

IN THE SUPREME COURT OF OHIO

Michael Anthony Galluzzo,
Appellant, *in propria persona*,

v.

VILLAGE OF ST. PARIS,
Appellee.

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CASE No. 20-0372

On Appeal from the Champaign
County Court of Appeals,
Second Appellant District

Court of Appeals
Case No. 2019-CA-19

MEMORANDUM IN SUPPORT OF JURISDICTION OF
APPELLANT MICHAEL ANTHONY GALLUZZO

Michael Anthony Galluzzo
P.O. Box 710
St. Paris, Ohio [43072]
937-663-4505

APPELLANT, *in propria persona*

Roger A. Steffan, Esq.
Assistant Prosecutor
205 South Main Street
Urbana, Ohio 43078
937-652-4397 – Telephone
937-652-4355 – Fax
roger.steffan@ci.urbana.oh.us

ATTORNEY for APPELLEE

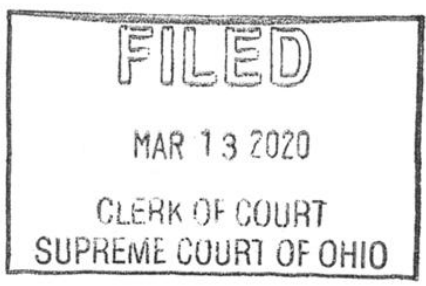


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January 31, 2020

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Doc #: 9 Filed: 08/14/17

**EXAMINATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL
INTEREST AND INVOLVES SUBSTANTIAL
CONSTITUTIONAL QUESTIONS**

Americans have always looked to the Organic Written Laws of the 50 states united¹; in particular to the Organic Constitution for the United States of America for protection of their fundamental rights; e.g., life, liberty, property, and the pursuit of happiness; against the power of numbers as against the violence of public agents transcending the limits of lawful authority. In recent years, many have lost faith in the government and the judiciary to protect those very rights so endeared by our founding fathers, i.e., due process, free speech, freedom of religion, the right to bear arms, eminent domain, parental rights, etc.

This case addresses several critical issues related to the fundamental liberties of “free inhabitants” and the protections therein provided by the Organic Constitution for the united States of America, federal law and other Acts of Congress, against the routine deprivations of due process under the color of law by a corporate administrative ‘court’.

The decisions of the lower ‘courts’ in this case threaten the fundamental rights of ALL free People of the Republic to have matters heard in a proper jurisdiction under Law (the Common Law) (See the Northwest Ordinance of 1787, sec. 14, Art. 2) and to have any ‘*implied*’ jurisdiction properly defined by the ‘court’ in question when presented with a request to identify the jurisdiction and law form thereby being invoked by the

¹ Declaration of Independence, July 4, 1776; Articles of Confederation, Nov. 15, 1777; The Constitution for the united States of America, Sept. 17, 1787; The Act of Congress of July 13, 1787, also known as the Northwest Ordinance.

plaintiff. Properly, the Appeals Court should have remanded and dismissed this matter on numerous counts.

Decisions abhorrent to federal law and the Constitution create a slippery slope of deterioration of all protected liberties, *if we have any remaining*². Prosecutions and loss of liberties based on invalid decisions and/or repugnant statutes cannot be tolerated, let alone charges brought using invalid ordinances, if a judiciary expects to maintain its integrity and the faith of the People it 'serves.' When lower courts disregard higher court precedents and acquiesce in favor of their own expediencies and biases in order to mold a decision to fit a particular outcome, usually guilty, thus they step outside of their jurisdiction and the Constitutional restraints on government and are prohibiting the operation of Law and commit acts of treason against the Constitution and the People of the Republic. Such actions should raise serious questions as to the true motives of the alleged 'court.'

Where the arresting officer, the prosecutor, and the magistrates are all "agents" of the same corporate entity, the likelihood of a fair and impartial adjudication of the issues was unlikely from the beginning.

This petition derives from an unlawful traffic citation in violation of the Fourth Amendment liberties of the Appellant where no traffic infraction occurred. The

² Privileges and immunities clause of Fourteenth Amendment protects only those rights peculiar to being [a] citizen of [the] federal government; it does not protect those rights which relate to state citizenship. *Jones v. Temmer*, Federal Supplement, Vol. 829, Page 1227 (1993)

We have cited these cases for the purpose of showing that the privileges and immunities of citizens of the United States do not necessarily include all the rights protected by the first eight amendments to the Federal Constitution against the powers of the Federal government. They were decided subsequently to the adoption of the Fourteenth Amendment... *Maxwell v. Dow*, 176 U.S. 598 (1900)(Emphasis added)

underlying principles of due process and justice and the adherence to well settled principles of Law have been grossly abused, disregarded and manipulated to achieve the preconceived notions of the corporate administrative 'court'. Where the officer witnessed no "alleged infraction" and had no probable cause to detain the Appellant, and where the Appellant posed no harm to any individual or damage to any property while the "alleged" defendant was exercising his Constitutional liberty to travel in a safe and prudent manner as a state national, there was no imminent danger to the public or probable cause to initiate the stop. No "Law" had been violated by the Appellant.

The Appellant challenged the jurisdiction of the court and filed briefs related to issues and procedures, however, the trial was commenced over objections and jurisdictional issues were never addressed. Proper jurisdiction was NEVER established by the Appellee or the trial court. Where a court speaks through its record, at least two (2) written challenges to jurisdiction are filed in the record and both were dismissed without being answered by opposing counsel. No declaration of jurisdiction was ever presented for the Appellant to answer.

"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading." *UNITED STATES v. TWEEL*, 550 F.2d 297 (1977) citing *UNITED STATES v. PRUDDEN*, 425 F.2d 1021 (1970).

Appellant did not appear voluntarily before the local tribunal but only under threat, duress, coercion, and intimidation. There had been nothing placed on the record to establish jurisdiction in the matter when the Appellant filed a plea to the jurisdiction of the tribunal by demurrer. Rules cannot abrogate the law.

Appellant did not voluntarily enter any plea, such as guilty or not guilty, and did not authorize any other entity to enter a plea on his behalf. Appellant, appearing *in propria personam*, did not knowingly and willingly consent or assent his flesh and blood body, Michael Anthony Galluzzo, or the corporate entity, MICHAEL A GALLUZZO, to any jurisdiction of the local tribunal.

The Appellant's second filing, NOTICE OF JURISDICTIONAL DEFECT; stated in much detail the court's requirements to establish jurisdiction on the record and the lack of jurisdiction over a sovereign³ traveler without a license. The plaintiff provided no evidence of jurisdiction; subject matter, venue, or personam; over the flesh and blood man. No jurisdictional declaration was filed by the plaintiff to establish jurisdiction and standing.

In a plethora of federal court cases, jurisdiction must be placed on the record when challenged, *not presumed*, before the court may proceed. ". . . if his allegations of jurisdictional facts are challenged by his adversary in any appropriate manner, he must support them by competent proof, . . . or the case be dismissed." And ". . . when they are questioned, as in this case, the burden is on the plaintiff to prove jurisdiction." *McNUTT v. GENERAL MOTORS ACCP. CORP.*, 298 U.S.178 (1936). Appellant rightfully claims that the court did not have personam jurisdiction over him as a sovereign or of subject matter.

³ "At the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects, and have none to govern but themselves: the citizens of America are equal as fellow citizens, and as joint tenants in the sovereignty." *Chisholm v. Georgia*, 2 U.S. (2 Dall 419) 419, 454; 1 L.Ed. 440, 445 (1793).

Furthermore, the charging ordinances cited by the officer were not and are not valid ordinances for the Village of St. Paris. As a result of the alleged traffic stop, Appellant was falsely charged under two (2) alleged St. Paris ordinances; i.e., 71.28 and 71.29. (See Bill of Particulars filed May 29, 2019) The charges were driving without a license and driving under suspension and forfeiture.

Appellant submitted a copy of the current and approved St. Paris Ordinance, "Ordinance No. 861" (Appendix 2) which was promptly rejected.

St. Paris Ordinance No. 861 adopts the American Legal Publisher's Ohio Basic Code, 2006 Edition as the current edition approved by the St. Paris Village Council with no mention of later revisions or amendments. The charging ordinances in the Bill of Particulars do not match the approved ordinances in Attachment 2. When the Appellant attempted to submit a copy of St. Paris Ordinance No. 861 into evidence, the prosecution objected and the court quickly denied the exculpatory evidence and error by the officer and the prosecutor. The prosecutor stated that they were using the latest revision of the code.

I believe the prosecutor committed misconduct when he realized the error and did not move for dismissal of the charges. It was shortly after I was ordered to jail that the full extent of the error was realized.

Appellant asserts that he was not charged under any actual ordinance approved by the St. Paris Village Council and the prosecutor failed in his duty to provide honest serves and perpetrated a fraud upon the court.

The Appellant was surprised at trial with the officer's body cam video and other discovery. It was quickly learned that the prosecution had failed to provide the

Appellant, in propria personam, any discovery prior to the trial and has not provided any since the trial.

Appellant moved to suppress the video and other evidence but was overruled by the court. Appellant requested a continuance to review the hour and a half video and other documents but only viewed the first few minutes of the video believing the court was going to proceed as a matter of course.

Even an inadvertent error to disclose is a violation of due process under the Fourteenth Amendment. "The Third Circuit in the Baldi Case construed that statement in *Pyle v. Kansas* to mean that the "suppression of evidence favorable" to the accused was itself sufficient to amount to a denial of due process." *BRADY v. MARYLAND*, 373 U.S. 83 (1963). See also: *UNITED STATES ex rel ALMEIDA v. BALDI*, (Pa) 195 F.2d 815 and *UNITED STATES ex rel THOMPSON v. DYE*, (Pa) 221 F.2d 763. "State courts, equally with Federal courts, are under an obligation to guard and enforce every right secured by the Federal Constitution." *MOONEY v. HOLOHAN*, 294 U.S. 103.

An opportunity to view the video and other documents during a recess once the trial has begun does not fall within the meaning of due process and does not provide ample time to review and research and respond to any questionable documents.

The charges were brought against MICHAEL A GALLUZZO (all caps) the corporate instrument (See charging and case documents) but the Michael Anthony Galluzzo (Upper/Lower case), the Appellant, was prosecuted as the assumed *ens legis fictio*.

Appellant attempted to enter evidence so stating the separation of the entities but was again overruled by the court, rejecting the evidence claiming there was no way to

verify the document. (Appendix 3) The judge failed to state any findings of fact or conclusions of law to support his findings.

MICHAEL A GALLUZZO is a government created entity to interact with the corporate state. Michael Anthony Galluzzo is the flesh and blood Sovereign man of the land, one of the free and natural people of Ohio. The Appellant's claim of sovereignty has never been challenged or rebutted. MICHAEL A GALLUZZO is the corporate instrument created for the flesh and blood man, Michael Anthony Galluzzo.

The rights of the sovereign in common law and protected by the authority of the Constitution are superior to the state statutes and the latter must give way where in conflict. Michael Anthony Galluzzo is not a corporate state person and retains his rights under the common law and the Constitution. Any state statute or municipal ordinance contrary to the Constitution is without effect. Where there has been no breach of the peace, there can be no claim against the man.

"There is an old and well known rule that statutes which in general terms divest preexisting rights and privileges will not be applied to the sovereign." UNITED STATES v. UNITED MINE WORKERS, 330 U.S. 258 (1947). "Since, in common usage, the term 'person' does not include the sovereign, statutes employing the phrase are ordinarily construed to exclude it." UNITED STATES v. COOPER, 312 U.S. 600 (1941); UNITED STATES v. FOX, 94 U.S. 315 (1876).

As the Supreme Court found in *Bond v. United States*, there are no victimless crimes. Yet, our jails are full of people who have not injured anyone or damaged any property. I think the situation was best stated by George Carlin (1937-2008):

"In 1942, there were 110,000 Japanese American citizens in good standing, law-abiding people who were thrown into internment camps simply because their parents

were born in the wrong country. That's all they did wrong. They had no right to a lawyer, no right to a fair trial, no right to a jury of their peers no right to due process of any kind. The only right they had: "Right this way" into the internment camps! Just when these American citizens needed their rights the most, their government took them away! And rights aren't rights if someone can take them away. They're privileges. That's all we've ever had in this country, is a bill of temporary privileges. And if you read the news even badly, you know that every year the list gets shorter and shorter."

George Carlin, *It's Bad for Ya* – HBO (2008), "You Have No Rights".

Have we regressed, once again, to this state of mind; that Rights of the Citizen are of no concern if the 'corporate governance' deems them to be inconvenient?

In brief, this court should take up this case and address the violations of procedures and due process where the proper operations of these administrative tribunals are of great public interest and importance to the general public's safety and welfare. The right of the individual to feel secure in ones person and/or property, including ones home and/or private conveyance, is a fundamental liberty which cannot be subverted by local rule, not even by public servants acting under color of law wielding the alleged power of government.

It should also be noted that the Appellant has raised a Constitutional challenge to certain statutes and how they are improperly applied to the private natural person in violation of the liberties protected under the Constitution.

If accepted, Appellant would prepare a separate memorandum on that issue alone.

STATEMENT OF THE CASE AND FACTS

The Appellant was traveling home when he was stopped and detained without probable cause by a St. Paris police officer and cited for allegedly "driving" without a license and under suspension.

The Appellant, being wrongfully cited, was threatened with physical harm and destruction of personal property if he did not exit the safety of his vehicle. Appellant exited under protest, and his vehicle was seized without cause or authority.

The accused was summoned into court on June 6, 2019. An alleged trial was held. The prosecution had failed to provide the accused with "Discovery" and such has not yet been presented to the appellant by the prosecution. The court proceeded over objections.

The Appellant filed two (2) challenges to the jurisdiction with no answer from the prosecution and appeared in court under threat, duress, and intimidation.

Appellant challenged the charging ordinances as invalid and the assumption of proper parties. The court then denied exculpatory evidence to be submitted into the record over further objections of the Appellant on both issues. (See Appendix)

The judge demonstrated additional bias and prejudice at sentencing when he stated "I believe you are unrehabilitatable!"

Appellant was wrongfully sentenced to 180 days in disregard of violations of due process and other constitutional liberties and was immediately incarcerated.

Appellant filed a Petition for Writ of Habeas Corpus with the U.S. District Court in Dayton, Ohio, still pending, and an additional Habeas to this court that was dismissed without answer. Appellant also filed a Notice of Appeal which is the issue of this petition.

ARGUMENTS IN SUPPORT OF PROPOSITIONS OF LAW

I. Proposition of Law No. 1

As a matter of law, did the trial court and the appeals court commit plain error and violate established due process procedures when they denied the Defendant's Constitutional Demurrer and proceed to trial when jurisdiction and standing were challenged and proof of jurisdiction and standing was not properly placed on the record as required by United States Supreme Court decisions? The Appellant has a right to remedy under the Common Law where a Common Law Demurrer exists as a Constitutional vehicle to challenge jurisdiction, is codified as O.R.C. 2941.62, and for and other attacks on the sufficiency of an accusatory pleadings.

When the Defendant Demurred and challenged the jurisdiction of the court, the court and the Appellee had a duty to address the jurisdictional question raised and place on the record in exactly what jurisdiction they intended to bring the action and define what rules they intended to follow. To establish standing, a plaintiff must demonstrate: (1) injury in fact,(2) causation and (3) redressability. See *Lujan v. Defenders of Wildlife*, 504 US 555 - Supreme Court 1992.

"The requirement of standing, however, has a core component derived directly from the Constitution. **A plaintiff must allege personal injury fairly traceable to defendant's allegedly unlawful conduct and likely to be redressed by the requested relief.**" *Allen v. Wright*, 468 U.S. 737 (1984)(Emphasis added)

Pursuant to *Ohio v. Lafferty*, 5th Cir. for the State of Ohio, March 1817, Tappan Reports
– 1831:

"On the whole, therefore, it may be concluded, that where the written laws wholly silent on the subject, the principles and max-ims of the common law must, of necessity, be the rule and guide of judicial decision, in criminal as well as civil cases : to supply the defects of a necessarily

imperfect legislation : and to prevent “the will of the judge, that law of tyrants,” being substituted in the room of known and settled rules of law in the administration of justice.” *Ohio v. Lafferty*, March 1817, Tappan Rpts. 1831.

The Appellant made clear his intentions in his jurisdictional challenges.

“The individual may stand upon his constitutional rights as a Citizen. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the Law of the Land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. He owes nothing to the public so long as he does not trespass upon their rights.” *Hale v Henkel*, 201 US 243.

"The law requires **proof of jurisdiction** to appear **on the record** of the administrative agency and all administrative proceedings." *Hagans v. Lavine*, 415 U. S. 533. (Emphasis added); See also: *Maine v Thiboutot*, 100 S. Ct. 250. 448 U.S. 1 (1980); *Melo v. United States*, 505 F.2d 1026, 1030 (8th Cir.1974); *Latana v. Hopper*, 102 F. 2d 188; *Chicago v. New York*, 37 F Supp. 150. (Emphasis added)

The Plaintiffs cannot abdicate their responsibility, not follow the law, and presume to have jurisdiction to do as they please.

II. Proposition of Law No. 2

Appellant was stopped and detained on April 27, 2019 by Officer Bailey Clingman while entering the Village of St. Paris, Ohio. Appellant was in control of a private automobile. Officer Clingman, through testimony, stated he witnessed no traffic infraction and claimed he had “prior knowledge” that appellant was “driving” without a license. During testimony, it was established that this “prior knowledge” was hearsay from his chief. According to Merriam-Webster Dictionary: **Knowledge** 1: *understanding gained by actual experience*, 3: *clear perception of truth*. **Hearsay** – defined as **Rumor** 2: *a statement or report current but not authenticated*. Appellant asserts that Officer Clingman had no probable cause under the Fourth Amendment to detain the appellant

and interfere with his fundamental liberty to travel. "Stopping an automobile for no other reason than to check the license and registration was unreasonable under the 4th Amendment." *DELAWARE v. PROUSE*, 440 U.S. 648 (1979); see also: *TERRY v. OHIO*, 392 U.S. 1 (1968). "The right of the citizen to drive on the public street with freedom from police interference, . . . **is a fundamental constitutional right which must be protected by the courts.**" *PEOPLE v. HORTON*, 14 Cal.App. 3d 667 (1971); *In Re White*, 97 Cal.App. 3d 141, 158 Cal. Rptr. 562, 566-567 (1971).

"Highways are for the use of the traveling public and all have . . . the right to use them in a reasonable and proper manner . . . The streets of a city belong to the people of the state, and use thereof is an inalienable right of every citizen . . . The use of highways for purposes of travel and transportation is not a mere privilege, but a common and fundamental right, of which the public and individuals cannot rightfully be deprived . . ." *ESCOBEDO v. STATE*, 35 Cal. 2d 870 in Cal. Jur. 3d p. 27 (1950).

"The right to travel by private conveyance for private purposes upon the common way cannot be infringed. No license or permission is required for travel when such travel is not for the purposes of profit or gain on the open highways operating under license in commerce." *SHAPIRO v. THOMPSON*, 394 U.S. 618.

In *ALMEIDA-SANCHEZ v. U.S.*, 413 U.S. 266 (1973), The Supreme Court held that since *ALMEIDA-SANCHEZ* did not have a "license", he was considered an "unregulated person" and did not fall under the motor vehicle code and was not subject to random stops as are regulated motor carriers.

"[T]his Court, holding that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license . . . , is unconstitutional. It is settled by a long line of recent decisions of this court that an ordinance which makes the peaceful enjoyment of freedom which the Constitution guarantees contingent upon the uncontrolled will of an official – as by requiring a permit or license which may be granted or withheld in the discretion of such official – is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." *STAUB v. BAXLEY*, 355 U.S. 313, 322 "And our decisions have

made clear that a person faced with such an unconstitutional licensing law may ignore it and engage with impunity in the exercise of the right of free expression for which the law purports to require a license." *SHUTTLESWORTH v. BIRMINGHAM*, 394 U.S. 147, 150-151.

"The claim and exercise of a Constitutional right cannot thus be converted into a crime." *MILLER v. UNITED STATES*, 230 F.2d 486, 490 (1956)

"There [can] be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *SHERAR v. CULLEN*, 481 F. 945 (9th Cir. 1973)

The alleged St. Paris ordinances appellant was charged under state that appellant was operating a "motor vehicle" which would indicate the appellant was engaged in commerce. There is no statute that is constitutionally compliant that can require a "license" of a private person to travel and/or drive a private conveyance on the public highway, no matter how the corporate state manipulates statutory language. A sovereign's right to travel is a fundamental liberty all courts are required to protect. When Courts cease to protect ordained Rights, they cease to be Courts of any kind of recourse or remedy the people can rely on or trust and they cease to exist.

III. Proposition of Law No. 3

As a result of the alleged traffic stop, Appellant was falsely charged under two (2) alleged St. Paris ordinances; i.e., 71.28 and 71.29. (See Bill of Particulars filed May 29, 2019) The charges were driving without a license and driving under suspension and forfeiture. Plaintiff failed to place on the record any reliable proof in writing the alleged defendant is under any lawful requirement to obtain the alleged license he did not produce in his capacity as a traveler not engaged in the commercial action of "driving for hire."

Appellant submitted a copy of the current and approved St. Paris Ordinance, "Orinance No. 861" (Appendix 2) which was promptly rejected without stating on the record findings of facts or conclusions of law for basis of rejection.

St. Paris Ordinance No. 861 adopts the American Legal Publisher's Ohio Basic Code, 2006 Edition as the current edition approved by the St. Paris Village Council with no mention of later revisions or amendments. The charging ordinances in the Bill of Particulars do not match the approved ordinances in Appendix 2. When the Appellant attempted to submit a copy of St. Paris Ordinance No. 861 into evidence, the prosecution objected and the court quickly denied the exculpatory evidence and error by the officer and the prosecutor. When I questioned the prosecutor, he stated that they were using the latest revision of the code.

I believe the prosecutor committed misconduct when he realized the error and did not move for dismissal of the charges. It was shortly thereafter after the Appellant was ordered to jail that the full extent of the error was realized.

Appellant asserts that he was not charged under any actual ordinance approved by the St. Paris Village Council and the prosecutor failed in his duty and perpetrated a fraud upon the court.

IV. Proposition of Law No. 4

The prosecution failed to provide discovery to the defendant prior to trial. The Appellant was surprised at trial with the officer's body cam video and other discovery. It was quickly learned that the prosecution had failed to provide the Appellant, *in propria personam*, any discovery prior to the trial and has not been provided since the trial.

Appellant moved to suppress the video and other evidence but was overruled by the court. Appellant requested a continuance to review the hour and a half video and other documents but only viewed the first few minutes of the video believing the court was going to proceed as a matter of course.

Even an inadvertent error to disclose is a violation of due process under the Fourteenth Amendment. "The Third Circuit in the Baldi Case construed that statement in *Pyle v. Kansas* to mean that the "suppression of evidence favorable" to the accused was itself sufficient to amount to a denial of due process." *BRADY v. MARYLAND*, 373 U.S. 83 (1963). See also: *UNITED STATES ex rel ALMEIDA v. BALDI*, (Pa) 195 F.2d 815 and *UNITED STATES ex rel THOMPSON v. DYE*, (Pa) 221 F.2d 763. "State courts, equally with Federal courts, are under an obligation to guard and enforce every right secured by the Federal Constitution." *MOONEY v. HOLOHAN*, 294 U.S. 103.

V. Proposition of Law No. 5

The prosecutor failed to identify the proper parties in the matter where the instrument was charged and the man was prosecuted. The charges were brought against MICHAEL A GALLUZZO (all caps) the corporate *Ens Legis Fictio* instrument (See charging and case documents) but the Michael Anthony Galluzzo (Upper/Lower case), the Appellant, was prosecuted under the assumed mistaken identity and served 180 days in the Tri-County Regional Jail. Appellant attempted to enter evidence so stating the separation of the entities but was again overruled by the court, rejecting the evidence claiming there was no way to verify the document. (Appendix 3)

MICHAEL A GALLUZZO is a government created *Ens Legis Fictio* entity to interact with the corporate state. Michael Anthony Galluzzo is the flesh and blood

Sovereign man of the land, one of the free and natural "state National" of Ohio. The claim of sovereignty has never been challenged or rebutted. MICHAEL A GALLUZZO is the corporate Ens Legis Fiction. Michael Anthony Galluzzo is the CESTUI QUE TRUST, the created flesh and blood man beneficiary Michael Anthony Galluzzo.

"There is an old and well known rule that statutes which in general terms divest preexisting rights and privileges will not be applied to the sovereign." *UNITED STATES v. UNITED MINE WORKERS*, 330 U.S. 258 (1947). "Since, in common usage, the term 'person' does not include the sovereign, statutes employing the phrase are ordinarily construed to exclude it." *UNITED STATES v. COOPER*, 312 U.S. 600 (1941); *UNITED STATES v. FOX*, 94 U.S. 315 (1876).

The rights of the sovereign, in common law and protected by the authority of the Constitution, are superior to the state statutes and the latter must give way where in conflict. Michael Anthony Galluzzo is not a corporate state person and retains his rights under the common law and the Constitution. Any state statute or municipal ordinance contrary to the Constitution is without effect.

Based on the foregoing, St. Paris is without authority over a sovereign, absent a breach of the common law.

VI. Proposition of Law No. 6

It is a fundamental right of a party to have a "neutral and detached judge" preside over judicial proceedings. Judge Gil S. Weithman demonstrated extreme bias and prejudice in his actions, demeanor, and comments against the alleged defendant during the trial. Judge Weithman demonstrated by his actions and attitude in the courtroom and confirmed by his closing remark, "I believe you are unrehabilitatable!" "180 days!"

If standing for one's constitutional liberties needs rehabilitating... where does that leave the Judge and America?

As the Constitution for the united States of America is the supreme Law of the Land, along with the U.S. Supreme Court and other federal and state court decisions in comity and in subordination to the provisions of the Constitution, it must prevail over any state statutes, ordinances, and codes that are repugnant to the Constitution and diminish the rights and liberties of the People. (See *Marbury v. Madison*, 5 U.S. 137 (1803).

Judge Weithman has rejected those precedents as filed by simply dismissing the pleadings, without answer, that raised such issues, without stating finding of Facts or conclusions in law as support for rejecting said filings. U.S. Constitution, Article VI, Clause 2; *MARBURY v. MADISON*, 5 U.S. 137 (1803); *MARYLAND v. LOUISIANA*, 451 U.S. 725, 746 (1981); *HOWLETT v. ROSE*, 496 U.S. 356 (1990). "Where rights secured by the Constitution are involved, there could be no rule making or legislation which would abrogate them." *MIRANDA v. ARIZONA*, 384 U.S. 436.

The actions of the court, and in particular Judge Weithman, were inconsistent with the rudimentary demands of justice.

Appellant's first request for a continuance on May 24 was denied without cause on May 28, greatly limiting Appellant's time to prepare for trial.

The Appellant was "entitled to a neutral and detached judge in the first instance" which was not available to him under Judge Weithman. *WARD v. MONROEVILLE*, 409 U.S. 57, 61-62; *HAMDI v. RUMSFELD*, 542 U.S. 507, 533. The bias and prejudice against the Appellant is unmistakable.

It is a fundamental right of a party to have a “neutral and detached judge” preside over judicial proceedings. “Where a court fails to observe safeguards, it amounts to denial of due process of law, the court is deprived of juris.” *MERRITT v. HUNTER*, 170 F.2d 739 (1948).

“The impaneling of a biased juror, like the presence of a biased judge,” is a ‘structural defect in the constitution of the trial mechanism’ that defies harmless error analysis.” *HUGHES*, 258 F.3d @463, citing *JOHNSON v. ARMONTROUT*, 961 F.2d 748 (8th CIR. 1992), quoting *ARIZONA v. FULMANANTE*, 499 U.S. 279, 309, 111 S.Ct. 1246, 113 L.Ed. 2d 302 (1991).

It is well settled that “a criminal trial before a bias judge is fundamentally unfair and denies a defendant due process of law.” *STATE v. LAMAR*; 95 Ohio St. 3d 181, 2002-OHIO-2128, 767 N.E. 2d 166, ¶ 34; citing *ROSE v. CLARK*, 478 U.S. 570, 577, 106 S.Ct. 3101, 92 L.Ed. 2d 460 (1986).

A judge is suppose to be unbiased. But . . . when a judge routinely dismisses pleadings before they are answered . . . that’s bias. When a judge refuses to dismiss after blatant violations of due process . . . that’s bias. When a judge demonstrates a hostile demeanor toward a defendant and makes derogatory comments . . . that’s extreme bias! And when a judge aids a prosecutor in covering up exculpatory evidence, that’s extreme bias as well as violations of oath and duty to be impartial and borders on treason.

“Due process of law” requires that a party shall be properly brought into court, and when there, shall have a right to set up any lawful defense.” *WRIGHT v. CRADLEBAUGH*, 3 NEV. 341; *BAILY v. ALABAMA*, 219 U.S. 219, 55 L.Ed. 191.

CONCLUSION

“An unconstitutional act is not law; it confers no rights; it imposes no duty; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed.” *NORTON v. SHELBY COUNTY*, 118 U.S. 425 (1886).

The Supreme Court and other federal and state courts have upheld the fundamental right of the people to travel without interference from police, even to the point of “driving an automobile” without license when not engaged in commerce for hire.

St. Paris police and other government agents have assaulted, threatened, interfered with and denied the Appellant his fundamental liberties in violation of those Constitutional protections. “It must be conceded that there are such rights in every free government beyond the control of the State.” *HURTADO v. CALIFORNIA*, 110 U.S. 516 (1884).

The Appellant further asserts and challenges that the statutes as applied to the People (PRIVATE CITIZENS) requiring a “license” to exercise a fundamental liberty is patently unconstitutional.

In addition, St. Paris police and the prosecution have charged the defendant with invalid ordinances that have not been certified by the St. Paris Village Council, and cited the *Ens Legis Fictio*, corporate instrument and not the wrongfully accused sovereign man.

Furthermore, the prosecution failed to bring the action under a real party in Interest, “the Fund” under Rule 17, ORC, failed to provide “discovery” to the Appellant before the trial in violation of Rule 37, ORC, and has failed to provided requested Discovery since, and further failed to properly assert jurisdiction on the record.

Along with the suppression of exculpatory evidence, and the bias and prejudice of Judge Gil S. Weithman, and other Errors, the lack of jurisdiction asserts itself from the beginning.

Based on the foregoing tenets stated above, the Appellant was rightfully exercising his liberties guaranteed by the Constitution and has not violated any law for which he was or could be prosecuted. Where the Appellant no longer possesses a state permit/drivers license to engage in commerce on the public highways and was not engaged in commerce but "traveling" at the time of the stop, a liberty long protected under the Constitution, and where the officer observed no breach of the peace, it is clear that the state agents have moved against a peaceful man with malice and false claims under the color of law, of driving an alleged motor vehicle without a license and while under suspension, have violated the Appellant's Constitutional liberties under the 1st, 4th, 5th, 6th, and 14th Amendments.

Society wins not only when the guilty are convicted but when criminal trials are fair: our system of the administration of justice suffers where any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly for the federal domain: "The United States wins its point whenever justice is done its citizens in the courts."

In the interest of justice, it is only proper and fitting that the court should accept jurisdiction in this matter.

UNDER WITNESS OF GOD: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 13, 2020.

Respectfully submitted,
Without prejudice 1-308,



Michael Anthony Galluzzo,
in propria persona,

Certificate of Service

I certify that a copy of this *Memorandum in Support of Jurisdiction* was sent by ordinary U.S. Mail to the Champaign County Prosecutor, counsel for Appellee, at 205 South Main Street, Urbana, Ohio 43078 on March 13, 2020.



Michael Anthony Galluzzo

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CHAMPAIGN COUNTY

VILLAGE OF SAINT PARIS

Plaintiff-Appellee

v.

MICHAEL ANTHONY GALLUZZO

Defendant-Appellant

Appellate Case No. 2019-CA-19

Trial Court Case No. 2019-TRD-928

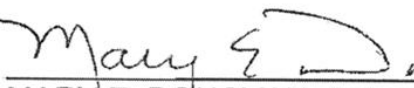
FINAL ENTRY

Pursuant to the opinion of this court rendered on the 31st day
of January, 2020, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), it is hereby ordered that the clerk of the Court of Appeals shall immediately serve notice of this judgment upon all parties and make a note in the docket of the mailing.


MICHAEL L. TUCKER, Presiding Judge


MARY E. DONOVAN, Judge


JEFFREY E. FROELICH, Judge

Copies sent to:

Roger A. Steffan
Assistant Prosecutor
Champaign County Municipal Court
205 South Main Street
Urbana, OH 43078
roger.steffan@ci.urbana.oh.us

Michael Anthony Galluzzo
P.O. Box 710
Saint Paris, OH 43072

Hon. Gil S. Weithman
Champaign County Municipal Court
205 South Main Street, P.O. Box 67
Urbana, OH 43078

{¶ 1} Following a jury trial, Appellant Michael Galluzzo was convicted of three offenses related to his operation of a motor vehicle without a driver's license and while his license was suspended. He challenges his convictions on appeal. The judgment of the Champaign County Municipal Court will be affirmed.

Facts and Procedural History

{¶ 2} Acting pro se on appeal, Galluzzo did not have a transcript of the jury trial prepared and made part of the record; this summary of the facts is based upon the truncated record. Galluzzo, while driving a vehicle in the Village of Saint Paris, was stopped by a Saint Paris police officer and cited for the following violations: (1) driving under a license forfeiture suspension in violation of Saint Paris Ord. 71.28(A); (2) driving under a non-compliance suspension also in violation of Saint Paris Ord. 71.28(A); and (3) driving without an operator's license in violation of Saint Paris Ord. 71.29.

{¶ 3} Approximately two weeks before the scheduled jury trial, Galluzzo requested at least a 30-day continuance "to properly prepare and file additional documents and receive responses." The trial court denied this request. On the same date, Galluzzo filed a demand for a bill of particulars. Five days later, Saint Paris filed and served Galluzzo with a bill of particulars. Galluzzo then filed a notice asserting that the bill of particulars was incomplete and demanding that Saint Paris supplement its response. Saint Paris responded stating "its Bill of Particulars was complete." Based upon the record before us, it appears that the trial court took no action regarding the bill of particulars dispute.

{¶ 4} Three days before the scheduled jury trial, Galluzzo filed a demand for

dismissal asserting that the trial court was without jurisdiction to adjudicate the charges against him. The document was lengthy, but its essence can be summarized by the following language:

[Galluzzo's] Right to Travel as one of the sovereign, unencumbered by state statutes and licensing requirements for a "for profit corporation" and "de facto" government entity is an unalienable right protected under the Declaration of Independence and the Constitution of the United States.

The trial court overruled Galluzzo's jurisdictional attack.

{¶ 5} Finally, on the day of the jury trial, Galluzzo filed a document captioned as a "Counterclaim/Cross Claim." The document included three claims, each of which attacked the trial court's jurisdiction in some fashion. The trial court dismissed the asserted claims on the same day.

{¶ 6} The jury found Galluzzo guilty of each charged offense. The trial court sentenced Galluzzo to 180-days of incarceration for driving without an operator's license; Galluzzo was also fined \$100. On the two driving under suspension convictions, the trial court imposed a \$50 fine on each offense. The trial court also imposed court costs in the amount of \$2,839.20. This appeal followed.

Assignments of Error

{¶ 7} Galluzzo asserts the following assignments of error:

THE COURT ERRED WHERE IT FAILED AS A MATTER OF LAW
TO DISMISS THE CHARGES WHEN IT WAS SHOWN THAT THE
OFFICER LACKED PROBABLE CAUSE TO INITIATE A TRAFFIC STOP

IN VIOLATION OF THE FOURTH AMENDMENT.

THE COURT ERRED AS A MATTER OF LAW WHERE IT FAILED TO DISMISS THE CHARGES WHEN IT WAS SHOWN THAT THE CHARGING ORDINANCES WERE NOT THE CURRENT AND VALID ORDINANCES AS APPROVED BY THE ST. PARIS VILLAGE COUNCIL.

THE COURT ERRED AS A MATTER OF LAW WHERE IT FAILED TO DISMISS THE CHARGES FOR A VIOLATION OF DUE PROCESS WHERE IT WAS DISCOVERED THAT THE PROSECUTOR HAD FAILED TO PROVIDE "DISCOVERY" TO THE APPELLANT PRIOR TO TRIAL.

THE COURT ERRED AS A MATTER OF LAW WHERE IT FAILED TO DISMISS THE CHARGES WHERE THE INSTRUMENT WAS CHARGED AND THE SOVEREIGN MAN WAS PROSECUTED IN VIOLATION OF LAW.

THE COURT ERRED AS A MATTER OF LAW WHEN IT MOVED FORWARD AND DISMISSED TWO (2) CHALLENGES TO THE JURISDICTION OF THE COURT AND THE STANDING OF THE PLAINTIFF BEFORE JURISDICTION WAS ESTABLISHED ON THE RECORD.

THE COURT ERRED AS A MATTER OF LAW WHEN IT SUPPRESSED EXCULPATORY EVIDENCE FROM REVIEW BY THE JURY.

JUDGE GIL S. WEITHMAN DEMONSTRATED EXTREME BIAS AND PREJUDICE IN HIS ACTIONS, DEMEANOR, AND COMMENTS

AGAINST THE ALLEGED DEFENDANT DURING THE TRIAL.

Analysis

Fourth Amendment

{¶ 8} Galluzzo's first assignment of error asserts the stop of his vehicle was without probable cause and, thus, violated the Fourth Amendment. The record does not reflect that Galluzzo filed a motion to suppress in the trial court. Given this, the asserted Fourth Amendment issue is not before us. Upon this basis, the first assignment of error is overruled.

Ordinances Not Valid

{¶ 9} Second, Galluzzo asserts that "it was shown" that he was charged and convicted under out-of-date, invalid ordinances. The record is insufficient to allow a conclusion that Galluzzo was charged under any repealed, out-of-date, or otherwise invalid ordinance. Galluzzo's second assignment of error is overruled.

Failure to Provide Discovery

{¶ 10} Galluzzo next asserts that "the prosecution * * * failed to provide 'discovery' to [him] prior to trial," and the trial court erred by not dismissing the charges on this basis. The only discovery reflected by the record is the bill of particulars. Our review of Saint Paris's response to the requested bill of particulars provides no basis upon which to sustain Galluzzo's third assignment of error, and it is overruled.

Violation of Law

{¶ 11} In the fourth assignment of error, Galluzzo asserts the trial court was required to dismiss the charges because he was prosecuted in violation of law. Galluzzo

claims he attempted to submit evidence regarding the purported violations of law, but the trial court refused his attempt to introduce such evidence.

{¶ 12} As noted, Galluzzo did not have a transcript prepared and made part of the record. App.R. 9(B)(1) imposed a duty on Galluzzo, as the appellant, “to ensure” the appellate record included that which was necessary for review of his assignments of error. *Howard v. Howard*, 2d Dist. Montgomery No. 27826, 2018-Ohio-2218; *State v. Smith*, 2d Dist. Montgomery No. 22200, 2008-Ohio-2726. When a party fails in this obligation, there is no record for review. *State v. Bernhard*, 2d Dist. Greene No. 2004-CA-66, 2005-Ohio-1052, ¶ 17. In the absence of a transcript of the proceedings, an appellate court is “constrained to presume the regularity of the proceedings below unless the limited record * * * affirmatively demonstrates error.” *Id.* at ¶ 9, quoting *Albritton v. White*, 2d Dist. Montgomery No. 24027, 2011-Ohio-3499, ¶ 15. Since we do not have a transcript reflecting Galluzzo’s attempt to introduce the evidence to which he refers, we have no basis to review this assignment of error. Galluzzo’s fourth assignment of error is overruled.

Dismissal of Jurisdictional Challenges

{¶ 13} In his fifth assignment of error, Galluzzo asserts the trial court was without jurisdiction over him because “as a ‘sovereign’ * * * [he] operate[s] in the Common Law under the Constitution and Common Law documents, and not under the corporate STATE OF OHIO statutes unless under contract (license) or consent.” This argument is without legislative or case law support. The record supports the conclusion that Galluzzo, while driving within Saint Paris, was stopped by a Saint Paris police officer and issued the indicated citations. As such, the Champaign County Municipal Court had jurisdiction

over Galluzzo to adjudicate the charges. Galluzzo's fifth assignment of error is overruled.

Trial Court's Rejection of Exculpatory Evidence and Judicial Bias

{¶ 14} Galluzzo's sixth and seventh assignments of error assert that the trial court rejected exculpatory evidence and that the court exhibited bias toward him. As discussed, without a transcript we have no basis upon which to conduct a review of the claimed rejection of evidence and bias. Given this, we must presume the regularity of the proceedings. Galluzzo's sixth and seventh assignments of error are overruled.

Conclusion

{¶ 15} Having overruled all of Galluzzo's assignments of error, the judgment of the Champaign County Municipal Court is affirmed.

.....

DONOVAN, J. and FROELICH, J., concur.

Copies sent to:

Roger A. Steffan
Michael Anthony Galluzzo
Hon. Gil S. Weithman

ORDINANCE NO. 861

AN ORDINANCE APPROVING, ADOPTING AND ENACTING AMERICAN LEGAL PUBLISHING'S OHIO BASIC CODE, 2006 EDITION, AS THE CODE OF ORDINANCES FOR THE MUNICIPALITY OF St. Paris, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the municipality are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs.

WHEREAS, American Legal Publishing Corporation publishes a Code of Ordinances suitable for adoption by municipalities in Ohio.

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE MUNICIPALITY OF The Village of St. Paris OHIO:

- Section 1.** American Legal Publishing's Ohio Basic Code, 2006 Edition, as reviewed and approved by the Legislative Authority, is hereby adopted and enacted. Any prior version of the Ohio Basic Code which may have been previously adopted by the municipality is hereby repealed as obsolete and is hereby replaced in its entirety by this Ohio Basic Code, 2006 Edition.
- Section 2.** One copy of American Legal Publishing's Ohio Basic Code, 2006 Edition, certified as correct by the Mayor and Clerk of the Legislative Authority, as required by Ohio Revised Code § 731.23, shall be kept in its initial form on file in the office of the Clerk of the municipality and retained as a permanent ordinance record of the municipality. The Clerk of the municipality is authorized and directed to publish a summary of all new matters contained in the Code of Ordinances as required by Ohio Revised Code § 731.23. Such summary is attached hereto and marked as "Exhibit A".
- Section 3.** All ordinances and resolutions or parts thereof which are in conflict or inconsistent with any provision of the Ohio Basic Code, 2006 Edition, as adopted in Section 1 hereof, are hereby repealed as of the effective date of this ordinance, except as follows:
- (A) The enactment of the Ohio Basic Code, 2006 Edition, shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and codification.

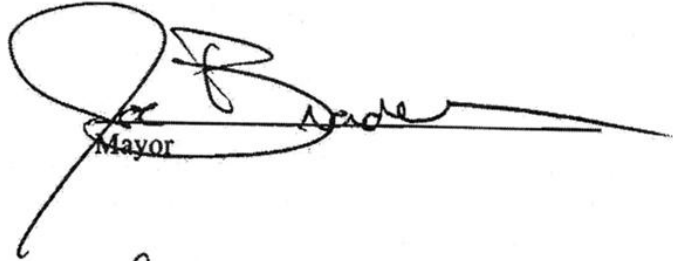


- (B) The repeal provided above shall not affect:
- (1) The grant or creation of a franchise, license, right, easement or privilege;
 - (2) The purchase, sale, lease or transfer of property;
 - (3) The appropriation or expenditure of money or promise or guarantee of payment;
 - (4) The assumption of any contract or obligation;
 - (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness;
 - (6) The levy or imposition of taxes, assessments or charges;
 - (7) The establishment, naming, vacating or grade level of any street or public way;
 - (8) The dedication of property or plat approval;
 - (9) The annexation or detachment of territory;
 - (10) Any legislation enacted subsequent to the adoption of this ordinance.
 - (11) Any legislation specifically superseding the provision of the Ohio Basic Code.

Section 4. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Date
Passed: February 26, 2006

Attest:



Mayor



Clerk of the Legislative Authority



Exhibit A

OHIO BASIC CODE, 2006 EDITION -- SUMMARY OF CONTENTS

Notice is hereby given that on the 20 day of February, 2006, there was enacted by the Legislative Authority of the Municipality of The Village of St. Paris, Ohio, an Ordinance entitled "An Ordinance Approving, Adopting and Enacting American Legal Publishing's Ohio Basic Code, 2006 Edition, as the Code of Ordinances for the Municipality of The Village of St. Paris, Ohio."

A summary of the subjects, including all new matters contained in the Code of Ordinances, as adopted, are as follows. The majority of Basic Code provisions are based directly on state law.

TITLE I: GENERAL PROVISIONS

Chapter 10: General Provisions

Section	
10.01	Short titles
10.02	Definitions
10.03	Rules of construction
10.04	Revivor; effect of amendment or repeal
10.05	Construction of section references
10.06	Conflicting provisions
10.07	Severability
10.08	Reference to offices
10.09	Errors and omissions
10.10	Ordinances repealed
10.11	Ordinances unaffected
10.12	Ordinances saved
10.13	Application to future ordinances
10.14	Interpretation
10.15	Amendments to code; amendatory language
10.16	Statutory references
10.17	Preservation of penalties, offenses, rights and liabilities
10.18	Determination of legislative intent
10.99	General penalty

TITLE III: ADMINISTRATION

Chapter 30: General Provisions

Section	
30.01	Application of Title III
30.02	Qualifications; oaths
30.03	Bonds of officers and employees; amount
30.04	Additional bond; where bonds recorded and kept
30.05	Approval of bonds
30.06	Sufficiency of form of bond
30.07	Filling vacancies in offices
30.08	Public records available
30.09	Records Commission
30.10	Meetings of public bodies to be open; exceptions; notice
30.11	Municipal officers may attend conference or convention; expenses

Chapter 31: Executive Authority

Section	
	<i>General Provisions</i>
31.01	Executive power; where vested



- 71.20 Driving under OVI suspension
- 71.21 Driving under financial responsibility law suspension or cancellation
- 71.22 Failure to reinstate license

Commercial Driver's Licenses

- 71.25 Definitions
- 71.26 Use of actual gross weight in lieu of rating
- 71.27 Prohibited acts
- 71.28 Prerequisites to operation of commercial motor vehicle
- 71.29 Physical qualification to operate commercial motor vehicles
- 71.30 Criminal offenses
- 71.31 Application of federal regulations
- 71.32 Employment of drivers of commercial vehicles

- 71.99 Penalty

Chapter 72: Traffic Rules

Section

General Provisions

- 72.01 Lanes of travel upon roadways
- 72.02 Driving through safety zone
- 72.03 Vehicles traveling in opposite directions
- 72.04 Rules governing overtaking and passing of vehicles
- 72.05 Permission to overtake and pass on the right
- 72.06 Driving to left of center line
- 72.07 Prohibition against driving upon left side of roadway
- 72.08 Hazardous zones
- 72.09 One-way highways and rotary traffic islands
- 72.10 Rules for driving in marked lanes
- 72.11 Space between moving vehicles
- 72.12 Divided roadways
- 72.13 Rules for turns at intersections
- 72.14 U-turns and turning in roadway prohibited
- 72.15 Starting and backing vehicles
- 72.16 Turn and stop signals
- 72.17 Hand and arm signals

Right-of-Way

- 72.20 Right-of-way at intersections
- 72.21 Right-of-way when turning left
- 72.22 Right-of-way at through highways; stop signs; yield signs
- 72.23 Stop at sidewalk area; stop signs on private roads and driveways
- 72.24 Right-of-way on public highway
- 72.25 Pedestrian on sidewalk has right-of-way
- 72.26 Right-of-way of public safety vehicles
- 72.27 Funeral procession has right-of-way
- 72.28 Pedestrians yield right-of-way to public safety vehicle
- 72.29 Pedestrian on crosswalk has right-of-way
- 72.30 Right-of-way yielded to blind person
- 72.31 Right-of-way yielded by pedestrian

Pedestrians

- 72.35 Pedestrian movement in crosswalks
- 72.36 Pedestrian walking along highway
- 72.37 Prohibition against soliciting rides; riding on outside of vehicle
- 72.38 Pedestrian on bridge or railroad crossing
- 72.39 Persons operating motorized wheelchairs
- 72.40 Intoxicated or drugged pedestrian hazard on highway
- 72.41 Operation of electric personal assistive mobility devices

- 137.07 Unlawful transactions in weapons
- 137.08 Underage purchase of firearm or handgun
- 137.09 Pointing and discharging firearms and other weapons
- 137.10 License or permit to possess dangerous ordnance
- 137.11 Possession of an object indistinguishable from a firearm in a school safety zone
- 137.12 Possession of deadly weapon while under detention
- 137.13 Concealed handgun licenses: possession of a revoked or suspended license; additional restrictions; posting of signs prohibiting possession

Chapter 138: Drug Offenses

Section

- 138.01 Definitions
- 138.02 Trafficking in controlled substances; gift of marihuana
- 138.03 Drug abuse
- 138.04 Possessing drug abuse instruments
- 138.05 Permitting drug abuse
- 138.06 Illegal cultivation of marihuana
- 138.07 Abusing harmful intoxicants
- 138.08 Illegal dispensing of drug samples
- 138.09 Federal prosecution bar to municipal prosecution
- 138.10 Nitrous oxide: improper dispensing or distribution; possession in a motor vehicle
- 138.11 Laboratory report required
- 138.12 Counterfeit controlled substances
- 138.13 Use, possession, or sale of drug paraphernalia
- 138.14 Controlled substance or prescription labels
- 138.15 Possession, sale and disposal of hypodermics
- 138.16 Controlled substance schedules
- 138.17 Unlawful furnishing of prescription to enable persons to be issued handicapped parking placards or license plates

TITLE XV: LAND USAGE

Chapter 150: General Provisions

Section

Parks and Recreation

- 150.01 Recreation Board
- 150.02 Board of Park Trustees

Planning and Zoning

- 150.15 Planning Commission
- 150.16 Board of Zoning Appeals

PARALLEL REFERENCES

Ohio Legislative History References - Master Table
Justinian Model Ohio Municipal Code Comparative Table
Disposition Table

INDEX

This summary of contents has been verified and authorized for publication by the Legislative Authority of the Municipality of *The Village of St. Louis*, Ohio.

Signed:


Mayor


Clerk of the Legislative Authority

CERTIFICATION OF CODIFIED ORDINANCES

We, Joe Beader, Mayor, and Cathleen Adams Clerk of the Legislative Authority, of the Municipality of the Village of St. Paris, Ohio, pursuant to Ohio Revised Code §§ 731.23 and 731.42, hereby certify that the general and permanent ordinances of the Municipality, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes and titles are correct as and constitute the Code of Ordinances for the Municipality of the Village of St. Paris Ohio.



Joe Beader
Mayor

Cathleen Adams
Clerk of the Legislative Authority

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MICHAEL A. GALLUZZO,

Petitioner,

: Case No. 3:17-cv-218

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

STATE OF OHIO, et al.,

:
Respondents.

ORDER TO SUPPLEMENT RESPONSE

This habeas corpus case is before the Court on the Response of Respondent Clark County Sheriff which Magistrate Judge King, to whom this case was previously assigned, construed as a motion to dismiss (ECF No. 2). Judge King ordered Petitioner to respond by June 28, 2017 (ECF No. 3) and Petitioner has done so (ECF No. 6).

The Petition was directed to pre-trial confinement, rather than to confinement pursuant to a conviction. The Petition must therefore be treated as brought under 28 U.S.C. § 2241 rather than under § 2254. Petitioner does not deny that he has been released on bond as shown by the Sheriff's response. At least as of June 9, 2017, although released from physical custody, Petitioner remained legally in custody by virtue of the bond. A person on bond is sufficiently in custody to invoke federal habeas corpus jurisdiction. *Justices of Boston Municipal Court v. Lydon*, 466 U.S. 294 (1984); *Hensley v. Municipal Court*, 411 U.S. 345 (1973); *Lawrence v. 48th District Court*, 560 F.3d 475, (6th Cir. 2009); *McVeigh v. Smith*, 872 F.2d 725, 727 (6th Cir.

1989). Therefore the Petition was not moot at least as of June 9, 2017.

The last relevant factual allegation in the filings before this Court is that Mr. Galluzzo's underlying criminal case was set for trial on June 26, 2017. On that same day, Petitioner filed a Motion for Emergency Reconsideration for Interlocutory Injunction (ECF No. 7), seeking reconsideration of Judge Graham's Order of June 23, 2017, denying a preliminary injunction (ECF No. 5).

Because no preliminary injunction was issued, this Court assumes that the Clark County Municipal Court proceeded to trial and judgment. However, this Court cannot proceed on the basis of assumption. It is accordingly ORDERED pursuant to 28 U.S.C. § 2243 that Respondent Clark County Sheriff file a further answer to the Petition, setting forth any relevant facts regarding the Municipal Court proceeding (e.g., was Mr. Galluzzo convicted? Is he presently confined by the Sheriff pursuant to that conviction?), supported by copies of any relevant documents from the record of that case. Said further answer shall be filed not later than August 25, 2017. Upon consideration of that further answer, the Court will determine whether it has authority to proceed and how to do so.

Petitioner is cautioned that in a habeas corpus proceeding this Court considers only the custody of natural ("flesh and blood") persons. Our habeas jurisdiction does not extend to the custody of "instruments" such as the asserted "cesti que trust instrument MICHAEL A GALLUZZO." Furthermore, natural persons may litigate cases in this Court only in their own name (*in propria persona*) or through an attorney-at-law admitted to practice before this Court. Attempts to proceed in any other way will be disregarded and, if persisted in, may be treated as contempt of court.

IT IS SO ORDERED.

August 12, 2017.

s/ Michael R. Merz
United States Magistrate Judge