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**IN THE SOVEREIGN LAND OF SEARCY COUNTY, ARKANSAS THE STATE,
THE UNITED STATES OF AMERICA, THE REPUBLIC, NON-FEDERAL AND NON-
CORPORATE AND NON-COMMERCIAL; AND UNDER ONLY THE "AMERICAN
FREE FLAG OF PEACE" AND NOT THE MARITIME-ADMIRALTY FLAG OR
JURISDICTION**

Styled as:



**IN THE CIRCUIT COURT OF SEARCY COUNTY, ARKANSAS
FIRST DIVISION**

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. CR 98-9

Jerry F. Kirk

CITIZEN

MOTION TO CHALLENGE JURISDICTION

Under threat, duress, coercion, of injury, loss of life, threat of and in fact a loss of right to pursue happiness and being forced to damage or break the 'LAW OF YAWH,' comes Jerry F. Kirk, a.k.a. Jerry Francis Kirk, not and non 'pro-se,' being a 'free-born' native, Florida, the State, Republic-citizen-white-adult-male,' and thus a 'Citizen-of-the-United States-of-America-the-Republic' with inhabitation and not 'residence' in Searcy County, Sovereign, Arkansas-the-State-Republic' and with the non-comparable, non-adequate, un-even 'playing field,' in violation of my 'United States of America-The Republic Constitutional Right(s)' the assistance of counsel, Stephen D. Ralph¹

1. Citizen is charged in the "Circuit Court" of the State of Arkansas;
2. At previous hearing, Citizen demanded to know, and was informed by the Court that the charges bringing Citizen before the Court were "criminal" and under color of Arkansas Criminal Code;

¹ See UCC 1-207: "A party who with specific reservation of rights performs or promises performance or assents to a performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as 'without prejudice,' 'under protest,' or the likes are sufficient."

3. This Court is charged with actual and constructive knowledge of the true nature of jurisdiction in this cause of action; Cohen v. Virginia, 6 Wheat 264, 5 L.Ed. 257 (1821); U.S. v. Hill, 449U.S. 200, 66 L.Ed.2d 392; Citizen is not a “person” within the jurisdiction of this Court: Scott v. Sanford, 19 How. 404; Ex Parte Frank Knowles, 5 Cal. Rep. 300 (1855); American Banana Co. v. U.S. Fruit Co., 213 U.S. 347 (1909); U.S. v. Spear, 338 U.S. 217 (1949); N.Y. Central R.R. Co. v. Chisolm, 268 U.S. 29 (1925); Citizen is not subject to “federal zone” statutes or laws, having renounced any bond with “federal zone” authority under the “Buck Act,” and “Public Salary Tax Act of 1939. 4 U.S.C. §110(d), 4. U.S.C. §110(e); see also, Twining v. State of New Jersey, 211 U.S. 78 (1908)..

4. This Court has failed to state a proper cause of action against Citizen, and has thus deprived Citizen of his right to know the nature of the offenses charged, so that he may properly assert his rights under common law, Federal and State Constitution. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Wilkerson v. Wyrick, 806 F.2d 161, (8th Cir. 1986); Johnson v. State, 249 Ark. 208, 458 S.W.2d 409 (1970).

5. The indictment fails to state in writing the nature of the offenses and the causes of action under which Citizen is charged; Citizen was driving a “conveyance” and not a motor vehicle, and therefore is not subject to the statutory offenses alleged.²

6. The indictment fails to charge Citizen with any offense against the United States or of the State of Arkansas; Van Valkenberg v. Brown; further, an indictment cannot be made by way of Citizen asserting his rights under the Consitution; see Davis v. Weschler, 263 U.S. 143 (1923); Miller v. United States, 230 F.2d 486 (5th Cir. 1956).

7. The indictment is fatally defective in that it was transferred from Municipal Court without a proper bill informing Citizen of the nature of the offenses charged or the cause of action; secondly, that the stop giving rise to the “charges” was without warrant, by an officer of the City of Marshall, and outside the limits of the City of Marshall; the rules of the Inferior Court and of Civil and

²See 18 U.S.C. §31: “Motor Vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, or passengers or property;

“Used for commerical purposes” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly with any business, or other undertaking intended for profit.

Criminal Procedure of the State of Arkansas fail to properly preserve the rights of Citizens in that transfer of jurisdiction has been attempted without first providing Citizen an opportunity to plead with knowledge of the Court's assertion of its jurisdiction or to challenge the same;

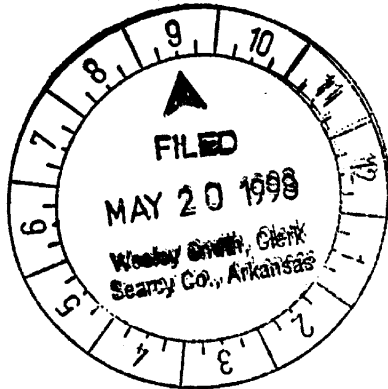
8. The "universal citation form" is defective on its face as presented to Citizen, and thus violated his rights under common law, Federal law, the Constitution of the United States and the Constitution of the State of Arkansas. Ark. Const. Art. 2, Section 8;

9. Citizen has not assented to the jurisdiction of this Court and has at all previous hearings, declined to enter a plea until the true nature of the cause of action is presented; Citizen has therefore not at any previous hearing or by any previous pleading waived jurisdiction in this cause of action;

10. When jurisdiction is challenged, it must be proven; the burden is upon the State to prove jurisdiction. Hagans v. Lavine, 415 U.S. 528 ().

WHEREFORE, Citizen requires that this Court dismiss the indictment, charges and all other offenses brought, and for all other relief granted under common law, Federal Law, Constitution of the United States and the Constitution of the State of Arkansas.

** Note: This motion was 'clocked' (turned-in first*



5/20/98
Jerry F. Kirk, T.D.C.
under protest
Jerry F. Kirk, Sui Juris
Calf Creek Township
Section 19, Township 14N, Range 17W
Searcy County, Arkansas
Non-Resident, Non-Domestic Delivery
c/o HC 75, Box 267
Witts Springs, Arkansas Republic
United States of America

Stephen D. Ralph #91138
Assistance of Counsel
835 Faulkner
Conway, AR 72032
501 327-7404

Certificate of Service

Stephen D. Ralph, Assistance of Counsel, hereby certifies that a true and correct copy of the foregoing pleading has been deposited with the Office of the Prosecutor, Doug Daniel, Prosecutor, Searcy County Courthouse, Marshall, AR on this 20th day of May, 1998.

Stephen D. Ralph