahweh as the only *absolute* King, with an unchangeable *Eternal Law* called *Torah*, then it is easy to understand that no *secular* Church could ever be in a *Union* with Him, let alone any *secular State*, due to its ever-changing *statute law* which conflicts with His unchangeable "divine" *nature*. The *Law of Yahweh* is *Public Law*, and it is without argument that His *Law* is *Supreme*. Every corporation, therefore, described whether church or state, could only operate as a *Private* inferior corporation because it would not be in conformity with His unchangeable *Public Law*. There could be no such *Union*, because there would not be a *Unity* of like corporation, nor of equal jurisdictions, since the *Greater* is a *Public Corporation Sole*; and the other a *limited private* corporation. Such a *Public* corporation in this circumstance would necessarily have to prohibit the *Private* *secular State* from exercising jurisdiction over all those that belong to the controlling

1 Public corporation. This precise difference between a Public and
2 Private corporation and their non-Union, is the very reason why
3 the courts of the UNITED STATES exercise criminal jurisdiction over
4 members of Church; but no church of the UNITED STATES can exercise
5 jurisdiction over any person within any STATE. A State's one-sided
6 criminal jurisdiction over "Church" is not only "legal" but necessary,
7 because every "church" of the UNITED STATES is deemed by its law as an
8 "established" PRIVATE CIVIL corporation! When its Constitution,
9 therefore, prohibits the "establishment" of a national Church, it is
10 speaking of a Public church corporation, the type of which can be
11 in a Union with the Public State corporation,⁽¹⁶⁾ and its secular,
12 ever-changing laws.

13
14 The "legality" of a State exercising jurisdiction over Church
15 and its Sovereign immunities fails when the "Church" in question
16 pre-existed the State as a Public spiritual corporation, or was
17 otherwise not "established" under the UNITED STATES.

18
19 ZOLLMAN, Powers of Religious Corporations, 13 Mich.L.Rev. 646 (1914-1915)
20 "None of [the four forms of religious corporations in the United
21 States] are ecclesiastical corporations in the European sense of the
22 word. All of them owe their existence, not to the authority of the
23 church, but to the authority of the state.

24 All are private, civil corporations, created merely for the
25 purpose of conducting the temporal affairs of the particular
26 church of which they are the handmaids.

27 The supreme law of a religious corporation will be found
28 in the laws constituting its charter. The charter of every corporation

① See p. 46, n. 1.

P. 44 (note/s)

1 is its constitution.... Acting within the charter, the corporation
2 majority is sovereign."

3

4 Under this form of "church", it is easy to see the absurdity
5 that a charter of man could be "supreme" law over the Supreme
6 Law of Yahweh called Torah, which is unchangeable. It is also an
7 absurdity that Yahweh would not be the One Absolute Sovereign,
8 but the "majority" would be! But in the eyes of the laws of the
9 UNITED STATES, this precisely defines the nature of every "church"
10 that is "legally" under its jurisdiction.

11 One must simply look beyond the laws of the UNITED STATES.
12 Remember: every nation takes cognizance of other law, such as the
13 law of Treaties; the law of Nations, which depends partly upon the
14 Law of Yahweh, etc. See pp. 2:1-22. Indeed, one must take cognizance
15 of the Supreme Law of Yahweh "when the laws imposed by the State
16 fail," id. Because, as shown above, the word "Church" is redefined
17 by the law/vers of the UNITED STATES to fit the condition
18 that the law/vers wish the UNITED STATES to be in. This
19 deceptive use of words has placed a veil over the understanding
20 of how its secular Civil jurisdiction does not, nor can it
21 ever extend over the Sovereign immunity of the members of
22 the true Church that is an Ecclesiastical corporation of the
23 Public sort. Such members distinctly constitute a Religious
24 society of Holy Clergymen; that is, the exact opposite of a Civil
25 society of Common Laymen, respectively.

26 But the word "Church" is not the only term that has
27 been given new meaning that does not apply to the true Church,
28 that this document is concerned with. For this reason, it is

1 necessary that I reference the "old" common law definitions of
2 England, etc.; and applicable legal arguments that concern
3 Religious corporations that pre-existed the UNITED STATES. It
4 should be noted also that the aforementioned veil of the law/yers,
5 includes the deception of projecting its own perverted and delusional
6 perspective that the UNITED STATES is a Public corporation^①. Because,
7 if the Supreme Sovereign ("the People") were made to be honest
8 in their assertion that it is one Nation "under God", then they
9 would have to admit that, in no way, from the perspective of
10 Yahweh, could its corporation or Body politic ever be anything
11 but a Private corporation, since it is not in conformity with
12 His unchangeable "divine" Law called Torah! Furthermore, it
13 was a matter of revelation that "the GOD of this world" is
14 the Devil! 2 CORINTHIANS 4.4; REVELATION 12.9. The UNITED STATES is,
15 therefore, a Lawless "Person" in contemplation of law, since it cannot
16 be deemed "authorized" by the Public law of Yahweh, in its claim
17 to be a Public corporation. And the only "GOD" (Head) that can
18 "legitimately" complete such a lawless "Public" corporate Body is:
19 the GOD of this world, i.e., the DEVIL! See 2 THESSALONIANS 2.1-12.

20 The knowledge of the nature of the only "GOD" (Head) that is
21 legitimately associated with the lawless "Public" corporate Body
22 called the UNITED STATES, is necessarily imputed to the law/yers.
23 A presumption arises, therefore, that the law/yers worship, or are
24 otherwise under the control of the Devil-God, since it necessarily &
25 knowingly placed the UNITED STATES "under" such a lawless
26 GOD-DEVIL by a Pledge of Allegiance. 4 USC § 84

① Under Article IV, § 4 of the U.S. Constitution, the early Republic form of government, by "the States in this Union," primarily operated under Public municipal law. This form of government obviously still exists, but must be called on, because mere public policy created by private debt money has reduced the bankrupt corporation called the UNITED STATES to function primarily as a Private corporation. Nevertheless, the fact that it is still a "municipal corporation" means that it operates in a dual capacity (public and private), whether by its own power, or by delegated power.

7. THE USURPED JURISDICTION OF THE STATE OVER THE CHURCH

KALSCHER, *Civil Procedure and the Establishment Clause*, Boston College L.J. (2008)

"[T]he American understanding of separation of church and state rejects 'the juridical omnipotence and omni-competence of the state.' (quoting, MURRAY, *We Hold These Truths* (1960), at 68).

"To characterize government and religion as cosovereigns is to recognize that the churches are not simply voluntary organizations that exist at the sufferance of the state. They are not simply 'jural entities, and not mere creatures of the law deriving their existence from the state. Rather, churches preexisted the state, are transnational, and would continue to exist if the state were suddenly dissolved or destroyed.' (quoting MURRAY, *supra*, at 55).

"Acknowledging the churches as social actors possessing independent authority that is not of the state places a powerful limit on the power of the state. Such an acknowledgment affirms that the state's assertion of sovereignty is not absolute. The protection of the freedom of churches as 'sovereigns' not created by the state points to the existence of another sovereignty (the only true sovereignty) - that of God (or gods) - existing 'beyond, before, and superior to the state.' (quoting MURRAY, *supra*, at 67) [emphasis original]

For corporate Israel, not only can it be no 'jural entity' of the state (*supra*), but its Church of Messiah can also be no 'juristic person'.

1 MAITLAND, *The Corporation Sole*, 16 L.Q. Rev. 335 (1900)

2 " ... a church is no person in the English temporal law of
3 the later Middle Ages.

4 ... the ecclesiastical corporation sole is no 'juristic person';
5 he or it is either natural man or juristic abortion.

6 The failure of the church to become a person for English
7 temporal lawyers is best seen in a rule of law... A bishop or
8 an abbot can bring a writ of right. A parson cannot. The
9 parson requires a special action, the *iurta utrum*; it is a
10 *singulare beneficium* provided to suit his peculiar needs."

11

12

13 Not only is a Parson (a Corporation Sole) not a 'juristic person',
14 he is instead considered to be a natural man that is also
15 necessarily in a perpetual office.

16

17

18

MAITLAND, *supra*

19

20 "Coke's corporation sole is a man: a man who fulfills
21 an office and can hold land to himself and his successors, but
22 a mortal man.

22

23

24

So here we catch our corporation sole *in articulo*
mortis. If God did not create him, then neither the inferior
not yet the superior clergy are God's creatures.

25

26

27

If our corporation sole were really an artificial person
created by the policy of man we ought to marvel at its incom-
petence."

28

1 From the perspective of the mind of man, it can create
2 a 'person' / corporation as an artificial representation or likeness
3 of itself, in order to protect the rights of individuals within its
4 State. Man is himself necessarily an artificial creation, made
5 only in the "likeness" of the fully "divine" Creator Yahweh, who is
6 immortal. In contemplation of law, therefore, Yahweh created a
7 'person' / corporation as an artificial representation, or eternal
8 "divine" likeness of Himself, in order to perpetually protect the
9 rights of the spiritual members of His Church.

12 RUNDLE et al v. THE DELAWARE and BARTON CANAL CO., 14 Fed. 335 ()
13 These artificial persons are called corporations. A corporation,
14 therefor, being not a natural person, but a mere creature of the
15 mind, invisible, and intangible, cannot be a citizen of a state,
16 or of the United States, and cannot fall within the terms or
17 power of [the Second Section of Article 3 of the Constitution], and
18 can therefor neither plead nor be impleaded in the courts of
19 the United States. [emphasis mine]

21 RAILROAD TAX CASES, 13 F. 722 (1882)
22 "The inference, also, that such an artificial entity 'cannot
23 be a citizen' is a logical conclusion from the premises, which
24 cannot be denied."

27 There are various reasons why a corporation is not a
28 citizen of a state. For the Church of Messiah it is obvious that: (1)

1 Yahweh is a "foreign" Sovereign in relation to a secular State; (2)
2 Clergy, also, are not citizens of a State's civil society, being
3 civilly dead; (3) The Church is a 'thing' separate and distinct from
4 the common (ay 'persons' that constitute a secular State; (4) A
5 secular citizen is a 'juristic person', which a parson is
6 not; (5) The Church preexisted the State; (6) A corporation is
7 invisible, existing in no way where its "appearance" in a court, etc.,
8 may be demanded by, and for, those in the physical realm; (7) Because
9 Yahweh, the absolute king, is necessarily a "foreign" enemy of a
10 State that is in open defiance of His public Law, it is deemed
11 by law that an individual loses his former citizenship, even in
12 an informal proceeding, when he knowingly or unknowingly commits
13 an expatriating act (e.g., taking an Oath of Allegiance) to such a King.
14 REVEDIN v. ACHESON, (1952, CA2 NY) 194 F.2d. 482; and RICHARDS v. SECRETARY
15 OF STATE, Dept. of State (1985, CA9 CAL) 752 F.2d 1413; and (8) The Word
16 of Yahweh says we are not citizens of any country on earth.
17 PHILIPPIANS 3.20; HEBREWS 11. 8-16.

18
19
20 In order for an individual to be "amenable" or liable to
21 be brought before any jurisdiction, as a subject to answer to its
22 law, a court must have both: jurisdiction of the person; and of
23 the subject matter. In a criminal case against an immune
24 Church sovereign, if a State fails to obtain either jurisdiction,
25 then it has no judicial power over that sovereign.

26
27 BIGELOW v. STEARNS; 19 Johns. 39, 40-41 (N.Y. Sup. Ct. 1821)
28 "To give any binding effect to a judgement, it is essential
50.

1 that the Court should have jurisdiction of the person, and of
2 the subject matter..."

3

4 In any event, an immune sovereign cannot even be haled
5 into court without his consent. A court will, however, compel
6 his appearance by arrest; and then assume jurisdiction over
7 his 'person' if he fails to challenge the court's jurisdiction on
8 his own behalf, but pleads through an attorney. This implies
9 leave of court, which acknowledges its jurisdiction. See
10 WILLIAM WYCHE, *A Treatise on the Practice of the Sup. Ct. of Judicature*
11 *of the State of New York in Civil Actions* (New York, Swords 1794), at 109.

12

13 This device of a court may work against State sovereigns
14 and the like; but again, the Church and parson, etc. is not a
15 'juristic person'. MAITLAND, *supra*, at p. 48.

16

17 BLACK'S, *Law Dictionary*, 6th ed.

18

19 Jurisdiction in personam. It may be acquired by an
20 act of the defendant within a jurisdiction under a law by which
21 the defendant impliedly consents to the jurisdiction of the court...

22

23

24 Although an individual is contemplated in law as a 'person',
25 it has also been the common practice of conquerors to reduce
26 conquered people to a 'thing', like property. And without
27 exception, Israel has been conquered by Gentiles, and prevented
28 from having a monarchical king. A slave is a thing/property in
contemplation of law, which is what most of a conquered people

1 are reduced to. Of course Scripture reveals that it is the
2 judgment of Yahweh to reduce Israyl to a Slave, which is
3 a Thing, due to its rebellion against Yahweh. Notwithstanding
4 the fact that corporate Israyl has been made a Slave of
5 Gentiles, certain individuals remain as holy to Yahweh,
6 and considered as having Yahweh as their Father. EXODUS
7 13.2 (firstborn males) and PSALMS 68.5 (the fatherless) re-
8 spectively. In law, this change of status has profound
9 implications for the Gentile nations that treat Israyl as
10 a "Thing", because Israyl has that of a Slave-Master, or
11 Wife-Husband relation to Yahweh. And it is universally known
12 from Scripture that Israyl is generally in rebellion against
13 Yahweh. In law, therefore, when it is widely known that a
14 Master or Husband has an estranged, injurious and rebellious
15 Slave/Thing or Wife, and who consequently causes another
16 injury to a member of a Gentile nation, it is the Master or
17 Husband that must be sought in a case. In U.S. law, when
18 such a one is an immune Sovereign that cannot be compelled
19 or otherwise commanded to "appear" in its courts, then His
20 injurious property/"thing" may be seized, which effects a
21 quasi in rem or "attachment" jurisdiction. This circumvents,
22 or otherwise substitutes for, the court's need to gain jurisdiction
23 over the 'person'. With regard to Yahweh, under these circum-
24 stances, it is not only a failure of reason, but blasphemous
25 on the part of U.S. law to reduce Yahweh to a 'juristic person'
26 and 'thing' in the alternative, in order to gain jurisdiction
27 over His property. Thus, a State is "simulating process", which is
28 a criminal offense. See, e.g., ORS 162.355 [1971 c.743 s.210; 1977 c.395 s.1].

1 THE SCHODNER EXCHANGE, 11 U.S. (7 Cranch) at 124
2 (argument of the Attorney General) The jurisdiction
3 over things and persons, is the same in substance. The arrest
4 of the thing is to obtain jurisdiction over the person.⁽¹⁾

5
6 For the principal laws making the Owner responsible
7 for his injurious property/"thing", see EXODUS 21.28-36; and
8 NRS 200.240.

9 With regard to those that remain and constitute the
10 Church of Yahweh or Messiah, a court cannot use *in rem*,
11 or "attachment" jurisdiction to circumvent the requirement of
12 obtaining jurisdiction over the 'person'. This is because
13 the Church (Subject) owns the Church (Object) and has, as a
14 matter of law, a person who is not only assigned to protect
15 and defend its rights, but makes the property/"thing" of the
16 Church unavailable to the secular, because it is the Soul.

17
18 MAITLAND, *The Corporation Sole*, 16 L.Q. Rev. 335 (1900)
19 The Church (subject) owns the Church (object). [emphasis orig.]

20
21
22 ZOLLMAN, *Nature of American Religious Corporations*, 14 Mich. L. Rev. 37 (1915-16)
23 "In considering the effect which incorporation has on the
24 church and society these two must be carefully distinguished.
25 An unincorporated church, so called, if it has any interest in
26 property at all, presents a two-fold aspect. It has a body,
27 the society, with which courts can deal, and a soul, the church,
28 with which courts cannot deal.

① However, with regard to quasi in rem (foreign attachment) jurisdiction over foreign sovereigns and their "things"/subjects, U.S. law is clear that:

"[quasi in rem jurisdiction] is in all essentials of jurisdiction the same as jurisdiction strictly in rem, so far as property is concerned; but no power can be assumed over the person because of the power over his property..." BEALE, The exercise of jurisdiction IN REM To Compel Payment of a Debt, 27 Harv. L. Rev. 107 (1913).

Such a process is also further defeated by the fact... that the "thing/res" (Church/Soul) is an intangible property that exclusively belongs to Yahweh alone. And U.S. law concedes that a certificate of title to such intangible foreign property can be attached only in that place where the corporation books legally exist, that is, at the domicile of the corporation. *Id.* at 111. And the Head/Founder of the corporation of Messiah is in HEAVEN! thus no State can "actually possess" title to the intangible "things" of Yahweh.

Put another way: a certificate of title to the birth of a "person" (straw man) is also not held in Nevada's jurisdiction, but is held at the foreign territory called Washington D.C., in the Department of Commerce!

1 Since the church is thus entirely removed from temporal
2 control it follows that incorporation will not affect it in the
3 least. The spiritual entity created by spiritual means can neither
4 be swallowed up nor affected by a temporal corporation created
5 under temporal statutes."

6
7
8 Yahweh is clear in Scripture when He says, "All souls are
9 mine." EZEKIEL 18.4. He is also clear that the Soul/Church is not
10 only made a Slave/"thing" to Yahweh, but provides for its
11 Redemption or Freedom, which is a spiritual mission of His
12 Religious or Spiritual society, or Church.

13
14
15 Because corporate Israel has been conquered by Gentiles,
16 its "Religious" society has necessarily been reduced and restricted
17 to that of the Gentile's secular/profane "Civil" society. Israel is
18 now a secular/profane "Civil" state corporation, by man's laws.

19
20 ZOLLMAN, Powers of American Religious Corporations, 13 Mich. L. Rev. 646 (1914-16)
21 "Every corporation must act according to its nature;" at 664

22
23 "... a religious corporation cannot... buy... slaves with the
24 purpose of emancipating them..." [citations omitted], at 665

25
26 Remember: "All [religious corporations in the U.S.] are private,
27 civil corporations..." id., at 646. See p. 84, supra.

Before Israel was assumed "incorporated" into a strictly secular/profane State corporation, it is important to bear in mind that the "Parson" of its Church was not only in Holy orders, but was also not instituted and inducted by the Religious Society (Body), but by his superiors of the Ecclesiastical Church (Soul).

1 BLACKSTONE, Commentaries on the Laws of England, § 376

The method of becoming a parson or vicar is much the same. To both there are four requisites necessary: holy orders; presentation; institution, and induction.

MAITLAND, *The Corporation Sole*, 16 L.Q. Rev. 335 (1900)

"The parson was to be instituted and inducted by his ecclesiastical superiors."

It is also important to bear in mind that, for the spiritual Church as a Corporation Sole, it is only the Natural Man that can be its corporator.

MAITLAND, *supra*, at 353

But to all appearances there can be no legal transaction, no act in the law, between the corporation sole and the natural man who is the one and only corporator.

1 It is therefore an absurdity that a secular civil corpo-
2 ration (the UNITED STATES) can have a right to "attack" or
3 otherwise "deal" with the property/"things" of Yahweh (the
4 Church/Soul), because: (1) a State is a 'juristic person', and
5 the full rights of the property of an Ecclesiastical Church
6 of Messiah inheres only in its Parson who is a Natural Man,
7 which a State is not; and (2) such a 'juristic person' (a State)
8 is not in holy orders, but in secular/profane orders; and (3) a
9 State is an aggregate corporation, and under such theory no
10 Trustee can do anything with the property of any Church/Soul
11 without a "declared" or "implied trust" from said Church. And
12 no aggregate corporation can succeed in a claim of obtaining
13 either "trust" from an Ecclesiastical Corporation Sole of Messiah,
14 because an aggregate corporation must have a minimum of
15 3 Trustees who act as corporators, and said Corporation
16 Sole only authorizes one Natural Man as corporator!; and
17 (4) Trustees in an aggregate secular corporation are 'juristic
18 persons' who, as such, are inherently not in holy orders, as
19 required by an Ecclesiastical Corporation Sole. Trustees, there-
20 fore, can do nothing with the property of Yahweh, nor of the
21 Church/Soul, unless her society is, in law, regarded as a
22 secular/profane civil corporation (Body), which an Ecclesiastical
23 Corporation Sole of Messiah does not have.

24
25 No device of a secular State, therefore, can reach to
26 expressly or "impliedly" gain in rem jurisdiction over the property
27 of an immune Sovereign (e.g., Yahweh), merely because its courts
28 know He cannot, or will otherwise not consent to its jurisdiction

over His 'person'.

YERENYAH ("JEREMIAH") 49:19

For who is like Me [Yahweh]?

Who will arraign Me [Yahweh]?

And who is that shepherd who will withstand Me? [emph. mine]

NELSON, *Sovereign Immunity as a Doctrine of Personal Jurisdiction*, 115

Harv. L. Rev. 1559 (2002):

(Recognizing the protections afforded to ambassadors and other public ministers under the law of nations, and providing criminal punishments for suing forth any writ or process either to arrest their persons or to attach their goods) (citing, Act of Apr. 30, 1790, ch. 9, 25-26, 1 Stat. 112, 117-18) [emphasis mine]

COMMONWEALTH v. KOSLOFF, 5 Serg. & Rawle 545

(Pa. Ct. Ayer & Terminer Phila. 1816) (Tilghman, C.J.) (noting that "by the modern law of nations, Ambassadors, and other public ministers, are, in general, exempt from criminal prosecutions")

U.S. v. ORTEGA, 24 U.S. (11 Wheat.) 467, 473 n.a. (1826) (reporter's note) (observing that an ambassador, or other public minister, cannot be proceeded against in any civil case by compulsory process in any Court whatever")

A court's *in rem*, or "attachment" jurisdiction over a Sovereign's property/"things" (slaves or goods, etc.) is a compulsory

1 or "mesne process" for coercing or otherwise impliedly
2 gaining the "appearance" of such a "person" 'in' its court.
3 This cunning device may work against those assumed to be
4 "popular Sovereigns" and "common law Sovereigns", but it fails to
5 reach immune "law of nations" Sovereigns; and even less the
6 Supreme Sovereignty of Yahweh.

7 Thus, when a court unlawfully exercises in rem, or
8 "attachment" jurisdiction over professed Church members of
9 the Ecclesiastical Sole Corporation of Messiah (the property/
10 "thing" of Yahweh), it is also subjecting itself and the State
11 to prosecution for a judicial Act of War against an immune
12 Supreme Sovereign and Enemy of its State; because the court
13 knows that it can never obtain 'in personam jurisdiction'
14 over Yahweh. Therefore, a court could never enter a judgment
15 against Yahweh, or else His property/the Church. Because, like
16 ambassadors (literally, servants), the immunity which they have
17 extends to their immediate family members, personal employees,
18 and attendants.

19 It is universally known that the Head of the Church
20 (Messiah) is called the Servant (Ambassador) of Yahweh. It
21 is without question, therefore, that the members of His Church
22 are protected by His immunity, as undoubtedly being His
23 immediate family members, personal employees, or else
24 attendants.

25 Moreover, it is a matter of Revelation that, in the dealing
26 of things, the "merchants of the earth" would "trade" the "bodies and
27 souls of men" like "merchandise". REVELATION 18.11-13

WEISS'S Concise Trustee Handbook, 2nd ed.

"Though all courts are familiar with in personam (against persons), it is the action in rem (against things) which though practiced only in Maritime Law, stealthily operates in every civil and criminal court. This principle is one of the least understood in its entirety.

In rem jurisdiction over a man or woman can only exist if the man or woman is a slave, i.e., property or res (an object), in which case his or her disposition at law is no different than if he or [s]he were a horse or other goods. See THE ZONG (Gregory v. Gilbert), 99 E.R. 3:233 (K.B. 1783). In nature, in rem jurisdiction is exercised over men and women by their Creator, exclusively. Governments can therefore gain only a fictional in rem jurisdiction over men by creating various legal devices (personas) for those men to assume limited control of (e.g., citizen, taxpayer, driver, etc.). Since the device is legal fiction, a falsehood made true by force of law, this persona is in fact a legal object or res. AMERICAN LAW & PROCEDURE, VOL. XIII, ch. V, § 65, pp. 156-157.

"The words persona and personae did not have the meaning in the Roman which attaches to homo, the individual, or a man in the English; it had peculiar reference to artificial beings, and the condition or status of individuals." (quoting Gaius, 'person' defined).

"When we speak of a person, we only consider the state of the man, the part he plays in society, abstractly, without considering the individual." 1 BOUV. Inst., note 1.

The only "part", therefore, that one's 'person' can play in a State's secular Civil society after entering into the Church (a public Ecclesiastical Corporation Sole), is that of a DEAD 'PERSON' because "Civil Death" is the consequence of such act! See 1 BLACKSTONE supra, at p. 25. Such civilly dead 'persons' no longer owe a commoner's Civil standard of Duties to secular society, but Civil society still owes them Rights, because they still exist. And it goes without saying that no dead person can commit a secular statutory crime against persons in a Civil society, let alone when its secular criminal law requires able persons to not fail a civil Duty owed to others, as the standard by which 'wrongs' are measured.

This necessary application of the exemption of civil Duties from the civilly dead is manifest even by Nevada's own acknowledgment of the civil death of a Parent, when the Parent-Child relationship has been severed by the State. See DRURY v. LANG, 105 Nev. 430 (1989) (holding that severance of the parent-child relationship is "tantamount to imposition of a civil death penalty"). Such a person's role is dead with regard to his civil Parent - civil Child relationship, but not with regard to his civil Citizen - civil State relationship. Thus, the State and Child still owe that person (civil Citizen) Rights, although he no longer owes civil Duties of a Parent. And because that 'person' still exists in a civil Citizen - civil State relationship within secular society, he can still sue and be sued by the State.

Those Rights, therefore, that secular civil society still owes to the Spiritual, or Religious who has entered into the Church

1 (a public Ecclesiastical Corporation Sole of Yahshua Messiah),
2 are those Rights belonging to the Church. Because the
3 Spiritual is not merely severed from a civil Parent - civil
4 Child relationship, but from the complete civil Citizen -
5 civil State relationship. If those Rights were otherwise, a
6 secular civil State would be left with the absurd proposition
7 that it can exact civil citizen Duties/Debts from a DEAD
8 'PERSON' that can no longer even 'act' in a State's secular
9 civil society, but remains dead and unresponsive amongst
10 other things.

11 Now the State fancies itself as having the ability to
12 render "civilly dead" a person, with respect to his capacity
13 to act as a Parent, if something is done that causes a
14 forfeiture of that right. This operation of the law has
15 serious implications for the State, with regard to Yahweh
16 and the Church. For Yahweh is not only "a Father to Israyl"
17 (YEREMIAH 31.9), but also "a father of the fatherless" (PSALMS
18 68.5), notwithstanding one's physical lineage. In England
19 also, the king is said to be a "father" to the people. And
20 the UNITED STATES had all the rights and sovereignty of
21 its former king transferred to "the People". See p.37, supra.
22 As sovereign, "the People" are not a father to everyone in
23 the UNITED STATES, but a father to the fatherless. A maxim
24 of law clarifies this.

25

26 BOUVIER'S, Law Dictionary (1856), MAXIM:

27 "Cui pater est populus non habet ille patrem.

28 He to whom the people is father, has not a father. Co.Litt. 123."

I have previously mentioned that there is always a remnant associated with the Church, because they are made holy ("consecrated") to Yahweh (e.g., the firstborn males, EXODUS 13.11-16). Notwithstanding the fact that a sovereign may possess slaves/"things", the Law of Yahweh commands that the firstborn males be emancipated by "redeem[ing]" them when born (V.13). But I have also shown that the State's civil Churches "cannot... buy... slaves with the purpose of emancipating them." ZOLLMAN, supra, p. 54. The State, therefore, as a father to the fatherless, is also necessarily dead/cut off by the Law of Yahweh, for likewise failing the Duty to Redeem the firstborn males. The fatherhood, therefore, falls to Yahweh. At this point, the State (a civilly Dead parent) engages in criminal Collusion with civilly dead biological parents, for the purpose of buying/trading those firstborn males for nothing of any intrinsic value to the signer, except their Certified receipt (Birth Certificate). But those firstborn males belong to Yahweh, from whose possession neither dead party can prove they can draw out of, let alone have a Right to sell. The selling of one's children into servitude is a Parental right/privilege, which neither dead party has any longer. And because those firstborn males were unlawfully sold for nothing, Yahweh has the Right to Redeem them for NOTHING!

ISAYAH 52.3

"For thus says Yahweh: You have sold yourselves for nothing, and you shall be redeemed without money."

1 Because the People, as a father to the fatherless, is
2 incapable of, or otherwise refuses to Redeem the firstborn
3 males, it necessarily Abandons or else Forfeits to Yahweh,
4 the Supreme foreign Sovereign Father, title to / possession
5 of those firstborn males. And since it takes the supreme
6 sovereign power of a State (the collective People) to act as -
7 or rather, to become dead to acting as - a father to the
8 fatherless, a 'dead' supreme sovereign can never exercise
9 sovereign power of forcibly taking custody of those firstborn
10 males that it recklessly Abandoned. Yahweh is clear in His
11 rebuke of secular kings / sovereigns for their sakes.

12
13 PSALMS 105.13-15:

14 "When they went from one nation to another people,
15 He permitted no one to do them wrong; Yes, He rebuked
16 kings for their sakes, saying, "Do not touch My anointed
17 ones, and do My prophets no harm."

18
19 With regard to all the members Consecrated to the
20 Service of Yahweh ("Anointed Ones"), a State's position is
21 worsened by the fact that the Church (an Ecclesiastical
22 public Corporation Sole) does not have a fictitious corporate
23 name of a juristic legal 'person', by which a secular court
24 can gain her 'implied' consent to in personam jurisdiction.

25
26 O'HARA, The Modern Corporation Sole, 93 Dick. L. Rev. 23 (1988)

27 "The [old common law] corporation sole lacks the usual
28 trappings of a corporation. It does not have...[a] corporate name."

1 See, MAITLAND, *supra*, p. 48; and McDANIEL, *supra*, p. 33. And
2 neither can a secular/profane court consider members of a
3 holy Ecclesiastical Corporation Sole as 'consolidated' within
4 the nature of such a common profane State corporation.

5
6 ZOLLMAN, Powers of Religious Corporations, 13 Mich. L. Rev. 646 (1914-1915)
7 "At common law, corporations had no power to consoli-
8 date... Under modern corporation acts, such power to consoli-
9 date is sometimes granted, subject to certain conditions....
10 Nor can such consolidations be effected unless the cor-
11 porations are of a similar nature."

12
13 Not only is there the incompatible nature of a profane
14 State and holy Church, but also a private Aggregate and
15 public Sole corporation, respectively.

16 It is clear then, that, since an Ecclesiastical Cor-
17 poration Sole has no corporate name, there is never any
18 juristic 'person' for a court to gain 'implied' in personam
19 jurisdiction over, by the device of seizing an Accused
20 member thereof, in his capacity as a "thing"/res! Further-
21 more, such a Corporation Sole is given whatever non-juristic
22 spiritual name its founder only chooses it to be commonly
23 known by. Thus, no court can arbitrarily supplant its spiritual
24 name for that of an Accused member's 'legal', albeit, civilly
25 dead secular Straw Man/Corporate name. But that has
26 been precisely what courts have been doing to known (judicially
27 noticeable) professed members of said Church. Again, it
28 has been committing the crime of "simulating legal process"

1 against members of the ancient Church. And I should briefly
2 interject here, against any claim that no such common law
3 "old" Corporation Sole exists, by the answer that no cor-
4 poration can 'die' without proof that it has ceased to
5 have official meetings. And the Seventh-Day/"Saturday"
6 Sabbaths of the Church are the official Days in which
7 the people of Yahweh meet!

8 And since the case at bar occurred at a private
9 place for worship on a Seventh-Day Sabbath of Yahweh,
10 the State must protect the Accused by its Ministerial
11 Exception, whereby no secular standard of conduct can
12 be used against him during times of official service.
13 In fact, by counterclaim, the Accused demands the right
14 to have all "necessary parties" "present," which would manifest
15 the fact that this is a criminal case, illogically brought by an
16 enemy secular State, against the Creator Yahweh and His
17 Church. Put another way: in U.S. law, a contract (agreement)
18 to jurisdiction is done between legal "persons" (the "State"
19 and a "Citizen" of a State), but the Church is never a "person,"
20 but a "thing." Thus, as far as it concerns the individual
21 spirituals of the Church, a State's claim of gaining an
22 "implied consent" (agreement) to "in personam" jurisdiction
23 over them, is "Void ab initio," and a plain criminal act of
24 "simulating legal process." The State's only alternative, then,
25 is to make such a member seized, as a quasi in rem
26 (Foreign attachment), which makes not the "thing," but Yahweh
27 (the Owner of the "thing"), the "person" over whom "in personam
28 jurisdiction" is aimed at in such a "Personal Action" seeking

1 payment of a debt, due to injury. But Yahweh is no legal
2 "person," and no default judgment can be entered against
3 a foreign immune Sovereign without His "appearance" in
4 court. Every criminal process, therefore, brought by the State
5 against such members, can amount to no more than a
6 "Real Action" against a "thing," which penalties do not
7 comport with those sought by criminal statutes. But
8 since the State does not know Yahweh and His spiritual
9 "things," a maxim of law would further defeat a State's
10 position.

11
12 BOUVIER'S, *Law Dictionary* (1856), MAXIM:

13 "Quod nullius esse potest, id ut alicujus fieret nulla
14 obligatio valet efficere.

15 Those things which cannot be acquired as property,
16 cannot be the object of an agreement. Dig. 50, 17, 182."

17
18 "Oportet quod certa res deducatur in iudicium.

19 A thing, to be brought to judgment, must be certain
20 or definite. Jenk. Cent. 84."

21
22 Scripture is clear that the holy Church is contemplated as
23 the Wife of the One holy Son of Yahweh. EPHESIANS 5.22-33. He
24 could not, therefore, be imagined as having adulterously permitted
25 a profane 'person' (State) freedom to "touch," let alone "acquire",
26 His Wife, and thereby afford a State a claim that it can punish
27 or otherwise enter a judgment against such foreign property.
28

1 It is also clear that U.S. and Nevada law have
2 not, nor indeed can they, define/make definite the Church
3 (a public Ecclesiastical Corporation Sole of Messiah), her
4 boundaries, or rights, etc. States have only gone so far as
5 to define its own private civil churches, but not as
6 municipal corporations, which Ecclesiastical Corporations
7 Soles are, but merely as private business handmaids cre-
8 ated by States.

9
10 ZOLLMAN, Nature of American Religious Corporations, 14 Mich. L. Rev 37 (1915-16)

11 "To sum up: The modern American religious corporation
12 in its relation to the state is, unlike its predecessors, in
13 no sense a public municipal body but a mere private
14 corporation created by the state for the benefit of
15 the incorporators and those connected with them. In
16 its relation to the church it [the religious corporation/the
17 associates of the church] is not a spiritual agency with
18 powers to preach the gospel and administer the sacra-
19 ments but a humble handmaid whose functions are
20 confined to the creation and enforcement of contracts
21 and the acquisition, management and disposition of
22 property. The corporation thus has neither public nor
23 ecclesiastical functions, being a mere business agent
24 with strictly private secular powers."

25
26
27 However "reasonable" it may be thought of, that an
28 American church must forever be shamefully made a mere

1 unmarried/unmerged "business partner" of a State, it is
2 obvious that such a shameful status cleverly provides
3 the State with an "agreement", and hence jurisdiction
4 over the property ("things"/servants) of such a church, which
5 a State would not otherwise have, if the Church were a
6 married/merged Ecclesiastical Corporation Sole of Messiah!
7 For its own cunning purposes, states have effectively
8 prohibited Marriage/Mergers, even the recognition of the
9 common law type. And that amounts to a Bill of Attainder.

11 1TIMOTHY 4:1-3

12 "Now the Spirit expressly says that in latter times
13 some will depart from the faith giving heed to deceiving
14 spirits and doctrines of demons, speaking lies in hypocrisy,
15 having their own conscience seared with a hot iron, forbidding
16 to marry..."

18 Unlike an Ecclesiastical Corporation Sole which is only
19 a "Thing" with no corporate name, American churches are
20 artificial "persons," which is their fictitious corporate names.

22 In all hypocrisy U.S. courts say:

24 BEASTON V. THE FARMERS' BANK OF DELAWARE, 9 Fed 1017 ()

25 "Persons, in law, are artificial as well as natural
26 persons; and in the act of Congress there is nothing which
27 is not equally applicable to both."

28

1 From the aforementioned, it is obvious that a
2 secular state can have no jurisdiction over an Ecclesiastical
3 Corporation Sole of the Messiah. The UNITED STATES, more-
4 over, must be said to be under a Treaty with whom it
5 believes is the absolute Sovereign Creator, since it says
6 it is "one nation under God." 4 USC § 4. The founding
7 forefathers clearly expressed that the purpose of their
8 king's charter was to establish "christian" colonies
9 in this country. And "christians," like Israel, universally
10 believe that Yahweh made a Covenant (Treaty) with all
11 believers. And because Yahweh has no equal, His Covenant
12 (Treaty) is unilateral, requiring only an individual's assent
13 or implied consent. When there is such a Treaty, it is
14 understood that "reciprocity" must be shown by an
15 inferior State, in order to exercise jurisdiction over
16 those in Covenant/Treaty with Yahweh.

17
18 BEALE, Jurisdiction of Courts Over Foreigners, 26 Harv. L. Rev. 193 (1912-1913)
19 "This principle of jurisdiction [reciprocity] was
20 probably first invented by the compilers of the French
21 civil code. According to its doctrine a court may
22 exercise jurisdiction of a foreigner wherever the courts
23 of the foreigner would, under the same circumstances,
24 have exercised jurisdiction over its citizens."

25
26
27 It is clear, therefore, that no case would be
28 brought by the government of Yahweh, under circumstances

1 where a murder suspect like the Accused has only one
2 witness against him in the case at bar, and not the
3 required two or three witnesses. DEUTERONOMY 17.6. It
4 must also be remembered that there is only capital
5 murder and manslaughter in Biblical Law; that is, there
6 are only the penalties of death and exile, respectively.
7 Moreover, under the government of Yahweh, a court would
8 actually be left with no witness in the case at bar,
9 since it does not accept the testimonial evidence of
10 women. (p Joma 43b)

11 Under the U.S. Constitution, "full faith and credit"
12 must be given to the laws of a foreign sovereign. And no
13 court can feign ignorance of, nor reject the "judicially
14 noticeable" public facts that, Biblical Law in no way
15 requires formal documentation: (1) to make firstborn
16 males sanctified (holy) to Yahweh; (2) to effect civil death
17 upon parents who abandon their duties to their children;
18 and upon those who leave citizenship of a State by entering
19 the Church; (3) to Expatriate, or become citizens of a foreign
20 Sovereign; (4) to effect Redemption, or Freedom from bondage;
21 and (5) to effect the protections of the foreign sovereign
22 immunities of the Church; etc. Indeed, imputation of
23 this knowledge to every State is necessary today, due to
24 the fact that computers store this information about
25 individuals. Male births are recorded. The rituals of baptism
26 for official members of a Church are recorded. Open professions
27 in courts are recorded, as well as those made on the internet.
28 Can a court intentionally (willfully ignore) these facts? Is it

1 not a Federal crime for an individual to intentionally (by
2 willful ignorance) carry any unlawful thing across
3 jurisdictions, while intentionally (by willful ignorance) avoiding
4 awareness of where another placed, for the individual,
5 the unlawful possession of such a thing?

6 A few examples of matters cognizable in man's
7 laws, which are effected by mere assent or implied
8 consent, ought to demonstrate the extent to which
9 courts (judges, prosecutors, and defense attorneys) intentionally
10 (by willful ignorance) carry over foreign "things" into its
11 unlawful jurisdiction. Under 8 USC § 1481 (Ann.) are
12 the following admissions:

13
14 • A person performs an expatriating act with
15 the intent to renounce his citizenship whether or not
16 he knew act was expatriating act. RICHARDS v. SECRETARY
17 OF STATE, DEPT. OF STATE (1985, CA9 Cal) 752 F.2d. 1413.

18
19 REM. The observance of the amnesty Passover ritual,
20 is for the recognition of the "exodus"/departure (hence,
21 expatriation) of believer, as provided by the Supreme
22 foreign Sovereign who is Yahweh.

23
24 • A person's right to expatriation is not dependent
25 upon consent of government. U.S. ex rel WRONA v. KAMUTH,
26 (1936, DC NY) 14 F Supp 70.

1 • Expatriating conduct may be such as to indicate
2 an "implied renunciation of tie." In re R---S--- (1958, BIA)
3 71#N Dec 718.

4
5 REM. "Allegiance is the tie, or ligamen, which binds
6 the subject to the king, in return for that protection
7 which the king affords the subject." 1 BLK Comm. §§ 354-56.
8 And allegiance is effected by "an implied, original, and virtual
9 allegiance... antecedently to any express promise; and although
10 the subject never swore any faith or allegiance in form." id,
11 at §§ 356-57.

12
13 • A person who takes a foreign oath of allegiance
14 to a king, in an informal proceeding, loses his former
15 citizenship. REVEDIN v. ACHESON, (1952, CA2 NY) 194 F.2d 482.

16
17 REM. Yahweh is obviously a "foreign" King, who has
18 provided the necessary informal, implied, original, tie
19 of allegiance through His Passover ritual, etc. It necessarily
20 follows that the members of a "foreign Ecclesiastical
21 Corporation Sole of the Son of Yahweh." cannot be a
22 citizen of a state, or of the United States." See RUNDLE,
23 supra, p. 49.

24
25 • A person may renounce his nationality with or
26 without a claim of allegiance to another nation. DAVIS v.
27 DISTRICT DIRECTOR, IMMIGRATION & NATURALIZATION SERVICE
28 (1979, DC Dist Col) 481 F.Supp. 1178.

1 REM. At birth, a "person" is, under U.S. law, assumed
2 to be in allegiance as a Citizen of a State, by his assent
3 or implied consent. But "obligations of naked assent"
4 are dissolved by similar naked assent." BOUVIER'S
5 Maxims, supra, pp. 27-8. A State must, therefore, accept
6 as valid, the assent that effects the binding tie of
7 allegiance to Yahweh and a professed member of
8 such a "foreign" Ecclesiastical Corporation. Sole of the
9 Son of Yahweh, when asserted in a court, or judicially
10 noticeable by some other record.

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Due to the aforementioned points, the Accused
directs attention to the attached AFFIDAVIT containing
judicially noticeable facts, and assertions made to defense
attorneys and Nevada's district court, that the Accused
belongs to such a "Church."

CONCLUSION

From the perspective of the Civil aspect of the Supreme Biblical Law of Yahweh, the UNITED STATES is an inferior private corporation that is civilly dead, due to abandoning and forsaking the Accused as a firstborn male and fatherless child who, otherwise, would naturally share the supreme sovereign immunities of the People, as a father to the fatherless. Such immunities include the pre-existent Church's immunity from a State's secular criminal prosecution, called Benefit of Clergy, which was expressly abolished by statutes for "persons" as citizens, but does not include the greater supreme sovereign ("the People"), since they must be expressly named. Because of the civil death of the People, the fatherhood falls to Yahweh, which necessarily places the Accused in His pre-existent Church. And because the supreme sovereignty of the UNITED STATES ("the People") have "divorced" themselves from the Union of Church and State, and are now civilly dead, there no longer remains a supreme sovereign power, which is required to also be in actual possession of a foreign supreme sovereign's property or "thing"/res, before a court can exercise jurisdiction over it. Furthermore, it is understood in secular law that the "res" is one's persona or straw man, over which a court gains its fictional jurisdiction. And like other incorporeal property that one may be the owner of, or hold title to, the State, e.g., created birth certificates as the instrument to hold title to one's persona or straw man. If, however, an individual is a foreign-born citizen under the protection of a foreign sovereign, as his "thing"/slave, the State of Nevada, e.g., can

1 only obtain jurisdiction if it can show that the title to
2 such property has a situs or location within the control
3 or power of the court. Typically, that is not a problem,
4 since birth certificates are created around the world and
5 have a location where they are reachable in cases of liens, or
6 seizure, for example.

7 The Kingdom of Yahweh also records and holds title
8 to all of its citizens' spiritual births. The situs or location
9 where the names of His citizens are accounted for in "Books",
10 is heaven itself. At this point it should be plainly obvious
11 that no man on earth can find, let alone seize, control,
12 or exercise power over, these created records or books, in
13 order to gain in rem, or quasi in rem (foreign attachment)
14 jurisdiction over any citizen of the Kingdom of Yahweh, which
15 members of the Church are. Such a person must be in
16 actual possession of such documents or records, which no
17 state, court, or other earthly power can do.

18 Nevada's position does not reach this far, however, because
19 when a civilly dead supreme sovereign of a country has lost its
20 jurisdiction over a matter, it cannot use its inferior State
21 court's sovereignty ("the People" of Nevada) to circumvent that deficiency.
22 The civil death of the UNITED STATES, and its apo-state status
23 ("separation") from the Church of Yahweh, at the Federal level, includes
24 the State level.

25 These matters are at the civil aspect of law, and the
26 UNITED STATES must give "full faith and credit" to the laws of a
27 foreign sovereign power. And "judicial process," and other processes
28 of law are derived from the civil aspect of law, and its civil

1 principles. In the Biblical Law of Yahweh, His government
2 does not give jurisdiction over any individual accused of a
3 capital offense when the Accuser has only one eye witness;
4 nor when the witness is a woman. DEUTERONOMY 17.6; and p. Jama
5 43^b respectively. In the case at bar, the Accused is in exclusive
6 allegiance to the "foreign" Government of Yahweh. And under the
7 principle of jurisdiction called "reciprocity", no court of the
8 UNITED STATES can exercise jurisdiction of a foreigner, unless
9 "the courts of the foreigner would, under the same circumstances,
10 have exercised jurisdiction over its citizens." BEALE, Jurisdiction
11 of Courts Over Foreigners, 26 Harv. L. Rev. 193 (1912-1913).

12
13 It is the position of the Accused that the Supreme Court
14 must hear such a matter, whereby the Accused asserts his
15 exclusive allegiance to, and foreign sovereign immunity of, the
16 pre-existent public Corporation Sole called the Church of Yahweh;
17 because the circumstances, herein, that has rendered the
18 Executive branch civilly dead, logically preclude it from being
19 sought for a "suggestion of immunity". Furthermore, it cannot
20 be a matter for the Legislative branch, because not only
21 is it responsible for writing the law which effectively
22 caused the civil death of the UNITED STATES, but its Foreign
23 Sovereign Immunities Act "addresses neither head-of-state
24 immunity, nor foreign sovereign immunity in the criminal context."
25 UNITED STATES V. NORIEGA, 117 F.3d 1206, 1212 (11th Cir, 1997). CF. also
26 SAMANTAR V. YOUSUF, 130 S. Ct. 2278, 2291 (2010). Put another way:
27 it is the express will of the Legislature that the UNITED STATES
28 not only be an offender against the divorce laws of Yahweh, by

1 "separating" her, but that she also be made civilly dead by
2 His Law for abandoning and forsaking the firstborn males
3 and the fatherless. Thus, the Accused alone, who is a firstborn
4 male and fatherless, cannot logically be expected to appeal
5 to, let alone be fairly heard by, the very branch responsible
6 for said civil death, since that would necessarily involve the
7 unreasonable belief that that Legislature could write a law
8 which would effectively reverse its will for all, at the petition
9 of one man.

10 But the Supreme Court, as the Judicial branch, can annul
11 the laws of the Legislature, if for an individual case only; but
12 not because it is not itself civilly dead (since it is obviously
13 included in the two-thirds majority rule that constitutes
14 the UNITED STATES). But rather, because it can speak to the
15 truth that the laws of the Legislature, which are the express
16 will of the People of the UNITED STATES, only extend to the one-
17 third minority by a legal fiction. Such an aggregation of wills
18 by a two-thirds majority rule, necessarily disregards and
19 overrules the wills of one-third of the population.

20 Because of the firstborn male status, and fatherless
21 status of the Accused at the age of 9, Yahweh has the exclusive
22 right of Fatherhood to the Accused, as explained in ARGUMENT.
23 Furthermore, allegiance to the UNITED STATES is obtained
24 by an informal "implied original" oath, or naked assent, from
25 the time of a person's birth, which means its government has
26 never obtained or demanded a formal oath of allegiance from
27 all of its citizens. If it needed a formal oath, the Accused
28 could show that the UNITED STATES Government cannot even

1 argue that the Accused presumptively owes it allegiance, by
2 demanding that the government produce a signed formal document
3 of allegiance, which it knows it does not have. The government
4 cannot, therefore, deny that allegiance to Yahweh, a "foreign"
5 King, is likewise obtained by an informal "implied original"
6 oath, or naked assent. The U.S. Government also cannot demand
7 a formal renunciation, because such informal ties that
8 bind are, in law, loosened by the same informal means. Other-
9 wise, the government would first have to produce a formal
10 renunciation to Yahweh, since He created one man first, who,
11 having no other to be subject to, could only owe Yahweh
12 allegiance.

13 The Government of the UNITED STATES has no jurisdiction
14 over the Accused, who is known as Ariyl, a spiritual parson.
15 Simulating legal process is a criminal offense against a
16 sovereign, and an Act of War and Hostility, which is imputed to
17 the entire nation of the UNITED STATES, as its own willful
18 Act.

19 Ariyl is legitimately foreknown and foreordained as
20 an official representative Gentile convert to the re-newed
21 Israylite Kingdom of Yahweh, under His Son Yahshua the
22 Messiah (the Anointed One). As such, the Accused should be
23 declared immune, and released. To do otherwise, is to boldly
24 imagine that this nation cannot only commit an Act of War against
25 the Kingdom of Yahweh, but can stop Him from destroying it for doing so.

27 DATED: May 14, 2020 C.E.

ROBERT BROWN-6006120 (Legal Person-Jay Corp.) by
Ariyl LEXA* (Spiritual Parson-Corp. Sole)



DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

-vs-

ROBERT BROWN, JR.,

Defendant(s).

CASE NO. C299234-1

DEPT. NO. 6

First Draft Motion (copy)

Extended pp. 34, 39



LEGAL

1. CLARK V. NEVADA, 95 Nev. 24 (1979):

2. 1) Presumption of sanity is not dispelled once evidence of insanity
3. is introduced even if not rebutted by prosecution. See Daniels, infra

4.

5. ARIZONA V. DANIELS, 106 Ariz. 497 (1970):

6. 1) Statutory presumptions do not vanish as do presumptions of
7. law or fact (citing Udall on Evidence, §193).

8.

9. BARNES V. U.S., 412 U.S. 837 (1973):

10. 1) Presumptions of the existence of elements have no place in
11. Constitutional framework. See Gainey, infra, 3; Tot, infra, 2

12.

13. DAVIS V. U.S., 160 U.S. 469 (1985):

14. 1) Burden is on prosecution that defendant belongs to pre-
15. sumed sane class capable of crime.

16. 2) Presumption of sanity is justified by the general ex-
17. perience of mankind and public safety. See Lewis, supra, 2

18.

19. ULSTER COUNTY V. ALLEN, 442 U.S. 140 (1979):

20. 1) Mandatory presumptions tell a jury they must find elemental
21. fact from basic fact. See Francis, supra, 2; Sandstrom, infra, Carella, infra

22. 2) Presumptions curtail factfinders freedom to assess
23. evidence independently.

24. 3) Presumed fact must pass beyond a reasonable doubt test +

25. Rational Connection test. See Leary, infra:

1. MULLANEY v. WILBUR, 421 U.S. 684 (1975):

2. 1) Difficulty in proving intent does not justify using a pre-
3. sumption to shift the burden of proof to defendant, since
4. the burden of proving subjective element is already mitigated
5. by the use of objective criterion. See Tot, infra, 1

6.

7. TOT v. U.S., 319 U.S. 463 (1943):

8. 1) Use of burden-shifting presumption because defendant has
9. better means of proof, not permitted.

10. 2) Due Process limits legislature making proof of basic fact,
11. evidence of the existence of the ultimate fact presumed, upon
12. which guilt is predicated. See Gainey, infra, 3

13.

14. STATE v. BURALLI, 27 Nev. 41 (1903):

15. 1) In criminal cases, State must allege every element, and no-
16. thing can be presumed against a defendant. See Brackeen, supra

17.

18. SANDSTROM v. MONTANA, 442 U.S. 510 (1979):

19. 1) Conclusive presumptions are technically not presumptions
20. but the law's irrebuttable direction to a jury to find the
21. element. See Lewis, supra, 1; Francis, supra, 1; VLANDIS, infra

22.

23. VLANDIS v. KLINE, 412 U.S. 441 (1973):

24. 1) Attack on conclusive presumptions usually succeed, because
25. they deny a right to a hearing. See Lewis, supra, 1; Francis, supra, 1

1. U.S. v. GAINES, 380 U.S. 63 (1965):

2. 1) Burden-shifting presumption that pressures a defendant
3. to explain or testify, amounts to improper comment on a
4. defendant's right to remain silent. See NV Constitution, Art. 6 Sec. 12
5. 2) Statutory presumptions are not interchangeable for all uses & purposes.
6. 3) It is not within the province of a legislature to declare
7. anyone guilty or presumptively guilty of a crime. See Tot, supra, 2
8. Buralli, supra; Barnes, supra
9. 4) Congress is not authorized to direct juries as to what
10. conclusions they may or must draw. See Sandstrom, supra, 1;
11. Francis, supra, 2

12.

13. CARELLA v. CALIFORNIA, 491 U.S. 263 (1989):

14. 1) Jury's failure to make any factual determination of elemental
15. fact, condemned. See Sandstrom, supra, 1; Ulster, supra

16.

17. NEDER v. U.S., 527 U.S. 1 (1999):

18. 1) In a criminal case, if a defendant fails to rebut or
19. overthrow a presumption, there cannot be a directed
20. verdict of guilt against him, as was permitted at common
21. law. See NRS 47.230(2); Johnson, infra; Marshall, infra

22.

23. WASHINGTON v. JACKSON, 112 Wn. 2d. 867 (1989):

24. 1) Stacking inferences not permitted. See People's Bank, infra
25. 2) Only one conclusion in presumption allowed.

d.

1. HOLLIS v. NEVADA, 96 Nev. 207 (1980):

2. Presumption of essential element (intent) not harmless,
3. violating NRS 47.230. See Morissette, infra.

4.

5. MOBISSETTE v. U.S., 342 U.S. 246 (1952):

6. Question of intent can never be a question of law
7. (by a presumption), but is a question of fact for a
8. jury to decide. See Johnson, infra

9.

10. CONNECTICUT v. JOHNSON, 460 U.S. 73 (1983):

11. Conclusive presumption of intent amounts to a directed
12. verdict against the accused. See Neder, supra; Hollis, supra

13.

14. MARSHALL v. NEVADA, 95 Nev. 802 (1979):

15. NRS 47.230(2) commands that a judge shall not direct a
16. jury to find a presumed fact against the accused. See Galtney,
17. supra, 4; Neder, supra

18.

19. PEOPLES BANK OF SANFORD v. FIDELITY & DEPOSIT CO., 4 Supp. 379 (1933):

20. Another presumption cannot arise from 1st presumption
21. without evidence to support the 1st. See Jackson, supra, 1

22.

23. LEARY v. U.S., 395 U.S. 6 (1969):

24. Rational Connection test (for presumptions) between fact proved &
25. ultimate fact presumed is by nature highly empirical. Ulster, supra, 3

e

1. EMPLRS INS. CO OF NEVADA v DANIELS, 122 Nev. 1009 (2006):

2. 1) Conclusive or irrebuttable presumptions cannot be over-
3. come by any additional evidence or argument. See Francis,
4. supra, 2

5.
6. COMMONWEALTH v. DiFRANCESCO, 458 Pa. (1974):

7. 1) Inferences and Presumptions cannot be employed to prove the
8. elements of a crime.

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1. SANITY: AN INDISPENSABLE, "UNWRITTEN" ELEMENT OF CRIME

Unbeknownst to much of society, it has long been the practice of legislatures to omit essential "common law" elements of crime from their statutes. Amongst other terms, "common law" means "unwritten law", which, because of its "immemorial usage", has been deemed by law to be "traditionally" an inherent part of the indispensable proof necessary for a prosecutor to prove, in order to constitute crime in all cases:

J.G. SUTHERLAND, Statutes and Statutory Construction (1891), §239:

"To discover," says Pollock, C.B., "the true construction of any particular clause of a statute, the first thing to be attended to no doubt, is the actual language of the clause itself, as introduced by the preamble; second the words or expressions which obviously are by design omitted." (quoting, ATTORNEY-GENERAL v. SILEM, 2 H. & C. 515)

§ 355. "The mental elements of most crimes is marked by one of the words 'maliciously,' 'fraudulently,' 'negligently,' or 'knowingly,' but it is the general practice of the legislature to leave unexpressed some of the mental elements of crime. In all cases whatever, competent age, ⁽³⁾sanity, and some degree of freedom from some kinds of coercion, are assumed to be essential to criminality, but I do not believe they are ever introduced into any statute by which any particular crime is defined..." id

(a) As stated here, the "sanity" omitted ("not introduced into any statute") belongs to the required "mental elements" of crime (i.e., Mens Rea), as opposed to the "sanity" that is not an element of crime (i.e., legal sanity).

Although this term is bifurcated, the courts very often confuse this term without clarification. The reader is thus cautioned herein to discern which "sanity" is true or else misleading. To be clear, however, regarding the required, albeit traditionally omitted element by legislatures, notice the following:

RIVERA V. DELAWARE, 429 U.S. 877 (1976):

"Sanity is an ingredient of mens rea..."

U.S. v. BYERS, 1980 U.S. App. Lexis 11099:

"Sanity is a condition of criminal guilt." (citing U.S. v. MALCOLM, 475 F.2d 420 (9th Cir. 1973)) (dissent)

U.S. v. MALCOLM, 475 F.2d 420 (1973 9th Cir.):

"...sanity at the time of the offense is one of the components of guilt when it involves a particular state of mind which is an essential element of the offense charged..." (opinion)

U.S. v. ALVAREZ, 519 F.2d 1036 (1975 3rd Cir.):

"Sanity is a matter going to guilt or innocence..."

1. (quoting REGINA v. TOLSON, L.R. 23 Q.B. Div. 168 (1889)). See also,
2. STAPLES v. U.S., 511 U.S. 600 (1994) (same, citing QUEEN v. TOLSON)

3.
4. It is important to note, however, that about 11 years
5. after Tolson, the D.C. legislature derogated from the scope of
6. the unwritten common law element of "sound memory" (sanity)
7. by quietly writing that element into its statute for 1st degree
8. murder. See, 34 Cong. Rec. 3497 (1901); and D.C. Ann. § 22-210). See also
9. KEEDY, A Problem of First Degree Murder, Penn. L. Rev. 99 (1950), at n.139-44

10. And no more than two (2) years after passing its amended
11. statute, a D.C. court expressed a prior knowledge of the fact
12. that the "sound memory" (sanity) element was already applicable
13. when it stated that its amended code "is not a new or
14. statutory definition of murder, but is simply the common
15. law definition of that crime." HILL v. U.S., 22 App. DC. 395 (1908) ^(a)

16.
17. The common law elements of murder are given by Blackstone
18. as follows:

19. "when a person of sound memory and discretion, unlawfully
20. killeth any reasonable creature in being and under the king's
21. peace, with malice aforethought, either express or implied."
22. 4 BLACKSTONE, Comm. § 195 (quoting COKE'S, 3 Inst. 47 (1644))

23.
24. And although the unwritten common law element of
25. sanity ("sound memory"), e.g., is not seen written in nearly

② In *Hill*, the court also addressed whether an indictment ought to allege the "sound memory and discretion" elements against a charge that it would be fatally defective without them. See also, U.S. v. GREENE, 489 F.2d 1145 (1973) (counsel arguing indictment was fatally defective for omitting said elements). The court in *Hill* answered in the negative, without any attempt to elaborate. Needless to say, however, there exists plenty of case law affirming ^{the ex's} *Hill's* position, on the ground that 1st degree murder is a legal conclusion, and not the crime of murder itself. A party is deemed to have sufficient "notice" when the elements of murder are properly alleged. See, e.g., NEVADA v. MILLAN (1867).

Thus counsel in *Greene* was not arguing from the grounds of statutory construction, nor from a Due Process violation in light of the rulings of *In re Winship* and *Francis v. Franklin*, or *NY v. Patterson*, which had not yet come down.

Although on point, the issues herein are distinguishable from the argument in *Greene*, regarding the omitted elements of "sound memory and discretion". Those elements were in the D.C. statute and were for 1st degree murder. Here, however, those elements are not written anywhere in the murder statutes but are being presumed (unconstitutionally established for murder).

all statutes, a D.C. court did not fail to impute to the entire United States knowledge that such unwritten elements are nonetheless "understood" by learned judicial minds to be a part of the definition of murder statutes. Thus, after citing the common law elements of murder by Blackstone, *supra*, the court in Guiteau's case said:

"This is substantially the definition of the crime as known for several hundred years and as now understood in the United States (See Wharton, Crim. Law Vol. 2, Sec. 930)." U.S. v. GUILTEAU, 1 Mackey 498 (1882).

See also, CHITTY, 2 Crim. Law, 724

Indeed, the Nevada Supreme Court has "understood" and applied the omitted common law elements to its incompletely defined murder statute. Notice the 5 underlined common law elements, which are not written as a part of its murder statute:

NEVADA v. THOMPSON, 12 Nev. 140 (1877): "Under the common law an unlawful killing of a reasonable creature in being, in the peace of the state, with malice aforethought, by a person of sound memory and discretion, was murder, and the punishment therefor was death. Under the statute a

1. commission of the same act, in like manner and with the
2. same intent, completes the crime of murder. [] The
3. general definition of murder in the statute includes
4. both degrees, the same as at common law^(a) it included
5. all cases of felonious homicide."

6. C.F. NEVADA v. MULLAIN, 3 Nev. 409 (1867); STATE v. BLACKWELL,
7. 65 Nev. 405 (1948); STATE v. MUNIOS, 44 Nev. 353 (1921) (all applying
8. Blackstone's definition); COLLMAN v. STATE, 116 Nev. 687 (2000)
9. (stating that, in Nevada, its statutory crime of murder is
10. "consistent with the common law"); and STATE v. HARTE, 124
11. Nev. 969 (2008) (State arguing for beginning with "the common
12. law definition of murder" rather than the statutory "definition
13. of first-degree murder")^(a)

14.
15. The acknowledgments and applications above are simply a
16. compliance with rules of statutory construction or interpretation.
17. See, J.G. SUTHERLAND, *supra*, § 253; NRS 1.030 and 1.050; and LaFAVE,
18. Principles of Criminal Law (3010), § 2.2 (L): Borrowed Statutes.

19.
20. U.S. v. MELTON, 34 F.3d 1021 (2003): "Where a state crime is defined
21. by specific and identifiable common law elements rather than by
22. a specific statute, the common law definition of a crime serves
23. as a functional equivalent of a statutory definition."

24. See also, In Re ESTATE of LEWIS, 39 Nev. 945 (1916) (citing 2 LEWIS
25. Sutherland Stat Const 757, 2d Ed.); STATE v. CASTANEDA (2010).^(b)

① J.G. SUTHERLAND, § 333:

"A judicial construction of a statute of long standing has force as a precedent from the presumption that the legislature is aware of it, and its silence a tacit admission that such construction is correct." (citing PHILAN v. JOHNSON, 7 Ir. L. at p. 535)

② MOSEY v. STATE, 91 Nev. 809 (1975)

"Words in a statute having a well defined meaning at common law are presumed to be used in their common law sense unless it clearly appears that another meaning was intended

WILLIAMS v. CLARK, 118 Nev. 473 (2002)

"Finally, we generally presume that a statutory term has its common law meaning."

1. Notwithstanding the almost deafly silence at present,
2. the Supreme Court of Nevada had long ago, in very clear
3. and unambiguous terms, conceded to the fact that the
4. unwritten, essential common law element of "sanity"
5. must be proved by the prosecution. And this truth
6. was still admitted, even after the objective "M'Naghten rule"
7. test for legal "insanity" was officially adopted in Lewis.

8.
9. NEVADA v. LEWIS, 20 Nev. 333 (1889): "It is undoubtedly
10. true that it is incumbent upon the prosecution to prove
11. every fact that is material, essential and necessary to
12. constitute the crime, which of course includes the sanity
13. of the defendant." See U.S. v. BYRD (1984), infra, p. 11

14.
15. Such an admission coming from amongst jurisdictions
16. that utilize a burden of persuasion-shifting "affirmative
17. defense" ("insanity"), is nevertheless the same admission made
18. from amongst other jurisdictions who, instead, utilize a burden
19. of production-shifting "presumption of law" (i.e., "presumption
20. of sanity").

21.
22. DAVIS v. U.S., 160 U.S. 469 (1895): "Sanity is an ingredient
23. in crime as essential as the overt act, and if sanity is wanting
24. there can be no crime." (citing CHASE v. PEOPLE, 40 Illinois, 352, 358;
25. and HOPPS v. PEOPLE, 31 Illinois, 358, 392)

1. "Upon whom then must rest the burden of proving that
2. the accused, whose life it is sought to take under the forms
3. of law, belongs to a [same] class capable of committing
4. crime? On principle, it must rest upon those who affirm
5. that he has committed the crime for which he is indicted."
6. DAVIS supra (emphasis mine)

2. NO SHIFTING THE BURDEN OF PROOF TO A DEFENDANT
WHEN "UNLAWFULNESS" or "MALICE" IS AN ELEMENT OF OFFENSE

Nevada law recognizes that, when a crime requires the elements of 'unlawfulness' or 'malice', the prosecutor must prove the absence of a justifiable or excusing defense.

YBARRA v. WOLFF, 662 F.Supp. 44 (1987): "Both the definition of murder and malice under Nevada law require the prosecutor to show that the killing was done unlawfully, and without justification, such as self-defense. See Kelso v. State, 95 Nev. 37 (1979). In Nevada, therefore, the state must also bear the burden on self-defense, in that unlawfulness is an element of the crime itself."

BARONE v. NEVADA, 109 Nev. 778 (1993): "Moreover, in HILL v. STATE, 98 Nev. 295 (1982), this court held that the burden of proving absence of justification or excuse for homicide resides with the state."

See also PIEBRE v. STATE, 96 Nev. 887 (1980) (citing MULLANEY v. WILBUR, 421 U.S. 684 (1975)).

The state's burden not only includes proving absence of justification and excuse, but also mitigation.

MORELAND, The Law of Homicide (1952), p.58 at n.20:

1. "In brief, malice in the legal sense imports (1) the absence of
2. all elements of justification, excuse or substantial mitigation,
3. and (2) the presence of either (a) an actual intent to cause
4. the particular social harm of the same general nature, or
5. (b) the wanton and wilful doing of an act with knowledge
6. of the circumstances indicating awareness of a plain and
7. strong likelihood that such harm may result." (quoting PERKINS,
8. Rationale of Mens Rea (1939), 52 Harv. L. Rev. 905, 917).

9.
10. DUBBER, Criminal Law: Model Penal Code (2002), p. 190 at n. 14:
11. "What's more, the Model Penal Code classifies (the absence of)
12. justifications and excuses not merely as offense elements,
13. but as material elements." (emphasis original) (citing MPC §1.13(10))

14.
15. Moreover, under any such appropriate defense, a prosecutor
16. may not shift the burden of proof to a defendant.

17.
18. KELSO v. NEVADA, 95 Nev. 37 (1979): "However, when the
19. defense by its nature, disproves a fact essential to the
20. offense as defined by the state, the burden may not be
21. shifted to a defendant, since doing so dilutes the State's
22. own due process burden of proving, beyond a reasonable doubt
23. every element of the crime charged." (citing PATTERSON v.
24. NEW YORK, 432 U.S. 197 (1977))

1. Under examination of at least two (2) similar defenses,
2. it can be easily seen that, against due process, Nevada law
3. shifts the burden to a defendant, after it presumptively
4. establishes, as proof, the element of sanity.

5. The first is a "no defense" defense, and the second is a
6. "non-sanity" defense. I do not say, "insanity," since that is taken
7. for a specific type of objectively found "legal" condition of
8. mind that a defendant claims to have had at the time of
9. an offense. In this latter respect:

10. "Insanity is, strictly speaking, then, no longer an 'affirmative
11. defense.'" CHRISTIE & PYE, Criminal Presumptions, Duke L.J. 919, 936
12.

13. Put another way, a defendant putting on either of the
14. two (2) defenses mentioned, is not conceding to any element,
15. which is the essence of an "affirmative" defense.
16.

17. Yet, under no exceptions, Nevada law has made "insanity"
18. a burden of persuasion - shifting "affirmative" defense,
19. notwithstanding its own ruling in *Kelso and Barone*, supra.
20.

21. CLARK v. NEVADA, 95 Nev. 24 (1979): "It is well settled in
22. Nevada that insanity is an affirmative defense and that the
23. accused is presumed to be sane absent proof of insanity by a
24. preponderance of the evidence." [citations omitted]
25.

(c) MALLIN v. FARMERS INS. EXCH, 108 Nev. 788 (1992):

"The criminal law deals with a particular species of mental incapacity that has a meaning only when associated with the ends and purposes of the criminal law."

FINGER v. NEVADA, 117 Nev. 548 (2001):

"Legal insanity has a precise and extremely narrow definition in Nevada law."

1. To better understand Nevada's outrageous contempt,
2. thus far, for constitutional fairness and due process, a clari-
3. fication is due here, concerning what its cunning burden-shifting
4. device has accomplished.

5.
6. FIRST. Nevada's legislature omits the essential common
7. law element of "sanity" from the sight of its statutes.

8.
9. SECOND. It then utilizes an abstract general presumption of
10. law (the "presumption of sanity") to establish for the prosecution
11. proof of that element, even against particular circumstances in a case.

12.
13. THIRD. It is careful not to mention the non-existence
14. of, or the non-writing of the element of sanity, while converting
15. it into an unconstitutional burden of persuasion-shifting
16. "affirmative defense", which then requires a defendant - at
17. peril of his life - to first admit to the act, which also
18. violates the 5th Amendment right against self-incrimination.

19.
20. These facts render Nevada's murder statute fatally defective
21. under constitutional law and modern jurisprudence, by the use
22. of two conflicting legal devices - one procedural, and the other
23. evidentiary. See

24.

25.

3. AN UNCONSTITUTIONAL LEGAL DEVICE

(a) PROCEDURAL OMISSION & BURDEN SHIFT OF CRITICAL ELEMENT

(1) THE CASE PRECEDENT OF PATTERSON V. NEW YORK

Since Nevada's admission that the unwritten element of sanity must be proved by a prosecutor, the Supreme Court of Nevada has since been deceptive about this understood fact.

See, e.g., ROGERS v. STATE, 101 Nev. 457 (1985) ("sanity is not an element of an offense"). Cf. YBARRA v. STATE, 100 Nev. 167 (1984); and CLARK v. STATE, 95 Nev. 24 (1979).

It must be stated here, however, that the statements above are not based on any change in law regarding the required proof of the mental element of sanity in all cases whatever. See, J.C. SUTHERLAND *supra*, §355. Rather, it stems from the fact that Nevada law, like many others, have cleverly created another meaning out of the same term "sanity". See n. 9.A

U.S. v. BYRD, 834 F.2d 145 (1987): "Willfulness is not synonymous with the legal concept of insanity. Willfulness presumes some degree of sanity in common parlance. However, the affirmative defense of insanity has its own special meaning distinct from the use of the words 'sanity' and 'insanity' in everyday life."

1. Indeed, although the accused's sanity is an ingredient of the
2. requisite mens. rea, the existence or nonexistence of legal
3. insanity, bears no necessary relationship to the existence
4. or nonexistence of the required mental elements of crime

6. Knowing that the required mental element of sanity has no-
7. thing to do with the in/sanity, about which Nevada law refers to
8. in its "affirmative defense" of legal "insanity", it ought to be
9. clear from the ruling in Patterson that Nevada's murder
10. statute is fatally defective.

11. This is because, as LaFAVE points out, Patterson demon-
12. strated that, the only way a legislature can, at the same time,
13. omit and then convert an essential element of an offense into
14. a burden of persuasion-shifting affirmative defense, is if
15. and only if the remaining statutory elements, standing alone
16. still constitute a criminal offense.

17. LaFAVE, Principles of Criminal Law (2010), § 1.8(C). Affirmative
18. Defenses:

20. "Patterson as the majority explained, does not give the
21. legislature a free hand to reallocate burdens of proof by labeling
22. elements as affirmative defenses. The "obvious constitutional
23. limits" to which the majority referred are the various
24. constitutional doctrines that presently exist regarding
25. constitutional doctrines that presently exist regarding

1. the way in which crimes may be defined. Thus, if a crime
2. defined by law as consisting of elements X, Y and Z is
3. reformulated by the legislature so as to consist only
4. of elements X and Y, with non-Z now an affirmative
5. defense to be proved by the defendant, this is permissible
6. under Patterson if and only if it is constitutionally per-
7. missible to make X plus Y standing alone, a criminal
8. offense." (citing PATTERSON v. NEW YORK, 432 U.S. 197 (1977)).

9.
10. To illustrate how Patterson renders the NV statutory (X+Y)
11. definition of murder fatally defective, let us now suppose that
12. the Z elements below constitute the traditionally omitted/
13. "reallocated" common law elements which, as I have already proven,
14. "completes the crime of murder." NEVADA v. THOMPSON, *supra*.

15. Thus:

16.
17. X and Y: (NRS 200.010) (Statute) (Written)

18. (1.) Unlawfully [kills]; (2.) a (1) Human Being; (3.) with
19. Malice Aforethought; (4.) either Express or Implied

20.
21. Z: (4 BLACKSTONE, Comm. g 195) (Common Law) (Unwritten)

22. (1.) a Person; (2.) of Sound Memory (Sane); (3.) and Discretion
23. (4.) a Reasonable [Person]; (5.) under the King's peace

24.
25. Now, it ought to be clear from the illustration above, that

1. the Nevada legislature has indeed omitted 5 essential elements
2. of murder, and "reallocated" a burden of proof on more than
3. 1 essential Z element. ⁽³⁾

4. Such a "reallocation" by a legislature is fatal under
5. *Patterson*, since X plus Y, standing alone, does not constitute
6. a crime!

7. Put another way, it is without question that a prosecutor's
8. failure to prove a defendant's sanity ("sound memory"), e.g., at the
9. time of the offense, results in an acquittal of all charges. Since
10. sanity is a prerequisite to proving any criminal intent, there
11. can likewise be no criminal offense without that element.

12.
13. To be sure that this conclusion is not skewed by this
14. observation, let us now suppose that a Z element of
15. "unlawfulness" is the only element omitted by the legislature.
16. Under *Patterson*, such a murder statute would pass constitutional
17. muster, since all remaining X and Y elements, standing alone,
18. will still constitute a crime: manslaughter! Once again, put
19. another way, if a prosecutor failed to prove a defendant acted
20. "unlawfully" at the time of the offense, then it would still be
21. possible for a jury to find him guilty of a crime: manslaughter
22. The same would be true if that Z element were "malice" e.g.

23.
24. It is important to note that the majority in *Patterson*
25. did not except from its ruling, the "classical elements" (i.e.,

② E.g., it is not against only a statutorily defined "human being" (X and Y element), which a defense to murder challenges. Rather, it is against the omitted/"reallocated" common law Z element that the victim was a "reasonable" [human being], which is challenged by a "lawful", or "duress", or "protection of self or others" defense, etc. The same can be said against the Z element that the victim was "under the king's peace", which by Nevada law, is still alleged by information or indictment that an accused acted "against the peace and dignity of the State of Nevada." DAWSON v. STATE, 108 Nev. 112 (1992) (stating those elements are alleged pursuant to the form required by NRS 179.235). Cf. STATE v. ANDERSON, 4 Nev. 265 (1868).

In any event, this latter unwritten Z element is at issue, like the others, whether or not a defense is put on against them. Otherwise, the State need not allege them, since they are not a part of its statutory (X and Y) elements. A failure to allege them, however, would bring an attack that the State does not have jurisdiction.

U.S. v. BACHMAN, 164 F. Supp. 654 (1979):

"... the indictment may ordinarily be laid down in the language of the statute, unless the statute omits an essential element of the offense or includes it only by implication, in which case the indictment or information should allege it directly & with certainty."

1. the traditionally omitted unwritten common law elements)
2. alluded to by the minority. And that remark, as quoted by the
3. minority, sounded a clear alarm, since pretending that elements
4. don't exist, simply because a legislature has not written them
5. into its statutory definition, does not preclude a finding of
6. every elemental fact necessary to constitute a crime, which,
7. in the same way, must also be considered for a due process
8. violation. Since, as the minority explained:

9.
10. "In *Mullaney* we made it clear that *Winship* is
11. not "limited to a State's definition of the elements of
12. the crime." 421 U.S. at 699 n. 24. "PATTERSON, *supra*, (J.J. Powell
13. Brennan and Marshall, dissenting) (a)

14.
15. As the minority also pointed out, the interpretation of a
16. statute by a State's highest court is also considered to be
17. in the language of a statute.

18.
19. "In the usual case it is well settled that an authoritative
20. construction by the State's highest court "puts [appropriate]
21. words in the statute as definitely as if it had been so
22. amended by the legislature." *Winters v. New York*, 333
23. U.S. 507, 514 (1948). "PATTERSON, *supra*, at n. 7 (emphasis original)

24.
25. Rem. Nevada's Supreme Court, in *THOMPSON*, *supra*, named

1. all of the common law elements, which are omitted
2. from the statutory definition, but which "completes the crime
3. of murder." See p. 3, Ln. 21; and Lewis, p. 5, Ln. 9.

4. BIFURCATION OF THE PRESUMPTION OF SANITY

Since Nevada law has conveniently considered mental sanity no longer an element of crime, despite the aforementioned, it has also cleverly bifurcated that element by means of confusing the "common law" presumption of sanity. Cf. LOS ANGELES COUNTY V. HUMPHRIES, 178 Cal. 2d 460 (2010) (rejecting bifurcated application of the word "person"); and U.S. v. GAINES, supra 2 (rejecting use of presumptions for all uses and purposes).

On the one hand, Nevada has acknowledged the presumption of sanity as a conclusive "common law" presumption. See NEVADA V. LEWIS, 20 Nev. 333 (1889).

On the other hand, Nevada has acknowledged a presumption of sanity as being a rebuttable - and apparently mandatory presumption of law, in which the objective M'Naghten rule indispensably sits as the ultimate test for "legal" insanity. See FINGER V. NEVADA, 117 Nev. 543 (2001).

Notwithstanding the conflicting nature of the Lewis and Finger description of the presumption of sanity, supra, a few points about a "common law" presumption is due here.

⑥ The test for legal sanity goes to show the intent of an act only, which presupposes an evil purpose by the Church, e.g. But murder is generally a "purpose" or "result" crime, i.e., the evil purpose or result (death) is foreseen by the accused. Malice is a "mens rea" element, essential to proving the intent was an evil act and an evil purpose, unlike the "culpa" [bilty] test for legal sanity, which goes to show the intent of the act only.

FERNANDEZ v. PEREZ, 202 U.S. 80 (1906):
"Culpa may imply intent with respect to the act, but not an evil purpose with respect to the result of the act. Malice implies both. 4 Roman Civ. Law, p. 1017; 4 Falcon Civ. Code, p. 431."

Thus, by sleight of hand, Nevada law "proves" a Mens Rea criminal element ("sanity"), by a civil "culpa" [bilty] test, which does not prove the Malice, which only a sane person could have.

1. The common law presumption of sanity:
- 2.
3. • Predates the defense of insanity.
4. • Predates the objective legal tests for insanity.
5. • Could not render a law void for a "due process" violation
6. Under the common law system from whence it came.
7. • Was a common law civil standard, which was only
8. used arbitrarily in criminal cases.
9. • Was used under a flexible common law system,
10. which did not confine a law to being based on only one
11. object and subject (e.g., Retribution or Deterrence)
12. • Is now used under Nevada law, which constitution
13. restricts a law to having only one object and subject
14. (e.g., "Deterrence" of those aimed at in its murder statute)
15. • Was necessarily determined under the common law
16. system as a "question of fact" (for a jury) by a subjective
17. moral standard, since the church was a part of its law.
18. • Is now determined by a strictly objective "question
19. of law" (for the court) under Nevada law, either because:
20. (1) there is a separation of church and state; and/or
21. because (2) there is a constitutional restriction of having
22. only one object and subject for a law which, in the case of
23. murder, would indeed comport with its objective Deterrence
24. basis; and/or (3) statutes are a rule of civil conduct, because
25. they do not extend into the subjective domain of morals or religion.

1. Rem. Murder at common law was not a "statute"
2. crime created by the legislature, but a judicially created
3. "Mala In Se" crime, having subjective moral implications,
4. as opposed to strictly objective legal ("civil") duty im-
5. plications.

- 6.
7. NOTE: Under the common law, and in accord with
8. "divine law", all members of the Church were "dead in law"/
9. "civilly dead", owing no legal "civil duties" to the civil state.
10. Therefore, all members of the Church were deemed
11. by law to have a legal "excuse" against all "civil crimes"
12. under a "defect of will" called the "Benefit of Clergy" (sanctuary)

13. Indeed, there was also acknowledged a true maxim
14. arising out of Scripture that: no man can owe two (2)
15. allegiances, or serve two (3) masters at once.

- 16.
17. Moreover, no man or law can deprive or divest another
18. of a right or privilege invested by his Creator.

- 19.
- 20.
- 21.
- 22.
- 23.
- 24.
- 25.

1. (a) The FIRST use of the presumption of sanity is set up
2. by Nevada law against a defendant attempting to establish,
3. by a strictly objective test, only the complete loss of "legal"
4. sanity. That is, the M'Naghten rule is a very narrow test, not
5. aimed at finding the various degrees or shades of sub-
6. jective "moral" sanity inherent in the range of whatever
7. mens rea or criminal intent is required to constitute an
8. offense.

9. This presumption of sanity, then, establishes for the pro-
10. secution proof of the existence of the only form of sanity
11. that comports with Nevada's claim that "sanity" is, at the
12. same time, "not an element of an offense" and which logically
13. agrees with a type that is not founded upon the "common"
14. experience of man. And that type is: a presumption of "legal"
15. sanity founded upon "convenience" and "public policy". See
16. Lewis and Davis, supra. A type having no existence in reality.

17. This "sanity", then, has nothing at all to do with the indis-
18. pensable unwritten "common law" element of sanity, which
19. "completes the crime of murder". NEVADA v. THOMPSON, 12 Nev. 140
20. (1877). See Sec. 1, supra, and U.S. v. BYRD (1984), supra. (c)

21.
22. But such a presumption, as Davis pointed out, "is not a
23. conclusive presumption, which the law upon grounds of public
24. policy forbids to be overthrown or impaired by opposing proof. It
25. is a disputable or... rebuttable presumption." Davis, supra.

1. Notwithstanding Nevada's contradictions, and the serious
2. differences between a conclusive and mandatory rebuttable
3. presumption, the force of the presumption of sanity should
4. be interjected here.

5. 6. (1) THE FORCE AND NATURE OF THE PRESUMPTION OF SANITY

7.
8. The presumption of sanity is an artificial presumption,
9. having its "proof" established not by any direct evidence, since
10. that would lead to an absurd proposition that the law has
11. such evidence about the mental state of every person. Its
12. use, therefore, is "justified" on the ground of a "public policy"
13. need, which is just another way of saying the public has given
14. the law "justification" in convicting you by more efficient & cheap means.

15.
16. Despite its foundational deficiencies, the presump-
17. tion of sanity is given the force of a "strong" presumption.
18. This means it ought to be subject to being rebutted or over-
19. thrown by a natural or divine "strong" presumption, or else
20. a very strong presumption. Otherwise, a defendant needs to
21. submit "evidence as a whole [that] negatives the existence of
22. the presumed fact." NRS 47.230(2)

23.
24. NRS 47.230(2) functions merely as smoke and mirrors
25. for the true force and nature of the presumption of sanity.

1. Its true force and nature lies in the fact that it is
2. a "judicially noticed" fact which, automatically enters trial and
3. establishes proof of the element of sanity for the prosecu-
4. tion. A defendant's need for a "preponderance of evidence" against it,
5. then, cannot tilt a scale weighing quality of proof by the "beyond a
6. reasonable doubt" standard, which quality is also superior to evidence.

7.
8. LEMEL V. SMITH, 64 Nev. 595 (1947):

9. "Judicial notice takes the place of proof, and is of equal force.
10. As a means of establishing facts, it is therefore superior
11. to evidence. In its appropriate field, it displaces evidence,
12. since, as it stands for proof, it fulfills the object which
13. evidence is designed to fulfill, and makes evidence un-
14. necessary." [citations omitted]

15.
16. EX PARTE KAIR, 28 Nev. 425 (1903):

17. "Taking judicial notice of a fact simply does away with
18. the necessity of offering evidence to support that fact."

19.
20.
21. Thus, against all hypocrisy and constitutional fairness, Nevada law
22. has relieved a prosecutor from its obligation of submitting any
23. evidence on a critical element, while forcing a defendant to
24. vainly submit real, direct evidence to "rebut" a superior "proof"
25. established by the presumption of sanity. See EMPLRS, supra.

② See CLARK V. NEVADA, 95 Nev. 24 (1979) (rejecting idea that presumption of sanity evaporates with controverted evidence, even if prosecution offers no evidence on subject)

1. It has also done this while making itself immune to the
2. risk of a 'directed verdict' by a defendant, while subjecting
3. the defendant to the risk of - and indeed the high probability
4. of - a legally impermissible directed verdict against
5. defendants in criminal cases. See *Neder*, supra.

6.
7. Moreover, the illusion that a judge can logically weigh inferior
8. evidence against the superior proof of that same judge's
9. judicially noticed fact, amounts to: (1) a judicial "comment on
10. the evidence"; and (2) a trial by judge, and not jury. Both of
11. these being prohibited by Nevada and Federal constitutions.
12. See NV Const. Art. 6, Sec. 12; NRS 3.230; and U.S. Const. 6th Amend-
13. ment.

1. Under today's modern jurisprudence, a presumption of law
2. must pass two(2) tests. The "rational connection" test and
3. the "beyond a reasonable doubt" standard required by the U.S.
4. Constitution for criminal cases. See U/ster; Leary, supra. The
5. failure to pass either of these tests will render a statute
6. void for violating due process.

7. 8. (2.) THE RATIONAL CONNECTION TEST

9.
10. Unlike a true, abstract rebuttable presumption of law
11. (being general), challenging a presumption of law that is grounded
12. on "convenience" or "public policy" necessarily involves importing
13. an analysis of the particular circumstances of a case before the
14. tests are applied. And no right can be violated in the process
15. of making a "rational connection" between the basic fact
16. proved and the ultimate elemental fact presumed. See
17. Leary supra.

18. The law then, has entered the business of "prophesying,"
19. since illogically converting the inherent nature of a pre-
20. sumption of law (being abstract) into what amounts to a
21. prophetically foreseen, established, presumption of [specific]
22. fact, is no less the office of diviners.

23. If this 'conversion' is an exception, then another co-
24. existing repugnant 'exception' ought to render this device an
25. intolerable perversion of modern jurisprudence. And yet the ques-

tion remains whether this presumption of law establishes
the objective "legal" sanity, which a true abstract presump-
tion of law could not do, or whether it establishes the
subjective "common law" element of moral sanity. The
answer seems obvious: legal sanity. But the "logic of the need
for convenience" or "public policy" which created the exception
to proving subjective common law sanity by proof of
objective "legal" sanity, also creates an exception to the
"rational connection" and "beyond a reasonable doubt" standards,
even after analyzing the facts of a particular case, *q.v.*

As a preliminary matter, it ought to be conceded that
a jury could not say that, at the time of any offense, there
existed with a defendant, M'Naghten's fictional standard of
"legal" sanity beyond a reasonable doubt, because M'Naghten
is only one of several recognized legal standards. And since
the law forces a jury to exclude the others, they are deprived of
their own right to make a "rational connection". And this is
especially true when a defendant and/or jury members
do not come from a M'Naghten jurisdiction.

Moreover, the law has clearly crossed the threshold of
reason, since it cannot be assumed for one moment that
society would, at the same time, except by a matter of
"convenience" or "public policy", their 1st Amendment rights.
That is, the law, by its "public policy", must first make out
society to be heretics who would rather be forced into

② Under the 1st Amendment, a person has a right, (1) to practice their Profession as Freedom of Speech, and (2) to express their Right of Conscience.

1. asserting a position contrary to the judicially noticeable fact
2. that every Bible teaches its believers that subjective
3. matters of the heart-mind are known by YAHWEH alone.
4. See e.g., 1 Sam. 16:7, and Jer. 17:9-10

5. Moreover, among other blatant forms of Biblical
6. abominations, the law of Nevada is forcing jurors to
7. bow down (submit) to giving worth [ship] (wor-ship)
8. to its own fictitious IDoLs (IDeals) which belong
9. to the class of IMAG(ES) or perverted IMAG(inations)
10. of primitive pagan 'IDeologies' condemned by the Ten
11. Commandments as IDoLatry. Dt. 4:15-18, and 5:8. For
12. example, it is admitted that the fictitious "reasonable
13. man" standard is an 'IDeal' (IDoL) that must be given
14. worth [ship] (wor-ship) by a jury, although it bears
15. no real personal relation to the relative character of
16. the natural man. Needless to say, M'Naghten's fictional
17. 'sanity rule is but another object of wor[th]ship existing
18. only in the IMAGination of the IDoLater that believes it.

19. Thus, it can never be fairly said, generally, that society
20. willfully believes in IDoLatry beyond a reasonable doubt, so
21. that the law can justify imputing to a jury, its making of
22. a "rational connection" by such idolatrous means. To the
23. contrary, but-for the cunning hi-jacking of a jury's natural
24. perception, for that of IDoLatrous imaginations, they would
25. otherwise be making an (ir-)rational connection.®

④ Such a coercive, one-sided persuasion is called by Blackstone, "embracery" (obstruction of justice), which taints the offender with "perpetual infamy". 4 BLACKSTONE, Comm., § 140

Or put another way, but for the law first making an otherwise Bible-believing society into lying heretics and offenders "against God and religion," they would not willfully IDolize such an ir-rational connection. And this is especially true, when the law knows a jury must do this after it places them under sworn oath to their God. See NRS 160.030(5) and 175.021(1). No doubt, this amounts to a "moral coercion" or "undue influence" by the government against one's "right of conscience," and freedom of speech.

MARSH V. CHAMBERS, 463 U.S. 783 (1983) "The right to conscience, in the religious sphere, is not only implicated when the government engages in direct or indirect coercion. It is also implicated when the government requires individuals to support the practices of a faith with which they do not agree."

CHURCH OF LUKUMI V. HIALEAH, 508 U.S. 520 (1993) "Neutral generally applicable laws, drafted as they are from the perspective of the nonadherent, have the unavoidable potential of putting the believer to a choice between God and government, while pursuing secular ends, may compel disobedience to what one believes religion demands."

1. And Blackstone names "Offences against God and
2. religion" as the worst of 13 kinds of public wrongs,
3. even worse than Homicide which ranks 11th, and Property
4. offences which ranks 13th. DUBBER, Model Penal Code
5. (2002), § 242

6. Therefore, it is not reasonable to suppose that
7. society would willfully perpetrate the greatest of offences
8. in order to advance a mere legal "policy" grounded on
9. "convenience". It is even harder to imagine that they
10. would, after that, make another exception against the
11. "rational connection" requirement for presumptions.

12. To the contrary, there is a very strong presumption
13. that society would, against perpetrating such a serious
14. offence, rather obey their Creator's written will even in
15. the face of man's most extreme and cunning 'legal'
16. dictates that violate one's "right of conscience" and which
17. makes them offend "God and religion"

18. And because the presumption of sanity is only class-
19. ified as a "strong" presumption, it ought to be left
20. overthrown or "rebutted" by the aforementioned.

21. At the very least, then, the burden of persuasion
22. ought to be shifted back to the prosecution to prove
23. beyond a reasonable doubt that such an Idolatrous
24. form of fictional "sanity" existed with a defendant.

25.

1. (b.) The SECOND use of the presumption of sanity
2. collaterally supplants the actual subjective mental element
3. of sanity ("sound memory") in murder. Nevada law achieves
4. this by never giving the jury the element of sanity to decide
5. upon, even though it is a part of the concept of Mens Rea.
6. Because Nevada law is only required to prove the "basic
7. facts" of a criminal intent, it is "stacking inferences", by not
8. proving the necessary predicate fact of a subjective degree of
9. sanity. This violates due process, and also redefines the
10. concept of Mens Rea. See Tot, supra, 2.; Baralli supra;
11. Jackson, supra, 1.; People's Bank, supra; Carella, supra.

12.
13. The mental elements of 1st degree murder (e.g., pre-
14. meditation, deliberation, and willfulness) necessarily involve
15. a degree of the common law's subjective element of
16. sanity ("sound memory"). See Byrd (1984), supra; and p.1 n.a.

17. The question of criminal intent, then, necessarily
18. involves a moral question for the jury as a right of con-
19. science, against the impersonal, objective, IDOLATROUS "Reason-
20. able man" legal standard. See GRAY v. NEVADA, 100 Nev. 556 (1984)
21. (admitting exception to objective Reasonable Person standard
22. for personal subjective standard) (43)

23. Defenses that negate Mens Rea, naturally put subjective
24. sanity at issue. Even without a defense, Mens Rea is at issue.
25. Thus, a prosecutor cannot be relieved of proving sanity.

10. The fact that Nevada accepts the need for a subjective and personal "Reasonable Person" standard shows that its law cannot properly bring every person within the purview of its one object and subject. This is because its one object and subject is "Deterrence", which is an objective standard that only comports with the objective "Reasonable Person" standard. Making an "exception" to this creates another object and subject, which violates Art. IV, Sec. 17 of Nevada's Constitution. See STATE v. ALI SAM, 15 Nev. 27 (1880), and J.G. SUTHERLAND, supra § 227 (stating, "penal laws" can never be expanded against the accused so as to bring within their penalties any person who is not within their letter").

Alternatively, the law is violating Equal Protection and the required Uniform Operation of a law upon one subject. See Nevada Const. Art. IV, Sec. 21. This is because laws are written "prospectively" anticipating conformity to future circumstances. Yet it is a judicially noticeable fact that most believers in the Bible are anticipating the success and recognition of the Church with all its subjective spiritual standards as the one government over all "legal" entities. DANIEL 7:13-14. Cf. LoFAVE, supra § 3.2(b) (Classification in statute not accounting for possibility of having new characteristics later).

1. Mention of the felony-murder rule must also be made.
2. Here, since its justification for circumventing the need to
3. prove the concept of wrongfulness in a Mens Rea for murder,
4. is by proving an inconsistent intent for a predicate offense,
5. But this erroneously presupposes the non-existence of the
6. subjective element of sanity in the very definition of murder,
7. as well as all other crimes. See Sutherland, pp 234 & 355, supra;
8. and Thompson, supra.

9. Thus, the felony-murder rule, at once, (1) redefines the con-
10. cept of Mens Rea; (2) is an exception to proving Malice & Intent;
11. and (3) converts an otherwise unconvertible subjective "common
12. law" element of sanity into an incompatible, albeit, presump-
13. tively established objective "legal" sanity; and/or (4) circumvents
14. proving the common law element of sanity altogether.

15. For case law precedents against such unconstitutional devices,
16. See FINGER v. NEVADA (2001) (repealing statutes that presumptively
17. established unwritten common law element in Mens Rea);
18. and MORISSETTE v. U.S. (1952) (reversed, although statute omitted
19. intent, prosecutor failed to prove understood element).

20.
21. The felony-murder rule is said to be borrowed from the
22. common law. But confusion is added by Nevada's claim that
23. the object or basis for that rule is "deterrence". See CORTINAS
24. v. STATE, 129 Nev. 1013 (2008) ^(b)

25.

① U.S. v. BIBBINS, 637 F.3d 1087 (2011)

"We generally interpret statutory provisions containing multiple enumerated offenses to require consistent mens rea elements."
[citations omitted] Cf. MPC § 2.02(4) and (10).

For 1st degree murder, e.g., proof of the mens rea of 'willfulness' is consistently required for 'Conduct; Circumstances; and Result (death)'. That is, a prosecutor cannot say a murder was committed under 'willful' Conduct and Circumstances, but the Result (death) was by 'recklessness' or any other inconsistent mens rea.

However, for a 1st degree felony-murder conviction by proof of burglary, e.g., there is no longer a need for proving a consistent mens rea with respect to the Result (death), since burglary can be proved by various mens rea. See e.g., STATE v. CONTRERAS, 118 Nev. 332 (2002)

② In Contreras, the object is said to be "general deterrence."

1. While the law against murder, in general, has been
2. built upon the foundation of "deterrence" for its justifi-
3. cation' as indicated in the preamble, the felony-murder
4. rule must be an unconstitutional exception to a law
5. having only one object and subject. See NV Const. Art. IV,
6. Sec. 17; and J.G. SUTHERLAND, *supra*, § 103. This is because the
7. common law did not justify the felony-murder rule upon
8. the ground of "deterrence", but on the prevailing theory
9. at the time, which was ~~retribution~~! TOMKOVICZ, *Endurance*
10. *of the Felony-Murder Rule*, 51 Wash. & Lee L. Rev. 1429 (1994), at
11. n. 92; and ROTH & SUNBY, *Felony-Murder Rule*, 70 Cornell L. Rev.
12. 446 (1985) at p. 68. ^(a)

13. As a matter of logic, the felony-murder rule cannot
14. possibly be justified upon an objective deterrence basis,
15. since there are too many exceptions that would not bring
16. a person within the purview of such an offense.

17. If deterrence were truly its basis, then the fact that
18. there are exceptions ^(b) to the objective "reasonable man"
19. standard (See Gray, *supra*) not only comports with retribution,
20. but destroys the former as the one object of law.

21. On the other hand, if, after proper consideration that
22. retribution is its basis, then it is clear that it is in
23. violation of Art. IV, Sec. 17, as well as not comporting with
24. the default use of the objective reasonable man standard.

25.

(a) U.S. V. MOORE, 486 F.2d 1139 (1973): "... the law has in recent decades, come to regard this eye for an eye philosophy as an improper basis for punishment. [i.e., "retribution"]

(b)

3/1A

5. THE EFFECTS OF OBJECTIVE SANITY AGAINST RULES OF STATUTORY CONSTRUCTION

Against its claim that its murder statute is "the same as at common law" Nevada law has created a statute that redefines the "sound mind and discretion" elements, for a type that has nothing to do with the concept of "common law" or "tradition". See NRS 193.200. Those elements in NRS 193.200 look to a strictly objective standard, which cannot be found "without reference to our prior caselaw involving McNaghten". FINGER v. NEVADA (2001)

Moreover, it is clear from the common law definition of murder, that the elements of "sound memory and discretion" qualify the "person" which the law has in its purview.

Rem. Murder is "when a person of sound memory and discretion unlawfully killeth..." 4 BLACKSTONE, Comm. 8, 195.

This is no trivial matter, since a person, in contemplation of law, can be a subjective natural human, generally, or an objective "legal fiction" strictly. Cf. NRS 0.039. Person defined.

171
② NRS 193.200 has the same "sound mind and discretion" elements as 4 Blackstone, Comm., § 195, but applies to them a strictly objective standard via M'Naghten. See Finger, supra. Thus, Nevada law has bifurcated the use of "sound mind" / sanity to comport with an impermissible two (2) objects of law: (1) "retribution" for subjective cases; and (2) "deterrence" for objective cases. Otherwise, it may be seen as giving the concept of Mens Rea a bifurcated application or new meaning with regard to subjective intent elements. See Humphries (2010), supra, p. 7.

Furthermore, the fact that NRS 193.200 applies its elements for "manifesting" intent, necessarily prohibits its use in a Felony-Murder, because such a conviction can be found by the element of Strict Liability, or Negligence, which is not strictly a Mens Rea of "Intent". See Moreland

1. Several facts manifest Nevada's intent to make its
2. homicide statutes look strictly to an objective legal fiction
3. as the "person" aimed at:
4.

5. • Unlike the common law, Art. IV, Sec. 17 of Nevada's
6. Constitution restricts a law to having only one object
7. and subject.

8. • "Deterrence" is the object^a of Nevada's homicide statutes,
9. which is an objective standard that must necessarily
10. look to the objective "reasonable person" legal fiction.

11. • Statutes by nature, do not extend into the sub-
12. jective domain of morals and religion. SUTHERLAND *supra* §8.

13. • Because law itself is a legal fiction, it cannot, as a
14. matter of logic, speak to the natural human being. It
15. must first create, "Ens Legis," a legal fiction out of a human for
16. the purpose of defining "legal" rights and privileges, etc, which
17. the law can recognize.

18. • The rights and privileges of a natural human being
19. extend far beyond those of a "person" ens legis, and neither
20. are they interchangeable for all purposes. See, e.g., NORTH-
21. WESTERN FERTILIZING CO. v. HYDE PARK, 97 U.S. 659 (1878).

22. • Statutes were passed much later to protect the unborn
23. natural human against "murder," because the common law
24. did not view them as a "person" ens legis with such rights
25. and privileges, etc. See

See e.g.,

Q.

Q.

Q.

Q.

Q.

Q.

Q.

Q.

33.A

1. • Because the presumption of sanity is now grounded
2. on a need for "convenience", it is obvious that the law has
3. opted to not deal with the natural human, and all the
4. subjective questions pertaining to such a real moral being.

5. • Unlike the common law, because there is a separation
6. of Church and State in this country, ^② the influence of a
7. ruling religion upon society, via its moral indoctrination,
8. no longer has a bearing upon the question of the degree of
9. a defendant's sanity, nor upon what is "Mala In Se."

10.

11.

12.

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21.

22.

23.

24.

25.

② Absent any need for a State recognized or legitimizing ceremony, there exists within the concept of a Biblical "marriage," the warning to let no man separate what Yahweh has joined. Yet, our "state," "status" or "station" in life has

31A

Extension

1.	d. BY RULES OF STATUTORY CONSTRUCTION, THE CLASS TO WHICH THE
2.	PRESUMED SAME "PERSON" (DEFENDANT) BELONGS, PRECLUDES
3.	JURISDICTION OVER A SPIRITUAL PARSON UNDER YAHWEH
4.	
5.	1. EXPRESSIO UNIVS EST EXCLUSIO ALTERIUS.
6.	
7.	BUTLER V. STATE, 120 Nev. 879 (2004):
8.	"This court has, for more than a century, recognized that the legislature's
9.	"mention of one thing or person is in law an exclusion of all other things
10.	or persons..." under the expressio univs est exclusio alterius." See also,
11.	GALLOWAY V. TRUESDELL, 81 Nev. 13 (1967) (confirming by several Nevada cases)
12.	
13.	Under Federal law, the UNITED STATES is defined as a "corporation."
14.	28-USCS, § 3002(15)(A). A corporation is an association of "persons".
15.	Under State law, the STATE OF NEVADA, e.g., is defined as a "person"
16.	or "corporation". NRS-193.0205; 0.039; See BLACK'S LAW DICTIONARY: Corporation; and
17.	Person.
18.	
19.	Because there is a separation of Church and State in this country
20.	by Constitution, the UNITED STATES and the STATE OF NEVADA can only be
21.	of the class called a "lay" aggregate corporation of the civil sort.
22.	This class is but one of the two contrasted by Blackstone. 1 BLK. COMM.,
23.	§§ 457-8 (contrasting "lay" corporations with "spiritual" corporations).
24.	
25.	
	34.1 6.

1. The nature of a "lay" corporation is that of an association of "persons"
2. ~~not~~ considered as members of the Church or "Clergy." See Black's Law
3. Dict: Lay.

4.

5. 1 BLACKSTONE Commentaries, § 384

6. "The lay... subjects... are not comprehended under the denomination
7. of clergy... [T]he civil state includes all orders of men... that are not
8. included under... our former division of clergy..."

9.

10. It should be noted here that, by Nevada Constitution, its jurisdiction
11. as a "lay" State corporation is restricted to the subject-matter
12. of one object and subject; NV Const. Art. IV, Sec. 17

13.

14. Because Nevada law must aim at only one subject, it is only
15. logical to suppose that it will always opt to charge a subject of
16. its law as belonging to a "State" (i.e., "lay" corporation). To do other-
17. wise, would conflict with the presumption that, by a two-thirds
18. majority rule, all of the people in this country have been deemed
19. to constitute the UNITED STATES (i.e., a "lay" corporation), by
20. making themselves separated from the "Church" by U.S. Constitution.

21.

22. However, the two-thirds majority rule that establishes the "lay"
23. association for everyone, leaves much room for rebuttal, and also
24. conflicts with the Constitutional requirement that a prosecutor
25. must prove every elemental fact beyond a reasonable doubt. *Winship*.

1. It has already been shown that a civil "state" (lay corporation)
2. does not include the clergy. 1 BLK, Comm. § 384, supra. Thus, if some-
3. one shows he is of a class of "person" excluded by the rule
4. of construction (i.e., a Sole Spiritual Corporation), the "State" of
5. Nevada can have no jurisdiction, since its Constitution restricts
6. its laws to having only ~~one~~ object and subject. NV Const. Art. 4, Sec. 17.

8. Although there are various ways to establish one's association
9. with a "Spiritual Corporation", a lay "State" may claim jurisdiction
10. over such a person by the claim of a ~~treaty~~ with the person
11. (e.g., by the ~~Union~~ or Agreement called the Constitution), or by
12. a claim of ~~treaty~~ with the nation to whom the person is subject
13. to. Such a claim shows that a person is in amity or league with
14. the "State" (lay corporation). Otherwise, a State (lay corporation)
15. and a Church (Spiritual Corporation) would naturally be enemies
16. (~~hostile~~) to each other. See JAMES 4:4.

18. ZORACH V. CLAUSON, 393 U.S. 306 (1952):

19. "... there shall be no concert or ~~union~~ or dependency one on the
20. other [of Church and State]. That is the common sense of the matter.
21. Otherwise, the state and religion would be aliens to each other -
22. ~~hostile~~, suspicious, and even ~~unfriendly~~." (emphasis mine) See e.g., 4 BLK
23. Comm. § 83 (stating a "foreign prince" is necessarily an "enemy" of a King/State,
24. since he "owes no allegiance" to the other) Cf. Biblical Command by the King
25. Yahweh, to the Body ("Church"), to "make no ~~treaty~~" with the nations. EX 34:11-12.

1. Consequently, [re]claiming one's allegiance to Yahweh, who
2. owes no allegiance to an inferior Secular/Worldly Civil "State",
3. amounts to "treason" and a loss of "citizenship" to the "State"
4. (lay corporation). See 4 BLK. Comm., §§ 75, 81-3, and 87.
5.

6. Although there are various formal ways provided for by human
7. laws to effect a loss of subjection to a "State" as its "citizen", one's
8. First Allegiance to Yahweh is by an Oath of Supremacy, which is first
9. effected by an implied intrinsic original. 1 BLK. Comm., §§ 356-9
10.

11. 4 BLACKSTONE, Commentaries, §§ 356-7.
12. "[T]he formal profession... or oath of subjection, is nothing more
13. than a declaration in words of what was before implied in law."
14.

15. Cf. Annotations under § USCS, § 1481.

16. • A person's right to expatriation is not dependent upon consent
17. of government. U.S. ex rel. WRONA v. KAMUTH (1936, DC NY) 14 F. Supp. 70.
18.

19. • A person performs an expatriating act with intent to renounce
20. his citizenship whether or not he knew act was expatriating act.
21. RICHARDS v. SECRETARY OF STATE, DEPT. OF STATE (1985, CA9 Cal) 752 F.2d 1413.
22.

23. • Expatriating conduct may be such as to indicate an "implied renun-
24. ciation of tie." In re R--S-- (1958, BIA) 71 & N. Dec. 718.
25.

1. • A person who takes a foreign oath of allegiance to a king, in an informal
2. proceeding, loses his former citizenship. REVEDIN v. ACHESON (1952, CA2, NY)
3. 194 F.2d. 482

4.
5. • A person may renounce his nationality with or without a claim of
6. allegiance to another nation. DAVIS v. DISTRICT DIRECTOR, IMMIGRATION &
7. NATURALIZATION SERVICE (1979 DC Dist Col) 481 F. Supp. 1178.

8.
9. It is without question that various religious rites effect
10. an Allegiance or Covenant with Yahweh, e.g., baptism, conversion,
11. confession, profession, etc. The accused (a "Yahwistic" Hebrew Israelite)
12. has accomplished and publicly professed these and other rites.

13.
14. Moreover, under 18 USCA, § 2381; and Article III, Sec. 3 of the U.S.
15. Constitution, one may be "convicted" of "treason" "on the testimony of
16. two witnesses, or confession in open court." Such a simple confession
17. would likewise result in a loss of citizenship & allegiance to the secular
18. civil state (lay corporation), while (re)claiming subjection to Yahweh,
19. as a Spiritual Corporation may be the natural default.

20.
21. A state would then lose its jurisdiction, since its laws can only
22. embrace one object and subject, to the exclusion of the other(s). NY
23. Const. Art. 4, Sec. 17.

24.
25. This results from the rule: Expressio Unius Est Exclusio Alterius.

1. 1. THE INFORMATION OR COMPLAINT IS FATALY DEFECTIVE, AS IT OMITTS
2. ESSENTIAL ELEMENTS OF THE OFFENSE

4. EX PARTE SCHULTZ, 42 Nev. 254 (1918):

5. "The complaint lacks essential elements of the crime charged. These cannot
6. be supplied by intendment or implication." [citations omitted]

8. EX PARTE ROVNIANEK, 41 Nev. 141 (1917):

9. "It is an elementary principle of criminal proceeding that where the definition
10. of an offense, whether it be at common law or by statute, includes generic
11. terms, it is not sufficient that the indictment shall charge the offense in the
12. same generic terms as in the definition, but it must state the species; it
13. must descend to particulars." (quoting *US v. Cruikshank*, 92 U.S. 542, 23 Led 588)

15. PEOPLE V. LOGAN, 1 Nev. 111 (1865):

16. "Archbaird says: 'The want of direct allegation of anything material in the
17. description of the substance, nature or manner of the offense, cannot be
18. supplied by any intendment or implication whatever.' (Archb. Cr. Pr. and Pl. 87.)
19. So strictly observed is this rule, that 'in an indictment for murder the
20. omission of the words *ex malitia praecogitata* is not supplied by the words
21. *felo[n]ice m[ur]dravit*, although the latter words imply them.' (id)."

23. ANDERSON V. STATE, 95 Nev. 625 (1979):

24. "Criminal statutes may not be enlarged by implication or intendment beyond
25. the fair meaning of the language used, and will not be held to include other

1. offenses and persons than those which are clearly described and provided

2. for.

3.

4. U.S. v. BACHMAN, 164 F.Supp. 898 (1958):

5. "However, it must be remembered that the offenses charged here are statutory,

6. and as such, the indictment may ordinarily be laid in the language of the

7. statute, unless the statute omits an essential element of the offense or

8. includes it only by implication, in which case the indictment or information

9. should allege it directly and with certainty. Federal Practice and Procedure,

10. Barron, Vol. 48 Sec. 1914; Reynolds v. U.S., 225 F.2d 123."

11.

12. 4 BLACKSTONE COMMENTARIES, RE 301-02:

13. "INDICTMENTS must have a precise and sufficient certainty. The offence itself

14. must also be set forth with clearness and certainty: and in some crimes

15. particular words of art must be used, which are so appropriated by

16. the law to express the precise idea which it entertains of the offence,

17. that no other words, however synonymous they may seem, are capable

18. of doing it.

19.

20. In indictments for murder, it is necessary to say that the party indicted

21. "murdered" not "killed" or "slew" the other."

22.

23. U.S. v. RESENDIZ-PONCE, 549 U.S. 102 (2007):

24. "If one accept the court's opinion, however, the indictment could just as well

25. have omitted the phrase "knowingly and intentionally," since that is under-

1. stood in "common parlance" and has been an element of attempt for
2. centuries. Would we say that, in a prosecution for first-degree murder,
3. the element of "malice aforethought" could be omitted from the indict-
4. ment simply because it is commonly understood, and the law has always
5. required it? Surely not.

MEMORANDUM OF LAW

ARGUMENT

a. THE ELEMENTS DEFINING THE ACTOR OF THE CRIME ARE UNCONSTITUTIONALLY PRESUMED BY THEIR OMISSION FROM STATUTES BY THE LEGISLATURE

The State of Nevada has, by intendment or implication, supplied the specific name of an Artificial, Aggregate Lay Corporation of the Civil sort (i.e., the accused's Artificial, Secular "legal" name or Straw Man) as the description of legislatively omitted abstract Common Law elements defining the Actor (i.e., the "Person") accused of the crime. The statute(s) do not define the Actor.

At Common Law and other systems of law, it must be proven that the Actor has the capacity to commit a crime. Thus, the law defines the accused Actor as: "a Person of Sound Mind and Discretion." NEV. NRS 193.200. See e.g., NEVADA v. THOMPSON, 12 Nev. 140 (1877). CE. 9 BLACKSTONE COMMENTARIES, § 195.

At Common Law, the aforementioned elements defined the Subjective Circumstance or Condition of the accused Actor. Under Nevada Law today, however, those elements have been combined to form an Objective Legal Fiction and Term of Art called "sanity".

Nevada law is thus utilizing a Civil Procedural device to presumptively establish subjective elements against Criminal defendants. See STATE v. BURALLI, 27 Nev. 41 (1903) ("...in criminal cases...nothing...can be presumed against a defendant.")

1. 4 BLACKSTONE COMMENTARIES § 277:

2. "We are next... to take into consideration the proceedings in the courts of
3. criminal jurisdiction, in order to the punishment of offences. These are
4. plain, easy, and regular; the law not admitting any fictions, as in civil
5. causes, to take place where the life, the liberty, and the safety of the
6. subject are more immediately brought into jeopardy." OF BURALLI supra.

8. Thus far, it can be seen that Nevada law has created an element that
9. is a legal fiction and Term of Art (i.e., "sanity"), but has failed to allege
10. that collective element, as "no other words, however synonymous they
11. may seem, are capable of doing it." 4 Blk. Comm. §§ 301-02 supra. See People
12. v. Logan; and U.S. v. Resendiz-Ponce supra.

14. Yet Nevada law has omitted the Term of Art "sanity" from the
15. indictment or complaint and has instead, supplied the fictional name of a
16. "person" to describe with particularity the species of "Person" that has
17. the condition of "sanity" i.e., by intendment or implication. Needless to
18. say, the fictional "legal" name of a person cannot be used to describe
19. an element of an offense, since its very meaning cannot properly be
20. a factor in giving "fair notice" of what the law forbids in plain english.

22. Moreover, the default use of one's secular "legal" name by Nevada
23. presupposes that a defendant prefers, and has consented to, having
24. his rights, duties, and responsibilities restricted by statute, to those
25. belonging to such a Leg corporate body or "state".

(a.) EXPRESSIO UNIVS EST EXCLUSIO ALTERIUS PERSONA
EXCLUDES HUMAN OR HUMAN EXCLUDES PERSON

Nevada's statutory definitions of Murder, Manslaughter, and Involuntary Manslaughter do not name the Actor. It is not known until the penalty of NRS 200.030, 1, paragraph (d), that the actor is called "a person" within 1st degree murder.

The definition of Voluntary Manslaughter, however, names the actor as "the person" killing, and is associated with the legal fiction, named therein as the objective "reasonable person." As LaFAVE points out, the criteria for distinguishing degrees of murder from manslaughter is by common law subjective standards, and statutory objective standards respectively. LaFAVE, supra, § 8.2. Moreover, as noted above, however, NRS 193.200 blankets "intent" across all crimes with a strictly objective test, and therefore usurps the role and effect of the "sound mind and discretion" elements it mirrors from the definition of common law murder.

4 BLACKSTONE, Comm., § 195

Murder is "when a person of sound memory and discretion unlawfully killeth any reasonable creature in being..."

1. NRS 200.010 defines the victim of murder as
2. "a human being." Again, by rule of statutory interpretation
3. the common law element of "reasonable" must be applied
4. to the victim. See NRS 193.050; NEVADA v. THOMPSON, 12 Nev.
5. 440 (1877), and NEVADA v. MILLAIN, 3 Nev. 409 (1867) (both naming
6. the victim in accord with common law definition, as a
7. "reasonable human being/creature in being."

8. Thus, we have:

9. (1) a Person of Sound Memory and Discretion (Actor)
10. (2) a Reasonable Human Being (Victim)

11.
12. It is without question that the "reasonableness" of
13. a victim is at issue, generally, especially in defenses.
14. See LaFAVE, supra, § 19 (10) The Reasonable Man (stating "the
15. test is how the victim's conduct affects a reasonable man")
16. See also LaFAVE's various treatments in dealing with a victim's
17. "unusual conduct" and "careless conduct."

18. And because the "reasonable" element is "common law" or
19. "tradition," an empirical analysis must be found, since that
20. element is presumed in favor of the victim. And yet, the
21. question would still remain whether the victim's "reason-
22. ableness" should be objective or subjective under the circum-
23. stances of the particular case.

② To omit the "reasonable (ness)" of the victim from Nevada's statutory definition of murder, creates an unconstitutional conclusive presumption. See FRANCIS v. FRANKLIN; BRACKEEN v. NEVADA; STATE v. BURALLI; EMPERS INS. CO. OF NEVADA v. DANIELS; and COMMONWEALTH v. DI FRANCISCO, supra, section (i)

1. With these facts in mind about the actor in
2. Nevada's murder statute being a "person", and the victim
3. being a "reasonable human being", a question involving a
4. rule of statutory construction arises.

5.
6. J.G. SUTHERLAND, SUPRA, § 325, Expressio Unius, Exclusio Alterius.

7. "When a statute defining an offense, designates one class of
8. persons as subject to its penalties, all other persons are
9. deemed to be exempted." [citing Howell v. Stewart, 54 Mo. 400,
10. and 2 W. Bl. 1073, etc.]

11.
12. It has been demonstrated in this document that
13. the intent of the legislature was to restrict the "person"
14. in Nevada's murder statute to the objective legal person,
15. which comports with its constitutional restriction of a
16. law having only one object/subject ("deterrence"), which is
17. likewise an objective legal standard.

18.
19. The next question is whether there are "other persons"
20. excluded by naming the class of actor as a "legal fiction."
21. However, because there is another "person" mentioned in
22. the murder statute (human being), another rule of statutory
23. construction is implicated, involving the effect of context
24. and association of words and phrases.

25.

1. § 266. "When two words or expressions are coupled
2. together, one of which generically includes the other, it is
3. obvious that the more general term is used in a meaning
4. excluding the specific one." id. [citations omitted]

5.
6. It is clear that Nevada law uses the word "person"
7. as the broad term that "generically includes" the specific
8. "reasonable human being". See, e.g., NRS 0.039 "Person" defined.
9. Put another way, a defendant convicted as the "person" in
10. murder could not be said to specifically be a "reasonable
11. human being". The actor in no Homicide statute is called "human."

12. Moreover, in common parlance, it is not said that a
13. "human being" killed so and so, let alone a "reasonable
14. human being". This specific "reasonable human being",
15. therefore, is not contemplated in Nevada's murder statute,
16. with regard to the actor. And because it has been shown
17. above, that the actor contemplated within the purview of
18. the law must be an objective legal person, it necessarily
19. follows that the specific "reasonable human being" belongs
20. to that class as an objective legal fiction. Thus, the
21. objective "reasonable person" ens legis is excluded from
22. the "person" as the one object and subject of murder.
23. This means that the terms of the statute have lost their
24. standing, since its one foundation or basis (Deterrence)
25. necessarily looks to the objective "reasonable person".

② See LaFAVE

38.A

Extension

2. EJUSDEM GENERIS

ORR DITCH & WATER CO. V. JUSTICE CT. OF RENO TOWNSHIP, 64 Nev. 138 (1947):

"The rule of ejusdem generis has been declared to be a specific application of the broader maxim '*noscitur a sociis*'..."

Note the following abbreviated rules relating to Ejusdem Generis, by

J.G. SUTHERLAND, Statutes and Statutory Construction (1891):

* § 276. A statute treating persons of inferior degree cannot, by any general words, be extended to those of a superior degree.

* § 279. General words are not read according to their natural and usual sense, but are restricted to the same kind or genus as those enumerated.

* § 277. General words following particular words will not include any of a class superior to that to which the particular words belong.

* § 350. Penal statutes cannot be extended by implication or construction.

1. Under analysis of rules governing Ejusdem Generis, the
2. main question in this case is whether the specific class out of
3. which the specific "person" (lay corporation) named in the Complaint
4. descends from, can embrace the class that a "person" belongs to
5. (i.e., a sole spiritual corporation under Yahweh).

6. The answer may be easily found in the fact that not only is the
7. "Church" a separate and distinct thing from the common people (civil
8. society), but it is a class superior to them for various reasons.

9.
10. FIRST. Although by Constitution "we the people" (the vulgus-vulgar)
11. agreed to form a lay corporation, it pledged its allegiance to be
12. "one nation under God". 4 USCS, § 4.

13.
14. SECOND. The fact that "the people" (literally meaning "vulgar")
15. constitute a "common weal", places it in a class under those
16. called "holy" or "sacred" (literally "separated-set apart") to Yahweh,
17. who is said to be "above" the world(ly) in heaven. Cf. John 3:31; 8:23.

18.
19. Mc DANIEL v. PATY, 435 U.S. 618 (1975):
20. "... the church itself is a thing absolutely separate and distinct
21. from the common wealth." (citing 5 Works of John Locke 21,
22. c. Baldwin ed. 1824)

23.
24. A "class" is defined as: The order or rank according to which
25. persons or things are arranged or assorted. BLACK'S LAW Dict. 6th ed.

1. It is without argument that Yahweh has existed before man-
2. kind. Therefore, the "body" corporate about which Scripture says
3. He is forming, is a "Spiritual Corporation" under Him. It is there-
4. fore first in "order" or "rank" with regard to man's later invention
5. of a "lay" corporation. It is thus superior in "class" and "person." The
6. same may be said of its "kind" or "sort," etc.

8. Because Nevada's complaint has descended to name a
9. particular inferior artificial lay "person" out of an inferior
10. artificial aggregate lay corporation, it cannot extend to a superior.

12. "A statute treating persons of inferior degree cannot, by
13. any general words be extended to those of a superior degree."

14. J.G. SUTHERLAND, § 278, *supra*. Cf. 1 BLK. COMM., § 3.

16. "Penal statutes cannot be extended by implication or con-
17. struction." *id.*, at § 350. See *ANDERSON v. STATE*, *supra*.

19. The accused is a "Daron" and Sole Spiritual Corporation,
20. practicing a "learned profession" of religion under Yahweh, which
21. class no artificial person can belong to.

23. *U.S. BURWELL v. HOBBY LOBBY STORE*, 189 Fed 2d 675. ():

24. "... for the exercise of religion is characteristic of natural
25. persons, not artificial legal entities."

1. POTOMAC ENGINEERS, INC. v. WALSER, 127 F.Supp. 41 ():

2. "It may be added that traditionally only natural persons can
3. practice a learned profession, because only natural persons
4. can be charged with the moral responsibility that the practice
5. of a learned profession requires. . . [T]raditionally, the learned
6. professions have been regarded as: the law, medicine, and
7. the ministry. . . See BLACK'S Law Dict.: Profession

8.
9. In re MACFARLAND, 30 App DC 365 (1908):

10. "The courts have inherent power over artificial persons or
11. corporations, which they have not over the natural person."

(b.) EJUSDEM GENERIS

J.G. SUTHERLAND, SUPRA, § 277.

"There is this further restriction of general words following particular, that the general words will not include any of a class superior to that to which the particular words belong."

1 BLACKSTONE, Comm., § 3, p. 88.

"A statute, which treats of things or persons of an inferior rank, cannot by any general words be extended to those of a superior." CF. J.G. SUTHERLAND, SUPRA, §§ 278, 325, 350.

The "reasonable person" belongs to the class of "artificial persons" ens legis or creatures of statute called "legal fictions." See HELVERING V. STOCKHOLMS ENSKILDA BANK, 293 U.S. 84 (1934).

Rem. The "reasonable person" is aimed at in the one object/subject of the law, and as the victim whose rights are sought to be protected.

1. First, it cannot be argued against an artificial person
2. having an inferior existence to that of a natural human
3. being. (C)

4.
5. HELVERING V. STOCKHOLMS ENSKILDA BANK, 293 U.S. 84 (1934):
6. "Persons are divided by the law into either natural persons
7. or artificial. Natural persons are such as the God of
8. nature formed us; artificial are such as are created
9. and devised by human laws for the purposes of
10. society and government, which are called corporations
11. or bodies politic."

12.
13. ROBERTS V. COOPER, 15 Led. 969, 20 HOW 467 (1858)
14. "In a word they [artificial and natural persons] are
15. wholly distinct beings." (emphasis mine)

16.
17. LINN & LANE TIMBER CO. V. U.S., 196 F.3d. 543 (1912):
18. "A corporation is really an association of persons, and
19. no judicial dictum or legislative enactment can alter
20. this fact."

21.
22. NORTHWESTERN SECURITIES CO. V. U.S., 193 U.S. 197 (1904):
23. "A corporation, while by fiction of law recognized for
24. some purposes as a person... is not endowed with the
25. inalienable rights of a natural person." (C)

a. Compare disadvantages of an "artificial person", which:

1. CUSH V. ALLEN, 13 F. 2d 299 (1926)

(is incapable of testifying)

2. NORTHWESTERN FERTILIZING CO. V. HYDE, 24 Fed. 1036 ()

(can do only what is permitted by charter)

3. AMERICAN AIRWAYS CHARTERS, INC. V. REGAN, 746 F.2d 865 (1984)

(can only act through its agents, not as pro se)

4. POTOMAC ENGINEERS, INC. V. WALSER, 127 F. Supp. 41 ()

(cannot practice a "learned profession")

5. RAILROAD TAX CASES

(cannot be a citizen)

6. WHEELING STEEL CORPORATION V. GLANDER, 96 Fed. 1544 ()

(is not protected by equal protection of the law)

7. RUNDLE V. DELAWARE AND RARITAN CANAL CO., 14 Fed. 335 ()

(can neither plead nor be impleaded in courts of the U.S.)

8. See also, 1 BLACKSTONE, Comm. §§ 463-67.

41.1

1. In law, a "State" or "Government" is a "Person."
2. See under the TITLE 15 (Crimes and Punishments), NRS
3. 193.0205: "Person" defined.

4.
5. Rem. Under rules of statutory construction, a law
6. is restricted by its Title to having only one object/subject,
7. which cannot belong to a class or kind superior to that
8. expressed in the Title.

9.
10. The "State" of Nevada belongs to the class of corpo-
11. ration called a "lay" corporation of the civil sort. See
12. 1 BLACKSTONE, Comm., 8458.

13. The legal concept of a "State" involves, inter alia, the
14. "Stat(us)", "Stat(ion)", etc., of the "person" aimed at in
15. the purview of a "Stat(ute)".

16. Every "person" within Nevada constitutes the
17. "State" as an aggregate "lay" corporation. This is
18. merely the default association of every "person" of a
19. "State", since the "lay" people, by a two-thirds majority
20. vote, have opted for a government not by YAHWEH and
21. His spiritual Biblical Laws, but instead a government
22. by and for the people."

23.

24.

25.

1. In contrast to a "lay" corporation, there is the
2. class called "Ecclesiastical or 'Spiritual' corporation.
3. See 1 BLACKSTONE, Comm. § 458. See also Black's Law Dict
4.

5. Unlike the common law of England, "Christianity" is
6. ~~not~~ a part of the laws of the "State" of Nevada, nor of the
7. federal corporation called the "United States". There is in
8. this country a "separation of Church and State."
9.

10. Moreover, it is critical to note that the class of
11. corporation/"person" called "Spiritual" does not belong
12. to the class of "artificial persons", but to the class
13. called "natural persons", which is superior!
14.

15. U.S. BURWELL V. HOBBY LOBBY STORE, 189 Fed. 2d 675 (2014)
16. "... For the exercise of religion is characteristic of
17. natural persons, not artificial entities."
18.

19. POTOMAC ENGINEERS, INC. V. WALSER, 127 F. Supp. 41 (1954)
20. "It may be added that traditionally only natural persons
21. can practice a learned profession, because only natural
22. persons can be charged with the moral responsibility
23. that the practice of a learned profession requires.
24. While traditionally the learned professions have been
25. regarded as the law, medicine, and the ministry..."

1. McDANIEL v. PATY, 435 U.S. 618 (1975).

2. "... the church itself is a thing absolutely separate
3. and distinct from the common wealth." (citing 5 Works
4. of John Locke 21 (C. Baldwin ed. 1824)) @.

5.

6. By the U.S. Constitution, the "Plesbiscite" that
7. made the "United States" a "Republic" is the same as
8. saying, "we the vulgar" do not have a monarch. See
9. these words underlined, their related words and etymolo-
10. gies in Laird & Lee's Webster's New Standard Dictionary
11. (1758-1843)

12.

13. Whether "we the people" ("the vulgar") were duped or
14. not, by those writing the U.S. Constitution on their
15. behalf, the fact remains that, a "person" has to be
16. a "vulgar" / "mod" to demand a "civil" government, which
17. naturally separates the vulgar from being a "spiritual"
18. corporation or having YAHWEH as its monarch.

19.

20. I say "duped", because the class of "persons"
21. that write the law for "the people" do not belong to
22. the "artificial person" that the lay people established
23. themselves as, which is a "lay" corporation called a
24. "Republic". Legislators belong to the class of "natural
25. persons", because they practice a "learned profession,
which an "artificial person" cannot do. See Walter, supra.

① 1 BLACKSTONE, Comm. § 364:

"The people... are divisible into two kinds, the clergy and laity."

Note: Blackstone explains that the clergy are not com-
prehended in law as belonging to the "civil state" like
the laity or commonality id., at § 384.

1. It is no secret that legislators have written
2. laws that exempt themselves as a class. How this is
3. possible is obviously hidden from the general knowledge
4. of the "commonality" or "lay person".
5.

6. All this is said to be sure of what class of "person"
7. a statute has in its purview, for which a legislator
8. has written as the one object/subject expressed by
9. the title of that statute. It should now be easy to
10. understand how an artificial "person", aimed at in
11. a statute, excludes the superior "natural person"
12. (human being) by rule of Eiusdem Generis.
13.

14. As the following cases explain, a title of a statute
15. whose subject is "any person" or "every person" does not
16. embrace "every human as a race, but is confined to the
17. legal "person" within the jurisdiction of the "State" (ay
18. corporation. Thus, such a "state" ("person") does not
19. extend to embrace a "foreign state" ("person") or "power"
20. who is "not a citizen" or "does not owe allegiance to
21. the "State" whose statute aims at "any person" or
22. "every person" that commits a crime "against the State."
23. See U.S. v. PALMER, 4 Fed. 471, 3 WHEAT 610 (1818); U.S. v. KATZ,
24. 271 U.S. 354 (1926); HOWARD v. ILLINOIS C.R. CO., 207 U.S.
25. 463 (1908), and CHURCH OF THE HOLY TRINITY v. U.S., 143 U.S. 457 (1892)

1. Maxim: Sublato fundamento, cadit opus.

2. (With the removal of the foundation, the structure falls)

3. See OSBORN v. NICHOLSON, 80 U.S. 654 (1872)

4.

5. SMART v. VALENCIA, 99 Nev. 411 (1926):

6. "The reason of the law is the soul of the law, and

7. when the reason ceases to exist the law itself

8. should fail." Cf. 1 BLK Comm, § 2, p. 61

9.

10.

11.

12.

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21.

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23.

24.

25.

1. 6. OATHS (OF ALLEGIANCE AND SUPREMACY TO YAHWEH)
2. AND THE RIGHTS & RESPONSIBILITIES THEREOF
3.

4. In the administration of government, there may
5. exist two (2) corporations, one of which is the "head", the
6. other is the "body". These may be either "lay" corporations
7. for embracing "artificial persons", or "spiritual" corporations
8. for embracing "spiritual" persons or "parsons".

9. Under the common law system, the "head" or "caput"
10. is the king, who is a lay "sole corporation" of the "civil"
11. sort. 4 BLACKSTONE, Comm., §§ 457-8.

12. The people ("common wealth", whom the king has
13. right to rule over and bring suits against, are called the "body"
14. or lay "aggregate corporation" of the "civil" sort. id.

15.
16.
17. In this country, however:

18.
19. "The Sovereignty has been transposed from one man
20. to the collective body of the people, and a subject of the
21. king is now a citizen of the state," HENNESSY v. RICHARDSON
22. DRUG CO., 189 U.S. 25 (1903)

23.
24. In Biblical or Revealed Law, YAHWEH is the Sole Supreme
25. Head to Whom a Body (Spiritual Corporation) owes First Allegiance

1. Under the common law, allegiance was effected
2. by one of two ways: Express or Implied. 4 BLK. Comm. § 356-7.
3. The original is by an implied "intrinsic allegiance,"
4. since the "King" is vested with all rights before his actual
5. coronation. Thus, "the formal profession... or oath of
6. subjection, is nothing more than a declaration in words
7. of what was before implied in law." id.

8.
9. Blackstone also explains that
10. A man "cannot owe two such allegiances, or serve two
11. masters, at once." id., at § 361, (cf. Luke 16:13)

12.
13. Allegiance, however, was absolved or forfeited in
14. several ways: by reconciliation or communion with the
15. see of Rome, id., at § 209; banishment, id., at § 359; by one's
16. own misbehavior, id.; attainment, id., at § 361; etc.

17.
18. By Nevada's Constitution, "the paramount allegiance
19. of every citizen is due to the Federal Government..." IN RE
20. RAGGID, 87 Nev. 369 (1971) (citing NV Const. Art. 1, § 2)

21.
22. In Biblical or Revealed Law, "the people" (vulgar), as a
23. nation in their natural "state", hope to become united
24. under One Supreme Spiritual Head of Government, Whom
25. this nation recognizes as "God" in their Pledge of Allegiance. ^(a)

(a) 4 USC, § 4 reads in pertinent part:
"... one Nation under God, indivisible ..."

1. The word "Federal" embodies this concept in
2. the United States Federal Constitution. Moreover, it should
3. be noted that the U.S. Constitution only bars "legal coercion
4. and endorsement" for establishing a national religion or
5. church, but does not prevent a State from establishing
6. a State religion or church ("body"). See ELK GROVE UNIFIED
7. SCH. DIST. V. NEWDOW, 542 U.S. 1 (2004); LEE V. WEISMAN,
8. 505 U.S. 577 (1992), and ALLEGHENY COUNTY V. GREATER
9. PITTSBURGH ACU, 492 U.S. 573 (1989).

10. Indeed, no law has prevented the establishment
11. and universal recognition of the Spiritual Corporation
12. and Sovereign City-State known as the Vatican.

13.
14.
15. In Biblical or Revealed Law, the "natural man" who is
16. counted amongst the "vulgar" is provided with a way to
17. escape from the oppressive rule of an earthly secular king,
18. to that of a different type (a Sole Spiritual King). (a)

19. This concept is not much different from that
20. found in principals of law or maxims. (b)

21.

22.

23.

24.

25.

① In the "Exodus" from Egypt the Israelites acknowledged their allegiance to Yahweh, after which Mosheh demanded that the King (pharaoh) let the subjects of Yahweh go.

After their deliverance from "bondage", the people of Yahweh were thereafter commanded to make no treaty with the nations. EXODUS 34:11-12. The same type of deliverance is announced throughout the Book of Revelation against the Last Days' world-ruling "king".

② Ubi jus incertum, ibi jus nullum.

(Where the law is uncertain, there is no law.)

Regula pro lege, si deficit lex.

(In default of the law, the maxim rules.)

Recurrendum est ad extraordinarium quando non valet ordinarium.

(We must have recourse to the extraordinary when the ordinary fails.)

Legibus sumptis disinentibus, lege naturae utendum est.

(When laws imposed by the state fail, we must act by the law of nature). 2 Roll. R. 298.

Note: The "law of nature" is the Law, as dictated by Yahweh.

1 BLACKSTONE, Comm, §§ 39-43.

1. Under the United States Code Service, provisions are
2. given regarding allegiance. The ways of losing "nationality"
3. amount to losing "citizenship", and are given in 8 USC § 1481,
4. which are effected by various "expatriating acts".

5. A person's right to expatriation is not dependent
6. upon consent of government. U.S. ex rel WRONA v. KAMUTH,
7. (1936, DC NY) 14 F. Supp. 70

8.
9. A person performs an expatriating act with intent
10. to renounce his citizenship whether or not he knew act
11. was expatriating act. RICHARDS v. SECRETARY OF STATE, DEPT
12. OF STATE (1985, CA9 Cal) 752 F.2d. 1413

13.
14. Expatriating conduct may be such as to indicate an
15. "implied renunciation of tie." In re R--S-- (1958, BIA) 714 N. Dec 718. (a)

16.
17. A person who takes a foreign oath of allegiance to a king,
18. in an informal proceeding, loses his former citizenship.
19. REVEDIN v. ACHESON, (1952, CA2 NY) 194 F.2d. 482

20.
21. A person may renounce his nationality with or without
22. a claim of allegiance to another nation. DAVIS v. DISTRICT
23. DIRECTOR, IMMIGRATION & NATURALIZATION SERVICE (1979 DC Dist Col)
24. 481 F. Supp. 1118.

25.

(a) Rem. An Oath of Allegiance is first effected by an "implied" original, since "a King" (Yahshua) is due rights, and His subjects protection, even before His coronation. 1 BLK. Comm. §§ 356-7. Because Yahshua is King (even if w/o coronation), His converts could not be forced to make a "formal" oath. And so, every "newborn" or otherwise, who has not made a "formal" oath of allegiance, is nonetheless still His subject/citizen.

Were it otherwise, one would be led to the absurd proposition that a subject/citizen who has not attained to the age of maturity to make a "formal" oath of allegiance does not owe allegiance or subjection to the laws of the king or state.

Thus, every convert to YAHWEH is a subject/citizen of His Kingdom by an implied original oath of allegiance.

Moreover, allegiance is of two sorts: a "natural" perpetual allegiance, and a "local" temporary allegiance. id. at 357-61. Again, it would be an absurd proposition to "think that a heartless "body" ("we the people") "under God" who are anticipating their unification as a Spiritual Corporation "under" that "Head", believes their allegiance to today's headless government is permanent! See Revelation 20:4-7 and Daniel 7:13-14

Thus, secular government, as a mere lay "civil" corporation, is only acting as a secular "de facto" king (i.e., a "usurper!"). See 1 BLACKSTONE, Comm. § 359; Cf. "Oath of Supremacy", id., at 356

1. Under Biblical or Revealed Law, a subject of the King
2. performs certain religious rites, which effect his recognition
3. as being "civilly dead" (i.e., no longer owing a secular king or
4. civil state "civil duties"). E.g., 1 BLACKSTONE, Comm., § 128 (when
5. one enters into religion); and Romans 6:1-11 (when one is "buried
6. with Him through baptism into death"), etc. A person in proper
7. allegiance to Yahweh makes a "new covenant" (treaty), which
8. in effect makes all nations and their kings/civil state govern-
9. ments enemies of Yahweh. Hebrews 8:7-13; 9:15 (cf. Romans,
10. supra); Exodus 23:22; and James 4:4. Thus, no adversarial kingdom
11. or State can claim they are in a treaty with Yahweh, so as
12. to claim "jurisdiction" over those in "covenant" with Yahweh.
13. See Exodus 34:11-12, p. 48, at n. (A).

14. Put another way, the "covenanted" people of Yahweh have
15. made a 'forbidden' treaty with a known Superior, albeit,
16. foreign enemy of the [civil] state, which, under this govern-
17. ment, amounts to "treason" and loss of citizenship. And a
18. conviction thereof may be effected "on the testimony of
19. two witnesses, or confession in open court." See 18 USC §
20. 2381, and Art. III, Sec. 3, U.S. Constitution.

21.
22. Rem. The drafters of the U.S. Constitution made a separa-
23. tion between Church and State, as the governing power of
24. these cannot co-exist as a union, because they are enemies
25. of the other.

① See 4 BLACKSTONE Comm. 88-75, 81-3, and 87 (describing Treason as a "betrayal" or "breach of faith" of a "natural, a civil, or even a spiritual relation" between the king/state & his subject/citizen), to that of a "foreign prince" or sovereign spiritual prince.

Moreover, Yahuveh and His Law makes no alliances with any secular (worldly) king/state, since He is an enemy of such. And according to Blackstone, supra, 88, a "foreign prince" is necessarily an "enemy", since he "owes no allegiance" to the other!

1. ZORACH V. CLAUSON, 343 U.S. 306 (1952):

2. "...there shall be no concert or union or dependency one
3. on the other. [of Church and State] That is the common
4. sense of the matter. Otherwise, the State and religion
5. would be aliens to each other - hostile, suspicious, and
6. even unfriendly." (emphasis mine) ②

7.

8. The fact of the matter is that the states have, by a
9. legal fiction, forcibly 'joined', subjected, and made inferior, even
10. the Church, by a claim that all persons from birth owe a
11. perpetual "natural allegiance" and obedience to the secular
12. King/State. 1 BLACKSTONE, Comm., §§ 357-8; and § 45.

13. Such a blasphemous claim by a secular government,
14. not only establishes its own "station" in life as an "apo-state",
15. but makes every religious person and their innocent children
16. perpetually offend Yahweh by the same forced 'union'.

17. In Biblical or Revealed Law, however, it is known that
18. such a King/State would betray the people, and attack the
19. "saints" (sacred), for which reason its government will be
20. destroyed. 1 Samuyl 8; Daniyl 7:21-27; 2 Thessalonians 2:1-4;
21. Revelation 13:1-8; 17:12-16; and 20:4

22. Moreover, the great "falling away" (apo-stasy) prophesied of
23. in Thessalonians, supra, is an historical fact now realized.

24. It is a judicially recognizable fact that Biblical or
25. Revealed Law teaches that "Adam" (which means Man-kind)

① Every person may have his own *private* will, which may be in accord with *secular* or *spiritual* purposes.

As a requirement for the administration of a *secular* "civil" government, all opposing *private* wills are forfeited by the "democratic" concept that a two-thirds majority constitutes the "united" will of the aggregate corporate body politic.

See 1 BLACKSTONE, Comm., §§ 52, 456, and 466.

On the other hand, Biblical or Revealed Law teaches that all *private* wills are forfeited to the *one* Sole Supreme will of The One Supreme King (Yahweh). Psalms 145:10; John 5:30, 6:37-40; 1 Thessalonians 4:1-8; and Romans 12:1-2.

In U.S. law, this concept may be seen reflected in a *sole*, Spiritual Corporation like that of the independent sovereign city-state called the Vatican. Cf. Biblical "Jerusalem."

Thus, by an undisclosed "unconscionable contract", every U.S. *secular* king/state has in fact made every person belonging to Church or religion, an *exo-state* first, and then a hostile "enemy of the state", since the *private* wills of both cannot be in *union* or *dependent* on the other.

1. and an Israelite both owe their first, and hence, "natural
2. allegiance" and obedience to Yahweh, in their respective
3. corporate capacities, at a time when neither of them
4. had an established king or State on earth.

5. Thus, since the "fall" of Man, Biblical or Revealed Law has
6. ordered a "reconciliation" of all mankind to his first
7. state of "sacredness" to Yahweh. Leviticus 16:29-34; and Daniel
8. 9:24. Cf. 1 BLK Comm., §§ 43, 54; and 57-8 (observing from creation,
9. first allegiance is to Yahweh) ^(a)

10. At the same time, however, subjects of Yahweh are
11. ambassadors, or are under the protection of the rights of
12. immunity of ambassadors and their subjects, as provided for
13. by the "law of nations." See 4 BLACKSTONE, Comm., §§ 68-70; and
14. 8 USCS § 1101 (a)(5)(A), etc. The "law of nations" is dependent upon
15. the rules of "natural law" or "law of nature" (of Yahweh). See
16. 1 BLACKSTONE, Comm., § 43.

17.
18. Under Biblical or Revealed Law, it is taught that the Messiah
19. is "Ambassador" of Yahweh, which means He is a "Servant" of, and
20. sent by the Supreme Sovereign King Yahweh. Moreover, "messiah
21. means "anointed", which includes all the corporate body of the
22. Head ("Servant"/ambassador of Yahweh). 2 Corinthians 1:21-22;
23. Matthew 12:16-21; Luke 4:17-19; 1 Corinthians 12:27-31

24.

25.

① Although the king (head) in the common law has, by first allegiance, put the people (body) in subjection to his secular civil government, it must be remembered that, unlike the supreme sovereignty in this country, being the vulgar ("the people"/body), the king is "divine".

In other words, since they view "God" as King in heaven His rule over the earth is reflected in the king on earth vicariously. The king is "God", or is owed all allegiance and rights, etc., that reflect "God" as king in heaven.

Needless to say, however, the supreme sovereign power of this country, being the vulgar ("the people"/body) does not, and cannot claim it is "divine" or is acting as God, because (1) Yahweh is the Head, and (2) unlike the common law, there is a separation of Church and State in this country.

Therefore, first allegiance must be to Yahweh by "oath of supremacy," Cf. Pledge of Allegiance (4 USOS 84)

This means a subject of Yahweh has all rights, duties, privileges, and immunities, etc., due therefrom.

1. Under the law of nations, "safe-conducts" or "pass-
2. ports" is expressly or impliedly granted to "the subjects of
3. a foreign power in time of mutual war, or, committing
4. acts of hostility against such as are in amity, league, or
5. truce" with the nation wherein they reside. 4 BLACKSTONE,
6. Comm. §§ 68-9.

7. Even if no state in the U.S. recognizes members
8. of the "Church" or subjects of Yahweh with rights under
9. ambassadors, its placing of them in a forced 'union' creates
10. the hostility ^① between them, so as to impliedly grant them
11. all "safe-conducts" or "passports". Any offence against the
12. person or property of those under these protections, is a
13. "breach of the public faith... and such offences may... be a
14. just ground of a national war." 4 BLACKSTONE, Comm. § 68; and
15. 1 BLACKSTONE, Comm. §§ 248-50.

16. Because every state in the U.S. is in violation of these
17. protections, by carrying out legal process and convictions
18. of immune subjects of Yahweh or members of "Church",
19. after making themselves hostile enemies, it is no wonder
20. that Yahweh has announced a declaration of war against
21. all nations, for such offenses.

22.

23. - Daniel 7:21

24. "I was watching, and the same horn was making war
25. against the saints, and prevailing against them..." (cf. Rev 13:7)

① James 4:4

"Adulterers and adulteresses! Do you not know that friendship with the world (secular) is enmity (hostility) with Yahweh?
Whoever therefore wants to be a friend of the world (secular) makes himself an enemy of Yahweh. (emphasis mine)

Revelation 13:3-4:

2. "And all the world marveled and followed the beast. So
3. they worshipped the dragon who gave authority to the
4. beast; and they worshipped the beast, saying, "Who is
5. like the beast? Who is able to make war with him?"

Revelation 19:11, 15, 19-20:

8. "Now I saw heaven opened, and behold, a white horse. And
9. He who sat on him was called Faithful and True, and in
10. righteousness He judges and makes war.

12. Now out of His mouth goes a sharp sword, that with it
13. He should strike the nations. And He Himself will rule
14. them with a rod of iron. (cf. 2 Thessalonians 2:8)

16. And I saw the beast, the kings of the earth, and their
17. armies, gathered together to make war against Him who
18. sat on the horse and against His army. Then the beast
19. was captured and with him the false prophet who worked
20. signs in his presence, by which he deceived those who
21. worshiped his image." (cf. Daniel 8:25)

2 Thessalonians 2:3

24. "Let no one deceive you by any means; for that Day will not
25. come unless the falling away (apostasy) comes first, and

1. the man of sin is revealed, the son of perdition, who opposes
2. and exalts himself above all that is called God or that is
3. worshiped..." (emphasis mine, from original Greek NT)

4.
5. It may be that the people in this country have been
6. deceived by "signs" that made them all "wonder and follow."
7. this beastly system after their 'anion' by constitution,
8. which also created their hostility against their first
9. allegiance to Yahweh. It is no less understood, however,
10. that the national war they provoked will be met by the
11. revealing of the deception, and the defeat of the beastly
12. system by the words of a prophesied Son of Man, which
13. they are anticipating.

14.
15. Although much has been said here, which has religious
16. overtones, there are serious legal implications related
17. thereto.

18. First. The aforementioned are "judicially noticeable facts,"
19. whose knowledge would be imputed to all Bible-believing
20. people, which would include at least the two-thirds "majority"
21. since they made a Pledge of Allegiance to be "under God".
22. Furthermore, a judicially noticed fact is superior to evidence;
23. it is proof on the issue. And this gives rise to a presump-
24. tion that the people believe those facts are true...

25.



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55.1

1. Second. Statutes are "pre-scribed" or written "prospec-
2. tively", which means they must anticipate changes of circum-
3. stances in the future, or else they will be found unconstitu-
4. tional and void. See, e.g., MOREY v. DOUD, 345 U.S. 457 (1952).

5. A state, then has done nothing to protect or provide for
6. the rights, privileges, or immunities, etc., of an anticipated
7. established "Church" government that will replace its present
8. secular "civil" state government. This is, inter alia, a clear
9. violation of the 1st and 14th Constitutional Amendments.

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1. PRIVILEGIUM CLERICALE (BENEFIT OF CLERGY) A LEGAL
2. EXCUSE OF DEFECT OF WILL
3.
4.

5. Other than those rights and immunities that a
6. subject of Yahweh ought to have, which are recognized under
7. the law of nations, there is a legal "excuse" of "defect of
8. will" derived from Biblical Law. This excuse was recognized
9. by the common law and was called a "privilege" and also a
10. "statute pardon." 4 BLACKSTONE, Comm., §§ 358-9; 20; and 367.
11. This privilege was an immunity against most crimes, and
12. especially for those whose penalty was death, like homicides. id.
13. This privilege was also called a "matter of grace" (favor and/or
14. divine influence), id. at 241. This favor, of course, implies having
15. friendly relations. See these words in LARD & LEES WEBSTER'S DICTIONARY
16. (1758-1843), e.g.

17. This exemption of clergy, which "they obtained by the
18. favours of the civil government, they now claimed as their
19. inherent right; and as a right of the highest nature, inde-
20. feensible, and jure divine (divine right)." id. at 359. (emphasis
21. mine)

22. Although this immunity was later extended to most
23. religions, and even later to the common people, the English
24. legislature had converted "what was at first an unreasonable
25. exemption of particular popish ecclesiastics, into a merciful

Ⓐ It has already been demonstrated that the "Church" would be a hostile enemy of the State by a forced 'union' with its secular (worldly) government. See pgs. 50-51 and notes. As such, those that remain in union by will, are necessarily apo-states, who have opted to be considered as being either in "amity, league, or truce" with the secular King/State. See p. 53, and ZORACH, at p. 51. Generally, however, the Papacy or Roman Catholic Church was not in "amity, league, or truce" with England's secular King (dom). See 4 BLACKSTONE, Comm. §§ 54-5 (naming various laws against them).

Nevertheless, the Benefit of Clergy began with the "particular popish ecclesiastics," and was later expanded to most religions, and also to the common people of England, *infra*.

As a chief, or common qualifying criteria between these, it was necessary that they were friendly, albeit, apo-states of a spiritual corporation, who, by "learning and rational religion" were enlightened to being "a body of men, residing in the bowels of a state, and yet independent of its laws." *id.*, at 364. The law of England acknowledged this truth, but later viewed this status as a threat by abuse. By reason of duping them into accepting a friendly, albeit apostate relation, the legislature was able to enact and later abolish the statute pardon

1. mitigation of the general law, with respect to capital
2. punishment." id., at 364. (cited by U.S. v. FOLSE, 2015 U.S. Dist
3. Lexis 176610)

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1. i. MODERN JURISPRUDENCE AGAINST PRESUMPTIONS

2.

3. Unlike the common law, the use of presumptions in
4. this country have been found to void criminal statutes for
5. violating due process. Among the many rulings governing the
6. use of presumptions in criminal cases, the following rulings
7. will serve as a helpful guide for this document.

8.

9. In Re WINSHIP, 397 U.S. 358 (1970):

10. 1) Prosecution must prove every elemental fact beyond a reason-
11. able doubt. See Brackeen, infra.

12.

13. FRANCIS V. FRANKLIN, 471 U.S. 307 (1985):

14. 1) Presumptions must be measured by Winship standard, supra.

15. 2) Both conclusive and mandatory rebuttable presumptions are
16. unconstitutional. See Lewis, infra, 1; Ulster, infra, 1; Sandstrom, infra, 1

17.

18. BRACKEEN V. NEVADA, 104 Nev. 547 (1988):

19. 1) Presumed fact must be proved upon evidence beyond a reason-
20. able doubt if it establishes guilt, or is an element. See Buralff, infra

21.

22. NEVADA V. LEWIS, 20 Nev. 333 (1889):

23. 1) Presumption of sanity is conclusive. See Francis supra, 2.

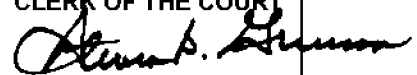
24. 2) Presumption of sanity is grounded upon public policy. See Davis,

25. infra, 2.

(a.)

DISTRICT COURT
CLARK COUNTY, NEVADA

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6/28/2022 12:45 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Robert Brown, Jr.

Case No.: C-14-299234-1
Department 6

NOTICE OF HEARING

Please be advised that the Motion for Dismissal by a Suggestion of Immunity or Writ of Prohibition or Mandamus in the above-entitled matter is set for hearing as follows:

Date: July 20, 2022

Time: 9:30 AM

Location: RJC Courtroom 10C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

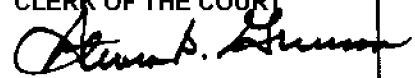
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta
Deputy Clerk of the Court



1 ORDR
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7 DISTRICT COURT
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9 CLARK COUNTY, NEVADA
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11 THE STATE OF NEVADA.,
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13 Plaintiff,
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15 vs.
16

17 ROBERT BROWN, JR., ID #6006120
18

19 Defendant.
20

} Case No. C-14-299234-1
21

} Dept. No. VI
22

} **ORDER TO TRANSPORT BY ANY
MEANS NECESSARY**
23

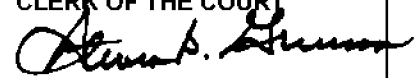
24 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Clark County
25 Detention Center produce and transport Defendant Robert Brown, Jr., ID #6006120 by ANY
26 MEANS NECESSARY for his court appearance of June 30, 2022 at 9:30 a.m. in District
27 Court, Department 6.
28

IT IS SO ORDERED.



JACQUELINE BLUTH - DISTRICT JUDGE





1 ORDER

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7 DISTRICT COURT

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9 CLARK COUNTY, NEVADA

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11 THE STATE OF NEVADA.,

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13 Plaintiff,

14 vs.

15 ROBERT BROWN, JR., ID #6006120

16
17 Defendant.

)
) Case No. C-14-299234-1

)
) Dept. No. VI

)
) ORDER

18
19 After Consulting with Las Vegas Metropolitan Police Department Counsel, Martina
20 Bauhaus, Esq., the FOLLOWING IS ORDERED:

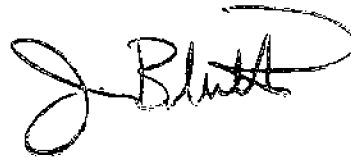
21 Michele Blackwill is Defendant's Robert Brown, Jr., ID #6006120 appointed
22 investigator. Defendant Brown is representing himself in proper person. The Detention
23 (DSD) Services staff shall arrange and allow Defendant and his investigator access to a
24 visiting room on Monday July 12, 2022 for about four (4) hours. Further, Defendant Brown
25 and Investigator Blackwill will have access to a computer with a CD or flash drive that will
26 be provided by Investigator Blackwill. This meeting is to prepare for Defendant Brown's
27 upcoming trial to begin on July 25, 2022.

28 Furthermore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that DSD

1 shall make arrangements to allow inmate Brown to access a room to be able to review
2 documents on CDs and flashdrives leading up to his trial date. As such, arrangements will
3 be made with facilitators and staff at Clark County Detention Center and subsequent orders
4 signed by this Court shall be entered.

5 IT IS FURTHER ORDERED that Investigator Blackwill will follow all of the DSD
6 rules, regulations and protocols as instructed by jail personnel while within the facility and
7 during the examination. This includes but is not limited to a background check if that has
8 not already been performed by DSD. The officers shall approve and follow their protocol of
9 securing the inmate at all times to ensure the safety of civilians present at the office during
10 the time of the appointment.

11
12 IT IS SO ORDERED.



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15 JACQUELINE BLUTH - DISTRICT JUDGE



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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

CASE NO. C-14-299234-1

9 Plaintiff,

DEPT. VI

10 vs.

11 ROBERT BROWN, JR.,

12 Defendant.

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE
14 WEDNESDAY, MAY 11, 2022

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
16 **APPOINTMENT OF INVESTIGATOR and STATUS CHECK: TRIAL READINESS**

17 **APPEARANCES:**

18 For the State:

GIANCARLO PESCI, ESQ.
Chief Deputy District Attorney

19
20
21 For the Defendant:

In Propria Persona
CLARK W. PATRICK, ESQ.
Appointed Standby Counsel

22
23
24
25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Wednesday, May 11, 2022, Las Vegas, Nevada

2
3 [Proceedings began at 9:43 a.m.]

4 THE COURT: -- present, in custody. Mr. Patrick present on his behalf.
5 Mr. Pesci I could have you just stand in for one moment?

6 MR. PESCI: Sure.

7 THE COURT: Thank you.

8 All right so this is on for appointment of investigator and status check
9 trial readiness.

10 Did we hear from Mr. Christensen?

11 MR. PATRICK: Your Honor, if I may?

12 THE COURT: Thank you.

13 MR. PATRICK: Yes. Michelle Blackwell [phonetic] is here today. Mr.
14 Christensen contacted her, and me, and she will be Mr. Brown's new investigator.

15 THE COURT: Perfect.

16 MR. PATRICK: And I believe that she will be touching base with him
17 in the next few days.

18 THE COURT: Perfect. Is that right Ms. Blackwell?

19 MS. BLACKWELL: Yes, Your Honor.

20 THE COURT: Okay. Thank you, I appreciate that.

21 And, Mr. Brown, I was able -- like I told you last time we were here I
22 was able to speak with the individuals over at the jail, and I updated Mr. Patrick,
23 they told me that they brought everything to you, gave you the opportunity to go
24 through everything, make sure anything that was legal; is that true?

25 THE DEFENDANT: That's true.

1 THE COURT: Okay. And so everything that -- the things that they
2 found to not be appropriate to go in the cell you were able to go look through
3 everything and take everything legal back with you; is that right?

4 THE DEFENDANT: Well he didn't tell me specifically what it was that
5 wasn't suppose to have, but he told me he brought everything, so I just took
6 everything.

7 THE COURT: Oh, okay. So I can -- give me a second so I can read it
8 to you because I want you to make sure we're all on the same page. Okay, so the
9 following items were originally removed, which were:

- 10 1. Numerous personal photographs of scantily clad women,
- 11 2. An envelope of commissary items that you had purchased,
- 12 3. Several manila envelopes, and
- 13 4. A personal book not pertaining to the law.

14 So then on April 29th he took all of those -- items that were confiscated
15 to the unit and had you review them. You received all the items that you needed
16 for your case. He allowed you to take 15 personal photographs, per our CCDC
17 policy. You took possession of 11 of the photographs, and the rest of them were
18 booked into property. You went through the manila envelopes and then you asked
19 for a book on statutory law, which he then received and took to you. So we're all
20 good with all of the discovery and paperwork?

21 THE DEFENDANT: That's correct.

22 THE COURT: Okay sounds good. And how are we looking in regards
23 to our July date?

24 THE DEFENDANT: I don't know how I can reasonable say so
25 because I haven't received all of my copies back that I handed over to Mr. Patrick.

1 I gave you the two motions that you said you wanted so they could be filed. Along
2 with two other folders I haven't received copies back from those. Neither have I
3 received any notice of those motions being filed so.

4 THE COURT: So we can deal with -- so the motions are a different
5 thing and I'd be happy to deal with those, but in regards to trial preparation, I
6 mean, something that you keep telling me is that you want your trial and that
7 you're ready, so I'm trying to do that -- get on that for you. So I do have a trial
8 going -- a death penalty case starting on 18th. We should be done the week of the
9 25th so I'll trial you guys, so about August is going to be the trial date. So I need
10 you to make sure you're working and prepping for trial on that date.

11 THE DEFENDANT: I am.

12 THE COURT: Okay. All right so we'll do -- so Mr. Patrick what -- the
13 things that he wanted you to copy or file, what is that?

14 MR. PATRICK: I'm not sure. I'll have to look through my files and see
15 what manila folder he gave me and what's in them.

16 THE COURT: Okay. So there's two motions you need filed?

17 THE DEFENDANT: Yeah there's two motions and there's two other
18 folders that I handed to him all at that same time. I don't remember what
19 courtroom it was, but we were behind glass and I passed'em to him.

20 THE COURT: Yeah I remember it was in lower level. Can you
21 provided those back -- to Ms. Blackwell so that she can -- or either file the motions
22 or however we do it, but just get those back so we can have'em?

23 MR. PATRICK: Sure.

24 THE COURT: Perfect. And then our June status check trial readiness,
25 please?

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THE CLERK: June 8th at 9:30.

MR. PATRICK: Judge anyway we can it on the 22nd also?

[Colloquy between The Court and The Judicial Executive Assistant]

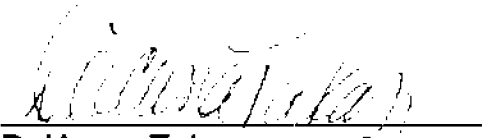
THE COURT: Yeah, that's fine.

THE CLERK: June 22nd at 9:30.

[Proceedings concluded at 9:47 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


De'Awna Takas
Court Recorder/Transcriber



1 RTRAN
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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 STATE OF NEVADA,

CASE NO. C-14-299234-1

9 Plaintiff,

DEPT. VI

10 vs.

11 ROBERT BROWN, JR.,

12 Defendant.

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE
14 WEDNESDAY, JUNE 22, 2022
15

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
APPOINTMENT OF INVESTIGATOR and STATUS CHECK: TRIAL READINESS

17 APPEARANCES:

18 For the State:

GIANCARLO PESCI, ESQ.
Chief Deputy District Attorney

20 For the Defendant:

21 In Propria Persona
CLARK W. PATRICK, ESQ.
Appointed Standby Counsel
22
23
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25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Wednesday, June 22, 2022, Las Vegas, Nevada

2
3 [Proceedings began at 10:01 a.m.]

4 THE COURT: -- Brown, Jr., C299234. He is present -- oh this is Mr.
5 Raman, can you just stand in for a second Mr. Giordani?

6 MR. GIORDANI: Yes.

7 THE COURT: He is present, in custody, he represents himself. Mr.
8 Patrick is present as stand- by counsel. Mr. Giordani is standing in for Mr. Raman.

9 This is a status check trial readiness. Mr. Brown, how are we looking
10 for our 7/25 date?

11 THE DEFENDANT: I won't anticipate being ready because I had a
12 talk with investigator, Michelle Blackwell, and she explained to me that she spoke
13 with Mr. Patrick in attempting to retrieve the two motions that were suppose to file
14 that you ordered -- ordered me to hand over to Mr. Patrick. Mr. Patrick apparently
15 can't find them right now. So that's a big issue. Also I gave Ms. Blackwell a short
16 to do list in terms of in justification and I don't know her progress on that either so.
17 Mr. Patrick has had these documents for I guess it's been over two months.

18 THE COURT: So the -- I won't be continuing it for the motions. If the
19 motions are something, I mean, those are something you wrote so those just need
20 to be rewritten and I'll put them on.

21 THE DEFENDANT: I cannot -- those motions were -- let's see there's
22 two motions and together those motions were probably about 200 pages and I
23 don't have copies. I explained that -- to you when I handed those over, I did not
24 have copies. So Mr. Patrick has the only copy of those motions.

25 THE COURT: And what are the motions for what?

1 THE DEFENDANT: One is a motion for writ of prohibition, other one is
2 basically probably gonna be a mandamus challenging the statutes under article 4
3 section 12 of the Nevada constitution and I cannot rewrite those.

4 MR. PATRICK: Your Honor, if I may? Judge, just so the record is
5 clear. I do not recall Mr. Brown giving me those motions, and I guarantee if he'd
6 give me a motion of 200 pages --

7 THE COURT: Yeah.

8 MR. PATRICK: -- I would know that. They were never given to me, so
9 I don't know why he wants to blame me for losing them because I never had them
10 in my possession.

11 THE COURT: Okay. Well --

12 THE DEFENDANT: So, let me ask you Judge, you don't remember
13 ordering me to hand over those motions to you when were behind glass?

14 THE COURT: To me?

15 THE DEFENDANT: Yes.

16 THE COURT: Handing them over to me?

17 THE DEFENDANT: No, that you ask me -- when were behind glass to
18 hand over those motions and I handed over those motions to Mr. Patrick.

19 THE COURT: I'm not saying --

20 THE DEFENDANT: I can bring the court records in.

21 THE COURT: I'm not saying you did or didn't, but I mean --

22 THE DEFENDANT: I'm just --

23 THE COURT: Hold on.

24 THE DEFENDANT: Okay.

25 THE COURT: I think you can -- I hope you can appreciate that every

1 day I see about 30 -- 30 or so defendants. So I'm not going to have an
2 independent recollection of one time something happened behind glass. I'm not
3 saying you did or you didn't, I just don't have -- I would be impossible for me to
4 remember.

5 THE DEFENDANT: Well the thing is is Mr. Patrick has been hostile to
6 me since he becoming to visit me -- visit me with his video visits, and now he's
7 playing games and he doesn't even know that I handed him over 300 pages of
8 motions to you -- to him --

9 THE COURT: Okay.

10 THE DEFENDANT: -- in your courtroom?

11 THE COURT: Well first of there are page limits. So no one's filing
12 anything that's over 200 pages.

13 THE DEFENDANT: Well that's another issue, I'm --

14 THE COURT: Oh, no, no, no, I'm going to tell you what the issues are
15 you're not going to tell me what the issues are. So you can refile those. There's 30-
16 page page limit just like there is for every other person in custody or out of custody
17 filing something. If you want those heard before your trial date, then I would get
18 working on them.

19 And then I'll do a status check on my next date to find out from -- I'll
20 have Ms. Blackwell here, we can do an outside the presence of the State so they
21 don't -- know exactly what investigation you want to be done.

22 But you wanted this trial to go I told you I needed you to pick a date
23 where you guys -- where you would be ready and we would be going. This case is
24 from 2014. That is ridiculous.

25 THE DEFENDANT: Once again, --

1 THE COURT: We are going --

2 THE DEFENDANT: [indiscernible - multiple speakers]

3 THE COURT: -- on July 25th.

4 THE DEFENDANT: -- attorney. Once again it's either the State or
5 State appointed attorney playing games with my discovery and now I don't have
6 all my discovery again.

7 THE COURT: No. We're not playing --

8 THE DEFENDANT: And secondly why didn't you tell me that I had
9 shorten my motion? You didn't tell me that when I handed the documents --

10 THE COURT: What?

11 THE DEFENDANT: -- over.

12 THE COURT: What are you saying?

13 THE DEFENDANT: You did not tell me -- when I handed those
14 motions over to Mr. Patrick you did not tell me than two months ago that I needed
15 to shorten those motions. You just told me they -- needed to handed over to be
16 filed.

17 THE COURT: Sir --

18 THE DEFENDANT: And I explained --

19 THE COURT: -- do you think --

20 THE DEFENDANT: -- to you how --

21 THE COURT: -- I knew? I didn't --

22 THE DEFENDANT: -- many pages.

23 THE COURT: -- know. I don't -- no you did not tell me there --

24 THE DEFENDANT: Yes, I'll --

25 THE COURT: -- where over--

1 THE DEFENDANT: -- bring the record in.

2 THE COURT: -- 200 pages.

3 THE DEFENDANT: I'll bring the record in.

4 THE COURT: What record will you be bringing in?

5 THE DEFENDANT: The transcripts.

6 THE COURT: You have transcripts?

7 THE DEFENDANT: Yes, I have transcripts.

8 THE COURT: Perfect. But just so you know the records that you think
9 you handed over apparently my staff just told they were filed. So I don't think you
10 are having a correct memory. So the motions that you are talking about have been
11 filed. They are in Odyssey right now.

12 THE DEFENDANT: How were they filed? One was to the United
13 States Supreme Court writ of prohibition on the grounds that I filed it for is for the
14 United -- they have original jurisdiction in those arguments for the United States
15 Supreme Court. The other motion is for Nevada. So could those motions be filed
16 then?

17 THE COURT: I don't know sir. I don't know. So --

18 MR. PATRICK: Your Honor? And, I'm sorry, Your Honor --

19 THE COURT: It's okay.

20 MR. PATRICK: -- Ms. Blackwell called me yesterday she has Covid
21 and that's why she's not here today.

22 THE COURT: Okay.

23 MR. PATRICK: So.

24 THE COURT: So we will put this on our calendar next Thursday.

25 Hopefully she'll be here by then. I'm just pulling up Odyssey just to make sure to

1 see what exactly has been filed. It's going to take me awhile because the case is
2 almost 10 years old.

3 [Colloquy between The Court and Court Staff]

4 MR. GIORDANI: And Judge you said that June 30th date is outside
5 the DA's presence, right?

6 THE COURT: For a portion of Mr. Giordani, only because the
7 investigator will be talking about her to do list.

8 MR. GIORDANI: Understood. Thank you.

9 THE COURT: Okay this is 175 pages, hand written. Okay so this
10 one's been filed. So what is the other one? Mr. Brown, what's the other one?

11 THE DEFENDANT: Of the motion?

12 THE COURT: Mm-hmm.

13 THE DEFENDANT: Oh the motion doesn't even have a title page,
14 [indiscernible] just be written as a --

15 THE COURT: Oh, okay.

16 THE DEFENDANT: -- writ of mandamus.

17 THE COURT: Yep, it's here. They're both here. One's 175 pages and
18 one's 109.

19 THE DEFENDANT: So is why Mr. Patrick claiming he doesn't
20 have'em. How did you get them if he never had -- if he never had them how did
21 you get them?

22 THE COURT: So what I am imaging happening is that that day that I
23 wasn't here Mr. Patrick just handed them over to the -- court clerk because it says
24 they were filed in open court on April 13th. So if you handed them to them -- to him
25 or to the Marshal, he handed it right to the clerk and they were filed that day, April

1 13th was the day I think of the calendar call that was vacated. So those have both
2 been filed. So I will read through those. I will make a ruling. Even though they are
3 way over the page limit but we'll go through that because I don't want any more
4 delays on this case.

5 And then we'll have Ms. Blackwell present on Thursday to discuss the
6 investigation, but everyone needs to be preparing to go forward on the 25th.

7 And you can tell Mr. Raman that please.

8 MR. GIORDANI: I did. I will.

9 THE COURT: Thank you.

10 THE JUDICIAL EXECUTIVE ASSISTANT: June 30th at 9:30.

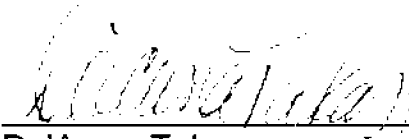
11 MR. PATRICK: Thank you, Your Honor.

12 THE COURT: You're welcome. Thank you.

13 [Proceedings concluded at 10:09 a.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 De'Awna Takas
25 Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,
9 Plaintiff,
10 vs.

CASE NO. C-14-299234-1
DEPT. VI

11 ROBERT BROWN, JR.,
12 Defendant.

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE
14 THURSDAY, JUNE 30, 2022

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
16 **STATUS CHECK: CASE STATUS**

17 **APPEARANCES:**

18 For the State: JAY P. RAMAN, ESQ.
19 Chief Deputy District Attorney

20 For the Defendant: In Propria Persona
21 CLARK W. PATRICK, ESQ.
22 Appointed Standby Counsel

23 **ALSO PRESENT:** MICHELLE BLACKWELL
24 Investigator

25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Thursday, June 30, 2022, Las Vegas, Nevada

2
3 [Proceedings began at 9:41 a.m.]

4 THE COURT: State of Nevada versus Robert Brown, Jr. Mr. Brown
5 represents himself. He is present, in custody. Mr. Patrick is present here on his
6 behalf as stand-by counsel. Mr. Raman present on behalf of the State.

7 And then do we do we have the investigator here Mr. Patrick?

8 MR. PATRICK: We do.

9 MS. BLACKWELL: Yes, Your Honor.

10 THE COURT: Good morning ma'am. Would --

11 MS. BLACKWELL: Good --

12 THE COURT: -- you come --

13 MS. BLACKWELL: -- morning,

14 THE COURT: -- forward please?

15 MS. BLACKWELL: Sure.

16 THE COURT: Thank you. And may I have your name for the record
17 ma'am?

18 MS. BLACKWELL: Michelle Blackwell.

19 THE COURT: Michelle Blackwell. Thank you.

20 All right, so this is time and date set on a status check in regards to
21 case status. Ms. Blackwell, I'm sorry I know that you were under the weather last
22 time that we were here, and Mr. Brown was stating that there were some things
23 that he had either spoke to you about or wanted you to do in anticipation of our
24 7/25/2022 jury trial.

25 MS. BLACKWELL: Yes.

1 THE COURT: Obviously I don't want to get in to the nitty gritty of
2 those details, because I do believe that it's privileged and I wouldn't want to do that
3 in front of the State.

4 MS. BLACKWELL: Sure.

5 THE COURT: I just wanted to talk to you a little bit about your ability
6 to do those things, if those are things that you can do, if you -- aren't going to be
7 able to do those before the trial date.

8 MS. BLACKWELL: Yes. Most of the stuff that we discussed is already
9 been worked on.

10 THE COURT: Okay.

11 MS. BLACKWELL: I just didn't get a chance to go give him an update
12 because I was out sick.

13 THE COURT: Understood.

14 MS. BLACKWELL: But I will get with him either tomorrow or the
15 beginning of the week and go over all my findings with him.

16 THE COURT: Perfect. Okay. I had the opportunity to go through the
17 motions, and I -- so just give me a second because I'd like to put the correct dates
18 on the record. Okay, so there were -- there'd been a couple of things that had been
19 filed in the last few days, like two days, a motion to dismiss, something that they
20 refer to as a miscellaneous filing, an objection to the felony murder rule, leaving
21 miscellaneous filing referenced as seasonal residence. However the defendant's
22 motion for dismissal by suggestion of immunity or -- writ of prohibition or
23 mandamus, a minute order was listed on those --four -- there were four motions
24 that a minute order has been -- filed on.

25 Court ordered:

1 Defendant's motion for dismissal by suggestion of immunity or writ of
2 prohibitions or mandamus that was denied, that there is a failure to state a legally
3 cognizable claim under Nevada law on the basis of the motion.

4 There is defendant's first draft motion ECF number 170 is denied,
5 again there is a failure to state a legally cognizable claim under Nevada law.

6 Defendant's objection to the felony murder rule has also been denied,
7 a legally there is a failure to state a legally cognizable claim under Nevada law.

8 And then defendant's hypotheticals based on facts of case leading
9 seasonal residence ECF 172 is denied, defendant has failed to state a legally
10 cognizable claim under Nevada law and on that basis the motion denied.

11 So those motions have all been looked over. I'm just trying to make
12 sure that there's nothing else outstanding. Ms. Blackwell has stated that she has
13 been able, investigative wise, to look through everything in your case. She'll be
14 going those findings with you shortly. So we're looking good in regards to our
15 January 25th trial date.

16 MR. RAMAN: July, Your Honor.

17 THE COURT: Oh, sorry. Yeah July 25th trial date. Mr. Brown,
18 obviously, you'll have the opportunity to meet with Ms. Blackwell in the coming
19 days. Is there anything that you needed to put on the record sir?

20 THE DEFENDANT: Yeah, first I don't know why there's that many
21 motions, there were only two motions that was suppose to be filed out of that stack
22 that I handed over, I don't know, a couple months ago. The problem with what I
23 handed over though Judge is that -- two manila envelopes did contain a motion in
24 each one; however, it was my -- it was my intention to give those to Mr. Patrick in
25 the first place but you ordered me to hand them over so they could be filed in open

1 court that day. And the problem with that is there were two other folders and they
2 contained client-attorney privilege documents. And that's what I'm gathering that's
3 what I'm getting from what you're speaking about the felony murder rule is I made
4 arguments to former attorneys about those things, but they were not motions they
5 were personal letters and documents that were handed to prior counsels, they
6 were privileged information. That's why I was trying to get those in the first place to
7 Mr. Patrick and that to me that's a problem.

8 As far as why the court would want those documents --

9 THE COURT: No, no, no, we're not going to do this. We're not going
10 to do this. You asked the Court to file the documents, you handed them over
11 knowing that they were being filed. This is all on video.

12 THE DEFENDANT: Yes.

13 THE COURT: On the JAVS.

14 THE DEFENDANT: Yes that's what I was going to ask for too though
15 can I have the video --

16 THE COURT: Absolutely.

17 THE DEFENDANT: -- and audio from those?

18 THE COURT: Absolutely.

19 THE DEFENDANT: Yes, I definitely need those.

20 THE COURT: But asked the Court to file the documents in the manila
21 envelopes. Those were then given and handed directly to the court clerk and filed
22 in open court. If you would like me -- those stricken from the record right now and
23 sealed I'm happy to do that.

24 Mr. Raman I know from speaking with the Judge in the other
25 department you are starting a trial and that you have been out of the town, so I

1 doubt you even have had --

2 MR. RAMAN: I haven even --

3 THE COURT: -- any opportunity --

4 MR. RAMAN: -- read these things.

5 THE COURT: -- to go in to Odyssey and look at any of these things

6 that were just filed on the 28th.

7 MR. RAMAN: Correct, Your Honor.

8 THE COURT: Okay.

9 MR. RAMAN: So if you strike them I will have never seen them.

10 THE COURT: Would you like me to strike and seal those documents?

11 THE DEFENDANT: Will that prevent me though from making a

12 complaint against just the Court itself asking for those documents?

13 THE COURT: Wait, I'm sorry, you just have to ask that again.

14 THE DEFENDANT: Will that prevent me from making a complaint, a

15 separate complaint, against the Court for receiving those documents in the first

16 place? That as far the attorney-client privilege --

17 THE COURT: Sure.

18 THE DEFENDANT: -- documents.

19 THE COURT: The documents that you handed over and asked to be

20 filed? That you're going to complain about now?

21 THE DEFENDANT: I didn't ask to have those --

22 THE COURT: Oh, okay.

23 THE DEFENDANT: -- particular ones --

24 THE COURT: Got it. Perfect.

25 THE DEFENDANT: -- filed. I asked --

1 THE COURT: So --
2 THE DEFENDANT: -- for the two motions --
3 THE COURT: -- yeah, so feel free --
4 THE DEFENDANT: -- to be filed.
5 THE COURT: -- to lodge the complaint.
6 THE DEFENDANT: So that won't bar that?
7 THE COURT: Nope.
8 THE DEFENDANT: Okay yeah seal those please?
9 THE COURT: Great. Okay I just wanna make sure since there seems
10 to always be a breakdown in communication we can have this clear. So the one
11 that is entitled leaving seasonal residence, would you like that one stricken?
12 THE DEFENDANT: That's not a -- yes, yes.
13 THE COURT: Okay.
14 THE DEFENDANT: That's fine.
15 THE COURT: So leaving seasonal residence will be stricken and
16 sealed.
17 Objection to the felony murder rule --
18 THE DEFENDANT: That's not a motion. That's --
19 THE COURT: Stricken--
20 THE DEFENDANT: -- personal documents.
21 THE COURT: -- and sealed. Okay.
22 Miscellaneous filing entitled presumption of sanity is not dispelled?
23 THE DEFENDANT: Yeah that's not a --
24 THE COURT: Okay.
25 THE DEFENDANT: -- that's personal.

1 THE COURT: Stricken and sealed.

2 This one motion for dismissal by suggestion of immunity or writ of
3 prohibition or mandamus? That was the one --

4 THE DEFENDANT: That was the one the last court date --

5 THE COURT: Yeah.

6 THE DEFENDANT: -- I had expressed to the Court that that was
7 intended for the U.S. Supreme Courts original jurisdiction, not Nevada.

8 THE COURT: You want that filed with the United States Supreme
9 Court?

10 THE DEFENDANT: Right. That's what that motion was intended for.

11 THE COURT: Okay, so that wasn't intended for me?

12 THE DEFENDANT: Right.

13 THE COURT: In order for it to get to the United States Supreme Court
14 though it has to be ruled upon and then, kind of, go up. So I ruled upon it --

15 THE DEFENDANT: Okay.

16 THE COURT: -- so if you want the appeal me, which you're saying
17 you do, then it just has to, kind of, work its way up through the system. Okay?

18 THE DEFENDANT: Okay.

19 THE COURT: All right let's just make sure that everything is -- yeah?

20 [Colloquy between The Court and The Judicial Executive Assistant]

21 THE COURT: So they were all part of the same packet, and so
22 they're all part of the one big motion. So what I will do is the one that you want
23 filed, I'll separate that, have it filed, and then the other ones will be sealed. But I
24 just wanna make sure -- so felony murder rule, leaving seasonal residence, first
25 draft motion copy, that's the one of the sanity. Okay. Okay.

1 THE DEFENDANT: Oh no, hold on. I might be mistaken. You
2 mentioned first draft motion that didn't have -- because it didn't have a cover page
3 first and foremost. So --

4 THE COURT: That was the one that you wanted, remember that was
5 109 pages.

6 THE DEFENDANT: Yeah that is a motion for Nevada.

7 THE COURT: Okay. All right so there's four, two of them should be
8 filed; so first draft and the motion for dismissal should be filed. The other two;
9 felony murder rule and seasonal residence should be sealed and only Mr. Patrick
10 should have a copy, right?

11 THE DEFENDANT: Right. Well there's an additional folder that was
12 more correspondence. That was a regular yellow folding envelope that wasn't a
13 manila sealed manila envelope. Just a filing folder that was marked
14 correspondence that had a bunch of attorney-client privileged documents in it as
15 well.

16 THE COURT: Everything that was in those envelopes was filed. So I
17 will --

18 THE DEFENDANT: And I don't know -- for the record I don't have any
19 of those and I need copies back from those. That was the whole thing about giving
20 them to Mr. Patrick so he can file and have a copy for himself and returning a copy
21 to me.

22 THE COURT: Okay. So we'll make a complete copy of everything that
23 was in those envelopes -- we'll make two complete copies, one for you and one for
24 Mr. Patrick. Okay.

25 Anything else?

1 THE DEFENDANT: Not that I can think of.

2 THE COURT: All right.

3 MR. RAMAN: Your Honor, just two suggestions.

4 THE COURT: Yes, Mr. Raman.

5 MR. RAMAN: I briefly conversed with Mr. Patrick and his investigator.
6 I just wanted to make sure that before the trial date that even though these things
7 have been in his possession for quite some time, I reproduced all the discovery
8 and at least the digital media, which he cannot peruse in his cell because he
9 doesn't have a computer.

10 THE COURT: Right.

11 MR. RAMAN: I wanted to make sure that they have the availability to
12 meet with Mr. Brown at the jail ahead of time and review any of these materials
13 that are on disc, audio recordings, video recordings, and if that's not possible then
14 perhaps just an in court visit to do that without anybody here --

15 THE COURT: Yeah.

16 MR. RAMAN: -- would be available. But they seem to be confident
17 that they can accomplish this at the jail.

18 THE COURT: So if you can't accomplish that with the jail, then in pro
19 per situations what I do is just work out a schedule with the jail where they are able
20 to bring Mr. Brown over and he sits here with a laptop and one of you and you can
21 take all day to go through it. So please just let me know as soon as possible
22 though if the jail is not able to do that so I can him brought over and you guys can
23 look through that.

24 Yes Mr. Brown?

25 THE DEFENDANT: For the record, it's the April 12 and 13th date

1 hearings that I would like to review as far as the audio and video.

2 THE COURT: The --

3 THE DEFENDANT: Those two days involve me brining those
4 documents.

5 THE COURT: Oh you mean the JAVS?

6 THE DEFENDANT: Right.

7 THE COURT: Right, right, but what Mr. Raman's talking about is the
8 discovery in the case. So, like, you know, you have the transcripts of the
9 interviews, but you could go ahead and have the CD that goes along with them so
10 you can hear what they're saying. That's what he's talking about, but I will include -
11 -I will get the JAVS from the 13th and 14th.

12 THE DEFENDANT: Okay. And I do have some documents that Ms.
13 Blackwell asked me for at a previous meeting. I have them here with me so I can
14 [indiscernible] to grab them from me to give'em to her.

15 THE COURT: All right. Officer can he pull those documents out and
16 provide them to the investigator so that I can make sure she has the ability to work
17 through those?

18 Thank you.

19 And then do you need to retain a copy for yourself?

20 THE DEFENDANT: Well she's suppose to return'em to me, because
21 she makes a copy for herself.

22 THE COURT: Okay. Perfect.

23 MR. RAMAN: The only other question I had --

24 THE COURT: Can you give -- hand those to the --

25 MR. RAMAN: Sorry.

1 THE COURT: -- officer please, Mr. Brown?

2 THE DEFENDANT: Yes.

3 THE COURT: Yes Mr. Raman?

4 MR. RAMAN: The only other potential idea I had was whether a date,
5 a court appearance, was needed outside of the calendar call to discuss issues like,
6 freedom of movement, jury selection, things of that nature.

7 THE COURT: Yeah, I think that us discussing that at calendar call will
8 be fine. And then also, you know, if we need to meet again before we bring the jury
9 in, that's completely fine. I've done a few pro per's so I think we have a pretty okay
10 system down.

11 MR. RAMAN: Okay. And what was the calendar call date?

12 THE COURT: The calendar call date is July 19th.

13 MR. RAMAN: Perfect.

14 THE COURT: July 19th at 9:30.

15 MR. RAMAN: Okay, great.

16 [Colloquy between The Court and The Judicial Executive Assistant]

17 THE COURT: Okay, I think that that's it. So we will have our calendar
18 call on 7/19. Our trial will go forward on 7/25. Please make sure that Mr. Brown has
19 the opportunity, Ms. Blackwell, to go through everything with you and then can you
20 get that issue -- make clear with the jail just because I want to make sure he has
21 enough time to be in court and go through the audio and the video, since he's
22 representing himself, and go through all the discovery, and if my courtroom needs
23 to be ability to do that let's get it done.

24 MS. BLACKWELL: Yes, Your Honor.

25 THE COURT: All right?

1 MR. RAMAN: Great.

2 THE COURT: Okay guys --

3 MR. RAMAN: Thank you.

4 THE COURT: -- thank you. We'll see --

5 MR. PATRICK: Thank you, --

6 THE COURT: -- you on --

7 MR. PATRICK: -- Judge.

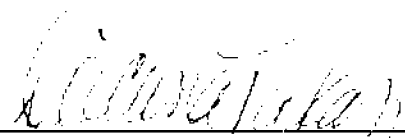
8 THE COURT: -- 7/19.

9 MS. BLACKWELL: Thank you.

10 [Proceedings concluded at 9:56 a.m.]

11 * * * * *

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20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 _____

25 De'Awna Takas
Court Recorder/Transcriber

Steven D. Grierson

SLOW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAY P. RAMAN
Chief Deputy District Attorney
Nevada Bar #10193
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ROBERT BROWN, JR., aka
Ariyl, #6006120
Defendant.

CASE NO: C-14-299234-1

DEPT NO: VI

STATE'S SEVENTH SUPPLEMENTAL NOTICE OF WITNESSES
AND/OR EXPERT WITNESSES
[NRS 174.234]

TO: ROBERT BROWN, JR., Defendant; and

TO: ROBERT BROWN, JR. aka Ariyl, Pro Se; and PATRICK CLARK, ESQ.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses and/or expert witnesses in its case in chief:

***indicates additional witness(es) and/or modification(s)**

ALBERT, JOEL, LVMPD #13204; is a Criminalist/Crime Scene Analyst with the
Las Vegas Metropolitan Police Department. He is an expert in the area of crime scene analysis
and will give opinions related thereto. He is expected to testify regarding the processing of
the various crime scene(s) in this case, as well as the collection and preservation of evidence.

ALLISON, SONIA; Address Unknown

ALSUP, TREVER; LVMPD #5782

ASHENFELTER, DEBORAH; c/o CCDA Investigations

1 BALDASSARRE, BENJAMIN; LVMPD #13977

2 BARKER, TIMOTHY; LVMPD #4106

3 BARRINGER, DAMON; LVMPD #7178

4 BASKETT, OFFICER; LAPD #32050

5 BIRO, TROY; c/o AMR

6 BRADFORD, OFFICER; LAPD #32623

7 BRAMBILLA, JESSE; LVMPD #13423

8 BROCIUS, JOHN; 4580 Ross Ave., LVN

9 BROWN, TONYA; c/o CCDA Victim Witness

10 BRYANT, KEITH; LVMPD #7773

11 BUCKELY, JAMES; Address Unknown

12 CARROLL, MICHAEL; LVMPD #6439

13 CARTER, MATTHEW; LVMPD #14048

14 COLEMAN, SOLOMON; LVMPD #13127

15 COLON, MARC; LVMPD #7585

16 CONNELL, DAVID; c/o CCFD

17 CONNELL, JASON; LVMPD #6722

18 **COXON, DANIEL, c/o FBI**, 1787 W. Lake Mead Blvd., LVN; is an expert in the area
19 of cellular phones and cellular system technology including cell tower generation of calls and
20 ability to determine the location where generated based upon historical records of cellular
21 phone records as well as the creation, functioning, data collection and information received
22 and collected by cellular provider cell sites, its analysis and conclusions that can be drawn and
23 is expected to testify thereto.

24 CROW, SHATANDA; c/o CCDA Victim Witness

25 CRUSE, CHAD; LVMPD #14299

26 CUSTODIAN OF RECORDS – AMR, 7201 W. Post Rd., LVN

27 CUSTODIAN OF RECORDS – California Department of Corrections and
Rehabilitation, 2222 G. Street, Fresno, CA

28 CUSTODIAN OF RECORDS – California Department of Motor Vehicles

1 CUSTODIAN OF RECORDS – Canyon Point Apartments, 4475 Jimmy Durante, LVN

2 CUSTODIAN OF RECORDS – Clark County Coroner's Office

3 CUSTODIAN OF RECORDS – Clark County Detention Center

4 CUSTODIAN OF RECORDS – Clark County Fire Department

5 CUSTODIAN OF RECORDS – Los Angeles Police Department,
6 450 Buchet St., Los Angeles, CA

7 CUSTODIAN OF RECORDS – LVMPD Communications/Dispatch

8 CUSTODIAN OF RECORDS – LVMPD Concealed Firearms Detail

9 CUSTODIAN OF RECORDS – LVMPD Records

10 CUSTODIAN OF RECORDS – Medic West, 9 W. Delhi Ave., NLV, NV

11 CUSTODIAN OF RECORDS – Sunrise Hospital, 3186 S. Maryland Pkwy., LVN

12 CUSTODIAN OF RECORDS – SPECTRUM LP - SPRINT

13 **CUSTODIAN OF RECORDS – Sprint, 6480 Sprint Pkwy., Overland Park, KS; is**

14 an expert in the area of cellular phones and cellular system technology including cell tower
15 generation of calls and ability to determine the location where generated based upon historical
16 records of cellular phone records as well as the creation, functioning, data collection and
17 information received and collected by cellular provider cell sites, its analysis and conclusions
18 that can be drawn and is expected to testify thereto.

19 **DAHN, ROBBIE, LVMPD #5941;** is a Criminalist/Crime Scene Analyst with the Las
20 Vegas Metropolitan Police Department. She is an expert in the area of crime scene analysis
21 and will give opinions related thereto. She is expected to testify regarding the processing of
22 the various crime scene(s) in this case, as well as the collection and preservation of evidence.

23 **DANNENBERGER-TAYLOR, KIMBERLY, LVMPD #13772;** is a forensic
24 scientist with the Las Vegas Metropolitan Police Department. She is an expert in the area
25 DNA technology and will give scientific opinions related thereto. She is expected to testify
26 regarding the DNA profiling analysis and related procedures she performed in this case.

27 DARR, A., LVMPD P#5485

28 DENNIS, CHRISTOPHER; LVMPD #9811

1 DOSIO, RICHARD; LVMPD #14338

2 DOWDY, SHALLEY; LVMPD #5311

3 EBRAHIM, FAIZA, c/o CPS/DFS; Will testify as an expert as to the nature, process
4 and limitations of forensic interviewing, and/or as the forensic interview(s) conducted in the
5 instant case.

6 ELLSWORTH, RUSSELL; LVMPD #13242

7 FASULO, TODD; LVMPD #13459

8 FLOWERS, TIA; c/o CCDA Victim Witness

9 FRIDAY, PETE; LVMPD #6039

10 *FZOKE, M., Clark County Fire Department

11 *GANON, MICHAEL; c/o AMR

12 GIFFORD, DAVID; LVMPD #6238

13 GILLIS, MATTHEW; LVMPD #6432

14 **GOULDTHORPE, HEATHER, LVMPD #8646**; is a Latent Print Examiner with the
15 Las Vegas Metropolitan Police Department. She is an expert in the area of latent print
16 examination and comparison and will give scientific opinions related thereto. She will testify
17 regarding the various latent print comparisons that she performed in this case.

18 ***GORNIAC, JAN, DR.**, (testifying as designee for Dr. Alane Olson), 1704 Pinto Ln,
19 Las Vegas, NV 89106. She is a medical examiner. She is an expert in the area of forensic
20 pathology and will give scientific opinions related thereto. She is expected to testify regarding
21 the condition of the body, and the cause and manner of death to Nichole Nick.

22 GRONEMAN, GAVIN; LVMPD #9489

23 GUSMAN, SAM; LVMPD #9065

24 GUARDIAN OF KAYLA HIGGINS

25 GUARDIAN OF ESTHER MAESTAS

26 GUARDIAN OF KATHLEEN MAESTAS

27 *HARMON ARMS APARTMENTS – 4475 Jimmy Durante Blvd., Las Vegas, NV

28 HENDRICKS, JEREMY; LVMPD #6091

1 HIGGINS, KAYLA; c/o CCDA Victim Witness

2 HOGANS, DWAYNE; CCDA Process Server

3 HOVANEK, MATTHEW; LVMPD #13227

4 HUBERT, STEPHEN; c/o Los Angeles Superior Court, Office of Probation

5 JACOBY, DAVID; LVMPD #4591

6 JONES, NICKOLAS; LVMPD #9043

7 JUNEMAN, GERALD; c/o CCDA Victim Witness

8 KEEN, JAMES; LVMPD #14455

9 KEHRLI, MONICA; 525 South St., Ryan, IA

10 **KIM, DR. KITAE, M.D.**; is a trauma surgeon at Sunrise Hospital. He is a medical
11 expert and will testify as to the injuries, diagnosis, treatment, and any other relevant
12 information as to the victim in this case.

13 *KORN, PETER; 6355 Topanga Canyon Blvd., Woodland Hills, CA 91367-2143

14 **KRYLO, JAMES, LVMPD #5954**; is a Firearm/Toolmark Examiner with the Las
15 Vegas Metropolitan Police Department. He is an expert in the area of firearm/toolmark
16 analysis and will give opinions related thereto. He is expected to testify regarding the firearms
17 and bullet trajectory comparison of certain evidence collected from the crime scene(s).

18 LEACH, ANTHONY; LVMPD #12898

19 LEE, OFFICER; LAPD #25897

20 LNU, ALTON; c/o Stout Property Management, 10151 W. Park Run Dr., LVN

21 LOVE, DEBBIE; LVMPD #3748

22 LOWANDTZ, L., LAPD#31120

23 **LYNCH, SHANDRA, LVMPD #13206**; is a Criminalist/Crime Scene Analyst with
24 the Las Vegas Metropolitan Police Department. She is an expert in the area of crime scene
25 analysis and will give opinions related thereto. She is expected to testify regarding the
26 processing of the various crime scene(s) in this case, as well as the collection and preservation
27 of evidence.

28 MAAS, STEVE; LVMPD #13015

1 MAESTAS, ANGELA; c/o CCDA Victim Witness

2 MAESTAS, ESTHER; c/o CCDA Victim Witness

3 MAESTAS, KATHLEEN; c/o CCDA Victim Witness

4 MAHON, KARA; LVMPD #8922

5 MAINES, MICHAEL; LVMPD #4040

6 **MARTIN, TERRY, LVMPD #5946**; is a Criminalist/Crime Scene Analyst with the
7 Las Vegas Metropolitan Police Department. He is an expert in the area of crime scene analysis
8 and will give opinions related thereto. He is expected to testify regarding the processing of
9 the various crime scene(s) in this case, as well as the collection and preservation of evidence.

10 MARZEC, JUSTIN; LVMPD #9816

11 MCCARTHY, JASON; LVMPD #4715

12 MCFARLANE, BRANDON; LVMPD #13740

13 MCKNIGHT, KYLE; LVMPD #13468

14 *MEJIA, MIGUEL; 11121 N. Sepulveda Blvd. Los Angeles California

15 MERRICK, FRED; LVMPD #7549

16 MICHELLE, BETH; c/o CCDA Victim Witness

17 MILLER, KATHERINE; LVMPD #8560

18 MORALES, CARLOS; LVMPD #8788

19 MORRIS, ERIK; LVMPD #13248

20 MORRIS, SHAUNA; LVMPD #14316

21 MULLIN (fka Darr), ANNETTE; LVMPD #5485

22 MUENZENMEYER, BRIANNA; LVMPD #15362

23 NASBY, JOHN; c/o CCDA Victim Witness

24 **NEMCIK, AMY, LVMPD #8504**; is a Criminalist/Crime Scene Analyst with the Las
25 Vegas Metropolitan Police Department. She is an expert in the area of crime scene analysis
26 and will give opinions related thereto. She is expected to testify regarding the processing of
27 the various crime scene(s) in this case, as well as the collection and preservation of evidence.

28 O'BRIEN, JOHN; c/o CCDA Victim Witness

1 O'GRADY, ANDREW; LVMPD #14071

2 **OLSON, DR. ALANE, M.D., CCME #0068**, and/or Designee; is a Medical Examiner
3 employed by the Clark County Coroner's Office. She is an expert in the area of forensic
4 pathology and will give scientific opinions related thereto. She is expected to testify regarding
5 the cause and manner of death of Nichole Nick.

6 OSCAR, STEVEN; LVMPD #14325

7 PATTERSON, DEBRA; District Attorney Process Server

8 PECKHAM (fka Braun), LAURA; LVMPD #12946

9 **PETERSEN, ALAN, LVMPD #13579**, c/o CCDA's Office; is a Criminalist/Crime
10 Scene Analyst with the Las Vegas Metropolitan Police Department. He is an expert in the
11 area of crime scene analysis and will give opinions related thereto. He is expected to testify
12 regarding the processing of the various crime scene(s) in this case, as well as the collection
13 and preservation of evidence.

14 PIERCE-STAUFFER, SHELLEY; CCME #0028

15 PULLIAM, DETECTIVE; LAPD #17187

16 RAETZ, DEAN; LVMPD #4234

17 RAPP, CORIE; LVMPD #13455

18 REED, RONALD; LVMPD #7641

19 RICHTER, TODD; LVMPD #4374

20 RILEY, GRANT; LVMPD #13428

21 **ROBERTS, VINCENT, LVMPD #5714**; is a Criminalist/Crime Scene Analyst with
22 the Las Vegas Metropolitan Police Department. He is an expert in the area of crime scene
23 analysis and will give opinions related thereto. He is expected to testify regarding the
24 processing of the various crime scene(s) in this case, as well as the collection and preservation
25 of evidence.

26 ROBERTSON, MARK; c/o CCDA Victim Witness

27 ROMAN, FRANKIE; LVMPD #14097

28 ROSAS, DAVID; LVMPD #12896

1 SACHS, MICHAEL; c/o CCFD

2 SCHOFIELD, MARTHA; LVMPD #3374

3 SIMOLA, OFFICER; LAPD #32605

4 SIMPER, PARKER; c/o CCFD

5 SKIMERTON, SHERRI; LVMPD #8981

6 SMAKA, SHAWN; LVMPD #6098

7 SPEAS, WILLIAM, LVMPD #5228, c/o CCDA's Office; is a Criminalist/Crime
8 Scene Analyst with the Las Vegas Metropolitan Police Department. He is an expert in the
9 area of crime scene analysis and will give opinions related thereto. He is expected to testify
10 regarding the processing of the various crime scene(s) in this case, as well as the collection
11 and preservation of evidence.

12 STANLAKE, CODY; 525 Harris St., #317, Henderson, NV

13 STEIBER, LT. RAYMOND; LVMPD #3542

14 STINNETT, GREGORY; LVMPD #8091

15 STONE, MICHAEL; c/o CCFD

16 SZOKE, MICHAEL; c/o CCFD

17 TENNANT, JAMES; LVMPD #9817

18 WILDS, MELISSA; LVMPD #4957

19 ZYGMONT, PAUL; LVMPD #8558

20 These witnesses are in addition to those witnesses endorsed on the Information or
21 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
22 Witnesses has been filed.

23 The substance of each expert witness's testimony and copy of all reports made by or at
24 the direction of the expert witness have been provided in discovery.

25 A copy of each expert witness's curriculum vitae, if available, is attached hereto.

26 STEVEN B. WOLFSON
27 Clark County District Attorney
28 Nevada Bar #001565

BY

JAY P. RAMAN

Chief Deputy District Attorney
Nevada Bar #10193

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Seventh Supplemental Notice of Witnesses
and/or Expert Witnesses, was made this 31st day of March, 2022, by Electronic Filing to:

CLARK PATRICK, ESQ.
CWPATRICKLAW@GMAIL.COM

ROBERT BROWN AKA ARIYL #6006120
330 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

BY /s/ A. BENNETT
A. BENNETT
Secretary for the District Attorney's Office

12F19975X/ab/L5

Steven D. Grierson

Case No. C-14-299234-1

Dept. No. VI

IN THE EIGHTH JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR THE

COUNTY OF CLARK

STATE OF NEVADA

Plaintiff

v.

ROBERT BROWN - 6006120

Accused

In Pro Persona by Ariyl

NOTICE OF APPEAL

Notice is hereby given that ROBERT BROWN, Accused above named,
hereby appeals to the Supreme Court of Nevada from the denial
of Motion filed in open court on April 13, 2022 for A MOTION FOR DISMISSAL
BY A SUGGESTION OF IMMUNITY OR A WRIT OF PROHIBITION, OR MANDAMUS.

* Leave of Court requested for late filing. *

Dated this 16th day of July, 2022 C.E.

ERD.

ROBERT BROWN

RECEIVED

By: *LZ414 Ariyl*

JUL 18 2022

A Foreign Corporation Sale

CLERK OF THE COURT

In Pro Persona

2078

ROBERT BROWN - 6006120
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

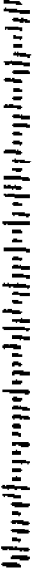
LAS VEGAS NV 890

16 JUL 2022 PM 5 L

FOREVER
USA



Clerk of the Court
200 Lewis Ave, 3rd Floor
Las Vegas, Nevada 89155-1160



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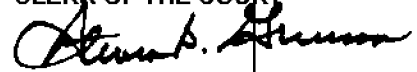
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SENT FROM CCDC





1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 ROBERT BROWN, JR. aka ARIYL,

14 Defendant(s),
15

Case No: C-14-299234-1

Dept No: VI

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Robert Brown

20 2. Judge: Jacqueline M. Bluth

21 3. Appellant(s): Robert Brown

22 Counsel:

23 Robert Brown #6006120
24 330 S. Casino Center Blvd.
Las Vegas, NV 89101

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: July 3, 2014

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 84317

12. Child Custody or Visitation: N/A

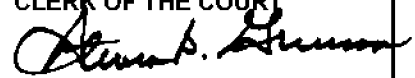
Dated This 19 day of July 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Robert Brown



MOT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAY P. RAMAN
Chief Deputy District Attorney
Nevada Bar #010193
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

ROBERT BROWN, JR., aka
Ariyl, #6006120

Defendant.

CASE NO: C-14-299234-1

DEPT NO: VI

**STATE'S NOTICE OF MOTION
AND MOTION FOR DEPOSITION**

DATE OF HEARING: 9/6/2022
TIME OF HEARING: 9:30 AM
HEARING REQUESTED

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAY P. RAMAN, Chief Deputy District Attorney, and files this Notice Of Motion And Motion For Deposition.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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DATED this 2nd day of September, 2022.

BY /s/ Jay P. Raman
JAY P. RAMAN
Chief Deputy District Attorney
Nevada Bar #010193

STATEMENT OF FACTS

On Friday, December 7, 2012, the Las Vegas Metropolitan Police Department ("LVMPD") call center received multiple telephone calls from residents at the Canyon Pointe Apartments located at 5421 East Harmon Avenue, Las Vegas, Clark County, Nevada, indicating glass breaking, a woman screaming, and a male entering Apartment E-13 through the broken window. Callers subsequently informed the LVMPD that they heard gunshots after the male entered Apartment E-13.

When officers arrived they observed a broken window with shards of glass next to the doorway of Apartment E-13. Officers entered Apartment E-13 to find a white female adult lying on the living room floor with apparent gunshot wounds to her abdomen, leg, and

1 shoulder. That woman was later identified as Esther Maestas. Esther informed the responding
2 officers that Robert Brown, the Defendant, had broken into the apartment and shot her and her
3 daughter. Esther indicated that Robert and Nichole had been arguing earlier in the evening.
4 She told officers that her daughter and granddaughter were in the bedroom.

5 Officers entered the only bedroom of the apartment to find a white female adult
6 deceased from several apparent gunshot wounds. She was later identified as Nichole Nick,
7 the daughter of Esther Maestas and the girlfriend of Robert Brown. In that same bedroom,
8 officers also located an uninjured juvenile female, who was later identified as three-year-old
9 Kayla Higgins, Nichole Nick's niece and Esther Maestas' granddaughter. Kayla had been
10 lying on a toddler bed that now had a bullet hole in it.

11 Nichole Nick was lying face up on the floor, twisted and bent slightly at the waist with
12 her back, right hip, and outside of right leg on the carpet. She had been rolled from her right
13 side to her back by officers so that they could check for her pulse. There was blood covering
14 her face and upper body as well as pooled on the carpet inside of her right elbow. Nichole
15 Nick suffered the following injuries: (1) a perforating gunshot entry-wound to her upper right
16 chest/shoulder and a corresponding gunshot exit-wound to her rear left side; (2) perforating
17 gunshot wounds to her upper left thigh; (3) a perforating wound to the back left of her head;
18 (4) a stab wound to her upper left chest; (5) a stab wound to her left armpit; (6) a stab wound
19 to the left side of her neck; (7) a stab wound to the upper left side of her back; (8) and several
20 lacerations to her upper left arm. Clark County Medical Examiner Dr. Alane Olson
21 determined that the cause of death was a gunshot wound to the chest with significant sharp
22 force trauma (stab wounds). The manner of death was homicide.

23 Medics were called for Esther Maestas and they subsequently removed her from the
24 scene prior to the arrival of homicide detectives. She was taken to Sunrise Hospital Emergency
25 Trauma Center where she was immediately taken into surgery.

26 Homicide Detectives D. Raetz, M. Gillis, J. McCarthy, and F. Merrick subsequently
27 responded to the scene. In the living room Detectives observed broken shards of glass in the
28 vicinity of the window, a Verizon Motorola cellular telephone on the south edge of the center

1 seat of the sofa, blood on a pillow of the sofa as well as on the north seat cushion and arm rest.

2 A pony wall separated the living room from the kitchen. On the pony wall Detectives
3 discovered a T-Mobile Samsung cellular telephone. Detectives located a Sprint HTC cellular
4 telephone on the table in the kitchen belonging to Nichole Nick, and a LG cellular telephone
5 in pieces on the floor near the table. The Sprint HTC cellular telephone had blood on the
6 screen of the telephone and the background wallpaper was a photograph of an individual,
7 which matched the driver's license belonging to Robert Brown.

8 The only bedroom and bathroom in the apartment were located off of the kitchen. In
9 the threshold to the bathroom, Detectives discovered blood on the floor of both sides of the
10 door as well as on the lower portions of the exterior of the bathroom door and the west door
11 frame and west wall of the hall. The bathroom itself was otherwise unremarkable. In the
12 bedroom, Detectives observed a toddler bed against the northwest corner and a twin bed at the
13 northeast corner. A blue multi-colored comforter was bunched up on the floor at the southwest
14 corner of the twin bed. Detectives observed blood on the floor at the south end of the bedroom,
15 on the east closet door, on the west portion of the vertical blinds of the window in the north
16 wall, on the sheet and pillow on the twin bed, the west side of the bed, the blue comforter, and
17 on the floor between the two beds.

18 Eight cartridge cases, seven bearing the "R-P 9mm LUGER" headstamps and one
19 bearing a "PMC 9MM LUGER" headstamp, were recovered from the floor of the bedroom.
20 Five were visible upon entering the room, and the other three were found when Detectives
21 moved items in the room.

22 There were multiple bullet holes through the bunched up comforter on the floor at the
23 southwest corner of the twin bed. There were two bullet holes in the mattress and box springs
24 of the bed. Detectives later recovered bullet fragments once the trajectories were traced. A
25 bullet also perforated the west closet door and penetrated into the south wall of the closet.
26 Detectives recovered bullet fragments from the floor of the interior of the wall. A bullet
27 perforated the west bed rail of the pink child's bed where Kayla Higgins had been sleeping
28 before perforating the west wall of the bedroom. That bullet was later recovered from the

1 neighboring apartment under the carpet of the northeast portion of the bedroom of Apartment
2 E-12.

3 The weapon used in the commission of the murder of Nichole Nick and the attempted
4 murders of Esther Maestas and Kayla Higgins was located by a man out walking his dog the
5 following morning. Gerald Juneman reported that he had found a handgun in the gutter of
6 Jimmy Durante Boulevard. He picked the gun up in a plastic shopping bag and took it home.
7 LVMPD Officers subsequently responded to the home to retrieve the weapon. Homicide
8 Detectives responded to Juneman's residence as well and ultimately recovered a Smith &
9 Wesson model 439, 9 mm semi-automatic, bearing serial #TBK5560 from the patrol officers.
10 It appeared as if the gun had been thrown from a moving vehicle as half of the right side wood
11 grip was missing, the magazine was jammed in the magazine well with the magazine floor
12 plate missing, and there was grass and leaf debris on the right side. The hammer of the gun
13 was down, the chamber and the magazine were empty, and the safety was engaged.

14 When Detectives responded to the location where the weapon had been found, they
15 located the missing portion of the wood grip, the magazine floor plate, and the spring. These
16 items were found spread in a line in the west gutter of Jimmy Durante Boulevard indicating
17 that the gun was thrown out of a moving vehicle traveling south on Jimmy Durante. The
18 location was south of both the crime scene and Brown's apartment.

19 All eight 9MM cartridge cases recovered from the crime scene were later determined
20 by LVMPD Forensic Scientist James Krylo to have been fired by the Smith & Wesson. The
21 three bullets recovered from the scene as well as a single bullet recovered at a later date from
22 the apartment by Esther Maestas were all marked with rifling characteristics similar to those
23 made by the Smith & Wesson pistol. However, these bullets could not be conclusively tied to
24 the pistol.

25 Esther Maestas was later interviewed at Sunrise Hospital on December 10, 2012.
26 Esther indicated that after Nichole and Kayla had gone to bed, Esther heard someone attempt
27 to force the apartment door open. The next thing Esther knew, the window next to the door
28 was broken out and the Defendant was coming inside the apartment. The Defendant was

1 carrying a gun in his right hand and something else in his left. Nichole came out of the
2 bedroom and yelled for Esther to call 911. The Defendant shot Esther then went into the
3 bedroom. Esther heard gunshots and followed the Defendant into the bedroom. Esther heard
4 Kayla start crying and saw the Defendant turn the gun towards Kayla, who was lying in the
5 toddler bed. Esther and Nichole both yelled at the Defendant not to shoot the baby.
6 Nonetheless, a bullet hole was found in the toddler bed. The Defendant then turned the gun
7 and shot Esther before shooting Nichole repeatedly. Esther later remembered that the
8 Defendant shot her a few more times when Esther was back in the living room.

9 A warrant was subsequently obtained for the Defendant's arrest. He was located in
10 California in January of 2014 and later extradited to Nevada. The Defendant was arraigned in
11 justice court on April 15, 2014. The case has languished in the judicial system for over 8 years
12 due to the Defendant's maneuvering to have counsel appointed, replaced, represent himself,
13 elect to have counsel, then represent himself. The Court issued a minute order on July 21, 2022
14 recapping this history:

15 "On Tuesday, July 19, 2022, the instant case came before the Court for Calendar Call. At that
16 time, Defendant indicated that he no longer wished to represent himself at trial. Though this
17 matter had been on Calendar multiple times for Status Check: Trial Readiness, the Defendant
18 had never once intimated his desire for counsel. Due to these representations, the July 25,
19 2022, jury trial was vacated and a Status Check was set for July 28, 2022 to confirm new
20 counsel. Due to the length and history of the case, the following record is necessary: On July
21 21, 2014, Defendant was arraigned, pled not guilty, and invoked his right to a speedy trial. At
22 that time, Defendant was represented by attorney Joshua Tomsheck. On August 21, 2014,
23 shortly after the State noticed their intent to seek the death penalty, attorney Drew Christiansen
24 was appointed to assist Mr. Tomsheck at trial. On September 9, 2014, Defendant waived his
25 speedy trial rights and stated that he had a motion to dismiss Mr. Tomsheck. Mr. Tomsheck
26 remained as counsel until April 9, 2015 when Judge Togliatti granted Defendant's motion to
27 withdraw. On May 14, 2015, attorney Amanda Gregory appeared as counsel of record for
28 Defendant. On April 16, 2016, attorney Andrea Luem also confirmed as counsel. On July 21,

1 2016, Ms. Gregory advised the Court that Defendant was refusing to meet with counsel. Judge
2 Togliatti required Defendant to meet with his counsel. On August 2, 2016, Defendant
3 represented for the first time that he wished to represent himself. The Court informed
4 Defendant that a Faretta Canvas would be needed and informed him that standby counsel was
5 not going to file and argue motions for him. Defendant stated he would be prepared for the
6 August 29, 2016 trial date. On August 5, 2016, the Court ordered Defendant be sent to
7 Competency Court and his counsel would remain in the interim. The Court determined
8 Defendant competent on September 6, 2016. On September 15, 2016, Judge Togliatti
9 dismissed Ms. Gregory and Ms. Luem and allowed Defendant to represent himself. Ms.
10 Gregory was appointed as standby counsel. On June 9, 2017, Defendant advised the Court that
11 he is requesting the appointment of new counsel. The Court granted Defendant's request and
12 attorneys Ivette Maningo and Patricia Palm were appointed on June 15, 2017. On February
13 27, 2019, Ms. Maningo represented that she received a motion from Defendant for her to
14 withdraw. Attorney Abel Yanez appeared for Defendant as well due to Ms. Palm leaving her
15 position. Judge Villani instructed counsel to resolve any issues with Defendant. On March 13,
16 2019, Judge Villani denied Defendant's Motion to Withdraw counsel, finding that Defendant
17 was wanting his counsel to do things that were not appropriate at this stage of the proceedings.
18 On August 14, 2020, Defendant filed another Motion to Dismiss Counsel, however, stated that
19 he did not want to represent himself. Judge Villani denied Defendant's Motion finding no basis
20 to remove counsel. On June 25, 2021, Judge Silva, finding no basis to appoint new counsel,
21 denied Defendant's Motion to Proceed In Pro Persona & Appoint New Stand-By Counsel. On
22 August 20, 2021, the Court conducted a second Faretta Canvas due to counsel's representations
23 that Defendant wished to represent himself. The Court allowed Defendant to represent himself
24 and appointed attorney Clark Patrick as stand-by counsel. On February 1, 2022, the Court
25 denied Defendant's Motion to Dismiss Stand By Counsel and Appoint Qualified Standby
26 Counsel of Foreign Law. On April 1, 2022, Mr. Patrick advised that he was having difficulty
27 communicating with Defendant. Defendant was refusing to be transported to Court, and thus,
28 the Court ordered Defendant to be transported by any means necessary. Between April 1, 2022

1 and July 19, 2022, the Court informed Defendant that he needed to be prepared for his trial
2 date on July 20, 2022. On July 19, 2022, Defendant informed the Court that he was not
3 comfortable representing himself at trial and wished to have new counsel appointed.
4 Defendant was told that this would be the last time he would have the opportunity to represent
5 himself. The Court expressed its frustration with the fact that this entire legal process has been
6 thwarted repeatedly by Defendant going back and forth between attorneys, stand by counsel,
7 and self representation. The Defendant was told that he needed to think long and hard
8 regarding whether or not he wanted to represent himself or have counsel appointed, because
9 whatever Defendant s choice would be, it would remain in effect. Defendant stated he
10 understood and chose to move forward with counsel. In total, Defendant has been appointed
11 seven attorneys. He has decided to represent himself on two separate occasions, ultimately
12 backing out of those decisions. As of the date of this minute order, Defendant has resided in
13 the Clark County Detention Center awaiting trial for exactly six (6) years. Thus, the Court has
14 determined that any further continuances without good cause shall be denied and that
15 Defendant s newly appointed counsel shall be his trial counsel, without exception.”

16 It should be noted that part of this delay can also be attributed to the shuffling of District
17 Court departments over the years. This case originated in Judge Bixler’s department, then went
18 to Judge Togliatti, then Judge Villani, and now Judge Bluth – with several other District Court
19 Judges hearing important dates over the course of this case’s history.

20 **ARGUMENT**

21 **I. A DEPOSITION OF SEVERAL KEY WITNESSES SHOULD TAKE** 22 **PLACE FORTHWITH**

23 The parties were informed that the trial setting of April 2022 was a firm setting. The
24 Defendant has his trial continued because of phantom discovery issues. The parties were
25 informed that the July 2022 was a firm setting. The Defendant then re-requested counsel, and
26 Clark Patrick, his standby counsel has stepped in now as his trial counsel, along with Randy
27 Pike. The State contemplated a deposition after the April date, but July was only 90 days after
28 April. Now, Clark Patrick has said it will take him a year-and-a-half to become ready to try

1 this case. This is simply an unreasonable delay, which is compounded by the copious
2 unreasonable delays that have transpired thus far. Additionally, several key witnesses have
3 health issues which, if this trial is in fact set for 1 ½ years from now, may not survive to testify.
4 It is a completed warranted and reasonable request to depose these witnesses now, in court, to
5 preserve their testimony should they later become unavailable.

6 7 **Depositions**

8 **NRS 174.175 When taken.**

9 1. If it appears that a prospective witness is an older person or a
10 vulnerable person or may be unable to attend or prevented from
11 attending a trial or hearing, that the witness's testimony is material
12 and that it is necessary to take the witness's deposition in order to
13 prevent a failure of justice, the court at any time after the filing of an
14 indictment, information or complaint may, upon motion of a
15 defendant or of the State and notice to the parties, order that the
16 witness's testimony be taken by deposition and that any designated
17 books, papers, documents or tangible objects, not privileged, be
18 produced at the same time and place. If the motion is for the
19 deposition of an older person or a vulnerable person, the court may
20 enter an order to take the deposition only upon good cause shown to
21 the court. If the deposition is taken upon motion of the State, the court
22 shall order that it be taken under such conditions as will afford to
23 each defendant the opportunity to confront the witnesses against him
24 or her.

25 2. If a witness is committed for failure to give bail to appear to
26 testify at a trial or hearing, the court, on written motion of the witness
27 and upon notice to the parties, may direct that the witness's
28 deposition be taken. After the deposition has been subscribed, the
court may discharge the witness.

3. This section does not apply to the prosecutor, or to an
accomplice in the commission of the offense charged.

4. As used in this section:

(a) "Older person" means a person who is 70 years of age or
older.

(b) "Vulnerable person" has the meaning ascribed to it in
subsection 7 of NRS 200.5092.

(Added to NRS by 1967, 1418; A 2009, 2552)

Any concerns about the use of this deposition should be put to rest by the following
statute:

1 **NRS 174.215 Use of deposition.**

2 1. At the trial or upon any hearing, a part or all of a deposition,
3 so far as otherwise admissible under the rules of evidence, may be
4 used if it appears:

5 (a) That the witness is dead;

6 (b) That the witness is out of the State of Nevada, unless it
7 appears that the absence of the witness was procured by the party
8 offering the deposition;

9 (c) That the witness cannot attend or testify because of sickness
10 or infirmity;

11 (d) That the witness has become of unsound mind; or

12 (e) That the party offering the deposition could not procure the
13 attendance of the witness by subpoena.

14 2. Any deposition may also be used by any party to contradict or
15 impeach the testimony of the deponent as a witness.

16 3. If only a part of a deposition is offered in evidence by a party,
17 an adverse party may require the party to offer all of it which is
18 relevant to the part offered and any party may offer other parts.

19 (Added to NRS by 1967, 1418; A 1989, 588) Emphasis added.

20 The State would only seek to use the deposed testimony if the witness is unavailable for any
21 of the reasons described by NRS 174.215.

22 Logistically, the State proposes that the deposition be taken in the courtroom with the
23 use of JAVS equipment and court reporter / recorder. Since it is of no additional expense,
24 videotaping of the deposition is preferable. A transcript of the deposition would also need to
25 be prepared for the possibility that the witness's testimony is needed, or should the Defendant
26 feel the need to impeach the witness when he does testify. The Defense counsel would be
27 present and have the opportunity to cross-examine witness. Should any objections be made
28 during the deposition, they would be addressed and testimony potentially redacted before trial.

 The State's request for deposition is being made in advance of any advisement of what
the next trial date will be, but if history serves as a guide the Defendant will make up any
excuse he possibly can to avoid the justice which has been earmarked for him.

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1 II. THE FOLLOWING WITNESSES SHOULD BE DEPOSED AS SOON AS
2 POSSIBLE

3 **A. Esther Maestas**

4
5 Esther Maestas is one of the surviving victims, having witnessed the defendant brutally
6 attack and murder her daughter as well as shoot at her granddaughter, a toddler. She was shot
7 multiple times by the defendant, but thankfully survived.

8 She is 67 years old and has been in and out of the hospital due to liver damage, lupus,
9 renal failure, and stomach issues. She was last in the hospital in May of 2022 for these issues.
10 She would be considered a vulnerable person under NRS 174.175 and borderline older person.

11 **B. John Brocius**

12 John Brocius is the security guard who was first on scene and encountered the victims.
13 He is best able to describe how everything and everyone closest to the time of the shooting.
14 John is suffering from kidney failure and is on a transplant list. He would qualify as a
15 vulnerable person under NRS 174.175

16 **C. Gerald Juneman**

17 Gerald is the man who was walking his dog the next morning and found the murder
18 weapon in the gutter of the street. He is an 85 year old man. He is considered an older person
19 under NRS 174.175.

20 CONCLUSION

21 Based on the foregoing, the State respectfully requests that this Honorable Court to
22 GRANT the State's Motion for Deposition.

23 DATED this 2nd day of September, 2022.

24 STEVEN B. WOLFSON
25 Clark County District Attorney
Nevada Bar #001565

26
27 BY /s/ Jay P. Raman
JAY P. RAMAN
28 Chief Deputy District Attorney
Nevada Bar #010193

1 CERTIFICATE OF ELECTRONIC TRANSMISSION

2 I hereby certify that service of the above and foregoing was made this 2nd day of
3 September, 2022, by electronic transmission to:

4 CLARK W. PATRICK
5 cwpatricklaw@gmail.com

6 BY /s/ E. Del Padre
7 E. DEL PADRE
8 Secretary for the District Attorney's Office

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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
9/6/2022 8:15 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Robert Brown, Jr.

Case No.: C-14-299234-1
Department 6

NOTICE OF HEARING

Please be advised that the State's Notice of Motion and Motion for Deposition in the above-entitled matter is set for hearing as follows:

Date: September 20, 2022
Time: 9:30 AM
Location: RJC Courtroom 10C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer
Deputy Clerk of the Court



ACKN

Attorney CLARK W. PATRICK, ESQ.

Bar # 9451

Address 400. S. 4th St., Ste. 500

Las Vegas, NV 89101

Telephone (702) 278-0599

Fax _____

Email cwpatricklaw@gmail.com

Attorneys for Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

ROBERT BROWN, JR.,

Defendant.

CASE NO. C-14-299234-1

DEPT NO. VI

SETTLEMENT CONFERENCE ACKNOWLEDGMENT

Defendant Robert Brown, Jr., following discussion with his (or her) counsel
Clark W. Patrick, Esq., agrees to participate in the settlement conference program, which is
described in the attached Exhibit. Defendant understands that program is voluntary, that he (or
she) may

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decline to participate, and that he (or she) may stop participating while the settlement conference is underway.

Dated this 12 day of September, 2019.



Defendant



Defendant's Counsel

EXHIBIT
SUPREME COURT RULE 252

Rule 252(2).

Settlement conferences in criminal cases. The purpose of a settlement conference is to facilitate good faith discussions to resolve any criminal case before the district court in a manner that serves the interest of justice.

(a) In any criminal case before the district court, either party may request a settlement conference, or the trial judge may, on its own, recommend that counsel with settlement authority participate in a settlement conference. A case will not be referred to a settlement conference if any party objects. The defendant must consent on the record or in writing before a case is referred to a settlement conference. In all cases, the settlement conference must not be before the trial judge. If settlement discussions do not result in an agreement, the case must be returned to the trial judge.

(b) Beyond all else, participation in a settlement conference is voluntary by the parties, and no party has any right to an offer, or may raise any claim from any fact or circumstance that occurs during the settlement conference, including but not limited to the bad faith of the parties in participating in the conference. Decision-making authority remains with the parties and not the settlement judge. The trial judge, the settlement judge, or any party may unilaterally terminate the settlement conference at any time.

(c) Settlement conferences must, in all respects, be confidential and not reported or recorded.

(d) Communications between the settlement judge and the trial judge. The settlement judge and the trial judge must have no contact or

communication, except that the settlement judge may, without comment or observation, report to the trial judge that:

- (1) The parties cannot reach an agreement;
- (2) The parties have reached an agreement, and the agreement reached may be reduced to writing, signed by the prosecuting attorney, the defendant, and defense counsel and submitted to the court for approval;
- (3) Meaningful attempt to settle is ongoing; or
- (4) The settlement Judge withdraws from further participation in potential settlements.

(e) Should the settlement conference result in a settlement agreement, the terms of the agreement must be reduced to a guilty plea agreement in accordance with NRS 174.063 and signed by the defendant, defense counsel (if any), and the prosecutor. The parties must file the guilty plea agreement with the trial judge. Any party may withdraw from an agreement before the trial judge accepts the plea.

(f) If the parties reach a guilty plea agreement that involves any stipulations, the trial judge agrees that such a settlement shall be conditioned on the trial judge's acceptance of and agreement to follow the stipulations. If the trial judge is unwilling to abide by the stipulations, then either side may withdraw from the guilty plea agreement.