

THE SUPREME COURT OF OHIO

**STATE OF OHIO,
VILLAGE OF ST. PARIS,**

Plaintiff, Appellee,

vs.

MICHAEL A GALLUZZO,
Defendant, Ens Legis Entity,

Michael Anthony Galluzzo,
Alleged Defendant, Appellant
Non-corporate entity.

Case No. **21-1227**

Case No. **2021 CA 007**

Case No. **2020 CRB 00764**

**MEMORANDUM IN SUPPORT OF JURISDICTION OF
APPELLANT MICHAEL ANTHONY GALLUZZO**

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in propria persona,
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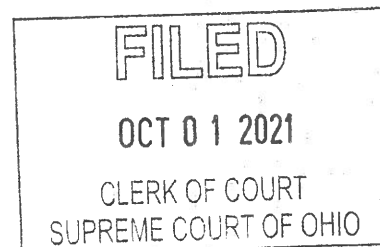


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I. First Assignment of Error

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 Alleged Defendant’s Constitutional “Right to Notice” of a hearing on October 7, 2020 prior to issuing a Warrant for failure to appear at that hearing? Is a void order sufficient to initiate a hearing without Notice to the concerned parties?1

II. Second Assignment of Error

As a matter of Law, did the “corporate” municipal court committed plain error and demonstrated bias and prejudice in favor of the Prosecution when it failed to identify the proper parties in the matter and denied the Alleged Defendant’s Demurrer issued pursuant to ORC 2941.57(c) and Challenge to Jurisdiction and Standing, without requiring the Plaintiff to answer the challenge on the record and allowing the Prosecution to escape the required declaration of jurisdiction and the seven (7) elements statement of jurisdiction and standing. (See: Maxfield v. Levy, 4 U.S. 330 (1797))

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, and for other attacks on the sufficiency of accusatory pleadings.

Can the trial court deny a Demurrer claiming that Demurrers have been abolished by rule where statutes specifically permit Demurrers and where statutes are superior to rules and cannot abrogate the Law? Can the court fail to identify the proper parties and proceed without proper jurisdiction?6

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1. Payment Agreement Record – Dec. 7, 2018
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Final Entry and Opinion of the Court of Appeals of Champaign County,
August 20, 2021

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

"Since the constitution is intendant for the observance of the judiciary as well as other departments of government and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands or counteract evasions thereof, it is their duty in authorized proceedings to give full effect to the existing constitution and to obey all constitutional provisions irrespective of their opinion as to the wisdom or the desirability of such provisions and irrespective of the consequences, thus it is said that the courts should be in our alert to enforce the provisions of the United States Constitution and guard against their infringement by legislative fiat or otherwise in accordance with these basic principles, the rule is fixed that the duty in the proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the delivered judgment of the tribunal before which the validity of the enactment it is directly drawn into question. If the Constitution prescribes one rule and the statute another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgment." 16 Am. Jur. 2d., Sec. 155 (Emphasis added)

Americans have always looked to the Articles of Confederation and the Organic Constitution for the United States of America for protection of their fundamental liberties, e.g., life, liberty, property, the pursuit of happiness and protection from government encroachment on those liberties. Ohio's constitution was based on those same principles and guarantees a republican form of government, and that includes the courts. In recent years, many have lost faith in the government 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 rights 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'. (See Titles 18 USC 241 and 242, Title 42 USC 1983, 1985, 1986)

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 challenged and defined by the 'court' in question when presented with a request to identify the jurisdiction and law form thereby being invoked by the plaintiff. Properly, the Appeals Court should have remanded and dismissed this matter on numerous counts.

Decisions abhorrent to federal law and the Constitution for the United States of America create a slippery slope of deterioration of all protected rights, *if we have any remaining*. Prosecutions and loss of liberties based on invalid decisions and invalid orders cannot be tolerated 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 lower court opinions or policies in order to mold a decision to fit a particular outcome, usually guilty, thus they step outside of their jurisdiction, demonstrating bias and prejudice, are prohibiting the operation of Law, committing 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 officers, the prosecutor, the magistrates and the judges are all "agents" of the same corporate entity, or subdivision thereof, the likelihood of a fair and impartial adjudication of the issues is unlikely from the beginning.

The underlying principles of due process and justice and the adhesion to well settled principles of Law have been grossly abused, disregarded and manipulated to achieve the

preconceived notions of the corporate administrative 'court'. The "infraction" posed no harm to any individual or damage to any property. No "Law" had been violated by the Alleged Defendant.

The Appellant challenged the jurisdiction of the court, filed briefs related to issues and procedures, however, the trial was commenced over objections and jurisdictional issues were never properly addressed. Proper jurisdiction was NEVER established by the Appellee or the trial court but only 'assumed.'

A multitude of people face this same scenario on a regular basis in the corporate administrative 'courts' in this country and unknowingly acquiesce to the *fictio* we call the 'government'. We are expected to fall in line and obey... like cattle (human capital) lead to the slaughter (extortion), for alleged victimless crimes.

The idea of due process in these administrative hearings is of no consequence. The outcome has been pre-determined from the beginning (you're here – you're guilty!) and the process manipulated to achieve that outcome. In other words, submit to our authority, pay the fine, pay the court costs and go on your way! This style of activity can only be closely related to organized criminal extortion.

The demand for the protection of an inhabitant's rights under the Organic Laws; i.e., the Articles of Confederation, the Declaration of Independence, the original Constitution for the United States of America and the Northwest Ordinance of 1787; seems to be an absurd expectation in these proceedings acting in *fictio*. These founding documents are often considered to be antiquated and outdated and of no relevance to the proceedings. One dare not raise his Constitutional Rights or attempt to inject Common Law for he will be found out of order and held in contempt.

Pleadings are dismissed without response; the corporate agents can impose whatever jurisdiction they desire, right or wrong, and then ignore challenges from the people to their jurisdiction. They can pick and choose any statute, any code, any ordinance or rule to extort the innocent and ignore and/or reject and Law, statute, code, ordinance or rule that might free the innocent defendant. Even the Supremacy Clause of the Constitution is deemed irrelevant. This Petitioner pleads that the Supremacy Clause, Article VI, Paragraph 2 pertains here.

The number of appeals to this court and to other state and federal courts of appeal is staggering. One would surmise this to be a result of the failure of the lower trial 'courts' to properly adjudicate cases and/or of the appellate courts to adequately address issues raised; applicably here being federal and supreme court precedents.

Many lower court judges believe that they have 'absolute immunity' from their actions while "acting" as a judge. They believe they are above the "Law" and can act with impunity. If that were true, there would be no need for judicial canons or a code of conduct and one would not be required to take an oath of office and adhere to that oath.

The implications of the decision of these courts affect the rights to fundamental fairness of every individual in Ohio and across the country. Decisions abhorrent to federal law and the State Constitution for Ohio create a slippery slope of deterioration with all of our protected rights.

Finally, this case raises substantial constitutional issues as to whether or not an individual's rights are guaranteed or subject to arbitrary and unwarranted infringement by state administrative 'courts' and other state actors under the 'color of law' and whether or not the state administrative 'courts' are subject to the Law and the rules of civil or criminal procedure.

I think the situation was well covered 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? No clearer example exists then the government “mandates” of the past year and a half.

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, welfare and our fundamental liberties.

STATUS OF PARTIES

The Alleged Defendant and Beneficiary, Michael Anthony Galluzzo (upper/lower case), is a real flesh and blood free inhabitant of the Land; possessing and holding by title of occupancy the corporeal and incorporeal hereditaments conferred to the descendants of the Freeholding men of Foreign Sovereign Immunity who **preceded** the founding of the Great Republic of The United States of America; a Sovereign in the Great Republic; one of “We The People” standing in the Law of the Land, the Common Law, standing under the Will of the People; the Constitution for the United States of America and it’s immutable Grants of un-alienable rights; and the Northwest

Ordinance of 1787; is not a fiction in Law, is not a U.S. citizen, is not a “United States” citizen nor a 14th Amendment citizen of the *federal corporation*, dba U.S., Inc., the UNITED STATES, Inc., THE UNITED STATES OF AMERICA, Inc. or THE STATE OF OHIO, Inc.; and is the Authorized Representative of MICHAEL A. GALLUZZO (all caps), a *civilter mortuus* entity, a fiction of law, a creation of the corporate THE STATE OF OHIO and the *federal corporation*, dba the UNITED STATES, Inc.

The named Defendant and the Alleged Defendant are two (2) separate and distinct entities in Law. The first being a civilly dead entity in commerce and Law created by corporate governance, and the second being a real flesh and blood living free inhabitant of the Land.

The UNITED STATES, INC. (US Inc.) is a foreign-owned corporation situated in Washington, District of Columbia. THE STATE OF OHIO is a corporate franchise of US Inc. which overlays the Republic State, Ohio. CHAMPAIGN COUNTY MUNICIPAL COURT is a for profit corporate franchise and subsidiary of the corporate THE STATE OF OHIO acting as a de facto court under the color of law.

The VILLAGE OF ST. PARIS, Inc. is municipal corporate entity of THE STATE OF OHIO.

STATEMENT OF ISSUES PRESENTED

1. The court failed to provide the Alleged Defendant Notice or Summons of the alleged hearing on October 7, 2020 in violation of fundamental principles of Law.
2. The Plaintiff failed to identify the proper parties in the matter at issue.
3. The arresting officers failed to produce a valid warrant before attempting the arrest and leading the alleged defendant to believe he was being unlawfully kidnapped.

4. The alleged defendant has a right to resist an unlawful seizure and protect himself and his property.
5. The Plaintiff failed to establish proper jurisdiction and standing and place such on the record. Plaintiff failed to answer pleadings filed by the Alleged Defendant and defaulted on jurisdiction and standing.
6. The court failed to establish proper jurisdiction and demonstrated bias and prejudice in favor of the Prosecution.

STATEMENT OF THE CASE AND FACTS

The matter is before this court as the result of an unlawful warrant issued by the CHAMPAIGN COUNTY MUNICIPAL COURT for failure to appear at a hearing on October 7, 2020 for which the Alleged Defendant received no Notice of said hearing. The named defendant and the Alleged Defendant were not provided Notice pursuant to Rule 4, Civil Rules of Procedure. The date of October 7, 2020 was arbitrary and was not supported by any current Order, Notice or Summons and appears to be the result of an error by the court resulting from an expired order dated Dec. 7, 2018 and superseded by an order of June 6, 2019.

The alleged defendant was accosted and later assaulted at his home on October 17, 2020, by two (2) St. Paris officers claiming to have a warrant for arrest for failure to appear at a hearing on October 7, 2020. The alleged defendant demanded the officers to produce the warrant which they were unable to do. The alleged defendant was forcibly removed from his home as he resisted the kidnapping of his body, taken to Tri-County Regional Jail and charged with Resisting Arrest and Obstruction of Official Business.

The charges are the fruit of a poisonous tree!

The alleged Defendant was found guilty and sentenced.

An Appeal was filed in the Second District Court of Appeals on June 3, 2021 and an Opinion was filed on August 20, 2021.

The Matter is now before this court charging violations of due process and fundamental liberties.

ARGUMENTS IN SUPPORT OF PROPOSITIONS OF LAW

First Assignment of Error

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 Alleged Defendant's Constitutional "Right to Notice" of a hearing on October 7, 2020 prior to issuing a Warrant for failure to appear at that hearing? Is a void order sufficient to initiate a hearing without Notice to the concerned parties?

ARGUMENT

Due Process

In any matter before a court or administrative tribunal is the requirement of "due process." The core requirements of due process are 'notice' and a 'hearing before an impartial tribunal.' Due process may also require discovery, an opportunity to confront witnesses and cross-examination, representation by competent and effective counsel and a decision based on the record.

Notice

NOTICE is a fundamental and elementary requirement in any proceeding to apprise interested parties of the pendency of an action. Service of NOTICE, such as a SUMMONS, must be reasonably structured to assure that the person to whom it is directed receives it and prohibits the court from hearing a case that could adversely affect a party's interest. (See Civil Rules of Procedure, Rule 4)

Without lawful notice, there is no personal jurisdiction and all proceedings prior to filing of a proper trial document in compliance with the seven (7) elements is void. A lawful act is always legal but many legal acts by government are often unlawful. Most bureaucrats lack elementary knowledge and incentive to comply with the mandates of constitutional due process. They will make mistakes. Numbers beyond count have been convicted without benefit of

government adherence to these seven (7) elements. Today, informations are being filed and prosecuted by “accepted practice” rather than due process of law.

It is a “basic aspect” of the duty of government to follow a fair process when it acts to deprive a private man of his liberty and/or his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual, but more precisely, to protect him and his property from arbitrary encroachment.

Thus... the NOTICE of a hearing and the opportunity to be heard “*must be granted in a meaningful manner and at a meaningful time*” or the court lacks jurisdiction. (See Civil Rules of Procedure, Rule 4)

An “impartial decision maker” is an essential right in any proceeding as well to guarantee that fundamental liberties will not be taken or abused on the basis of an erroneous or a distorted conception of the law or facts.

NOTICE “*must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.*” See: *Jones v. Flowers*, 547 U.S. 220, 235 (2006).

Furthermore, the court had over seven (7) months [during the COVID-19 pandemic] in which to provide NOTICE and set a hearing to address the issue of payments but remained silent and took no action, **setting a precedent of acquiescence by silence**. (Transcript Vol. II, Pg. 15, L. 11-13) “*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). The mandates of the state on isolation and on the tolling of time during 2020 added addition restrictions and confusion as to payments and filings.

The arbitrary and capricious “policy” of an inferior tribunal cannot supplant the fundamental protections required by the Constitution and the Bill of Rights. Furthermore, are we

to follow the 'policy' of a judge or the 'order' of the governor to stay at home and quarantine in place? **Failure to provide proper NOTICE deprives the court of all jurisdictions.** Therefore, the issuance of a warrant for "failure to appear" without a proof of service or the alleged Notice appearing on the record invalidates the warrant and any actions thereafter by state agents to arrest the private man are the "fruits of a poisonous tree" and unlawful.

The right to resist an unlawful arrest, even with extreme force if required, is **a right protected by Constitutional authority under the Common Law**, a fundamental liberty interest of the People to protect themselves from arbitrary and unlawful arrest and detention by government agents.

Definition of LIBERTY:

- Liberty. 1. Exemption from slavery, bondage, imprisonment, or control of another.
- 2. Freedom from external restraint or compulsion (Webster's New Collegiate Dictionary).

Liberty. Freedom; exemption from extraneous control. The power of the will to follow the dictates of its unrestricted choice, and to direct the external acts of the individual without restraint, coercion, or control from other persons. (Black's Law Dictionary – 3rd Edition)

The alleged defendant repeatedly requested to see the warrant and the officers could not produce said warrant. The alleged defendant resisted what he perceived as an attempt to be kidnapped.

Around 1670 in Britain, the Queen's Bench ruled that forceful resistance to unlawful arrest by police was a right of the people. (The Hopkin Huggett's Case) In 1710, the Queen's Bench ruling re-confirmed the common law right to forcefully resist an unlawful arrest. Queen v. Tooley (1710). According to centuries of common law and the still-controlling U.S. Supreme Court precedent of John Bad Elk, the American people today still possess the right to resist unlawful arrest by government agents. "The right to resist unlawful arrest memorializes one of

the principal elements in the heritage of the English revolution: the belief that the will to resist arbitrary authority in a reasonable way is valuable and ought not to be suppressed by the criminal law,” (Paul Chevigny, 1969 Yale Law Journal essay)

“An arrest made with a defective warrant, or one issued without affidavit, or one that fails to allege a crime is within jurisdiction, and one who is being arrested, may resist arrest and break away. If the arresting officer is killed by one who is so resisting, the killing will be no more than an involuntary manslaughter.” Housh v. People, 75 111. 491; reaffirmed and quoted in State v. Leach, 7 Conn. 452; State v. Gleason, 32 Kan. 245; Ballard v. State, 43 Ohio 349; State v. Rousseau, 241 P. 2d 447; State v. Spaulding, 34 Minn. 3621.

However, it must be said that the courts themselves, in emphasizing privileges granted under statutes over Common Law rights, have placed a potential arrestee in a less-than-favorable position in relation to the police. In America we seem to be moving “backwards” with regard to rights and freedoms. That this ancient right to forcefully resist state-licensed criminal violence during unlawful arrest by government agents – as determined by the man being arrested and his neighbors witnessing the arrest – is ignored and suppressed by prosecutors and the lower courts does not extinguish that right.

The “Due Process Clause” is the assurance that all levels of American government must operate within the Law of the Land and provide fair procedures. The failure to do so is an act of Treason and a violation of a ‘public servant’s’ Oath of Office.

The court issued an arrest warrant for **failure to appear at a hearing on October 7, 2020**, of which no Notice was received. NOTICE “*must be granted in a meaningful manner and at a meaningful time*” (See Civil Rules of Procedure, Rule 4). The alleged defendant argues that there was no authority to issue the warrant because there was no NOTICE of a hearing of

any kind on October 7, 2020, within the parameters of any current order of the court, denying the alleged defendant due process protections under the Constitution.

The alleged payment agreement dated June 6, 2019, (Attachment 1, incorporated as if fully rewritten herein) clearly indicates that payments are due by the 15th of the month, not the 6th, or appear on the 16th or the next business day. This payment agreement supersedes the previous alleged payment agreement filed December 7, 2018 (Attachment 2, incorporated as if fully rewritten herein).

Without question, the court, using a superseded order to initiate a warrant for failure to appear on October 7, 2020, a date not addressed in the current order, and without proper "Notice" to the alleged defendant under the principles of Due Process is in violation of the civil liberty protections prescribed under the Constitution. Judge's policies do not supersede Constitutionally-protected liberties. Absent the COVID mandates, there would have been no issue for there was no intent to avoid payment payments by the Alleged Defendant.

The Clerk, under sworn testimony, (Transcript Vol. II, Pg. 15, L. 11-13) stated that, *"There was a time period where the Court was not enforcing those, allowing people to have extra months as a courtesy due to the virus."* The alleged defendant began making regular payments again on the 15th of October per the current order and brought those payments up to date and in advance for November. The court's argument that the payment was made after the warrant was issued has no merit where the alleged defendant had no Notice and therefore no knowledge of a warrant at the time the payment was tendered, October 15th, **pursuant to the current order.**

Notice should have been sent to the party if that policy was going to change. In this case, the alleged defendant moved forward of his own accord as possible under the restrictions issued by the governor and the CDC related to COVID.

The Court of Appeals erred when it failed to take into consideration all the facts of the case and replaced them with supposition. Based on the foregoing facts, the trial courts use of an invalid order and the violation of due process by the court, this Assignment of Error must be sustained and the decision of the trial court vacated.¹

Second Assignment of Error

As a matter of Law, did the "corporate" municipal court committed plain error and demonstrated bias and prejudice in favor of the Prosecution when it failed to identify the proper parties in the matter and denied the Alleged Defendant's Demurrer issued pursuant to ORC 2941.57(c) and Challenge to Jurisdiction and Standing, without requiring the Plaintiff to answer the challenge on the record and allowing the Prosecution to escape the required declaration of jurisdiction and the seven (7) elements statement of jurisdiction and standing. (See: Maxfield v. Levy, 4 U.S. 330 (1797))

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, and for other attacks on the sufficiency of accusatory pleadings.

Can the trial court deny a Demurrer claiming that Demurrers have been abolished by rule where statutes specifically permit Demurrers and where statutes are superior to rules and cannot abrogate the Law? Can the court fail to identify the proper parties and proceed without proper jurisdiction?

ARGUMENT

In any proceeding, the defendant has the right to challenge the jurisdiction and standing of the Plaintiff including but not limited to subject matter, venue, territorial, personal jurisdiction, etc. in order to establish the 'standing' of the Plaintiff to bring the cause of action. The Plaintiff is required to answer all seven (7) elements to the challenge of jurisdiction in writing and on the record. The alleged defendant filed a **DEMURRER** and **CHALLENGE TO THE JURISDICTION OF THE COURT** on October 26, 2020 pursuant to ORC 2941.57(c) where a demurrer is proper to challenge jurisdiction that went unanswered by the Prosecution. Likewise,

¹ See: *State v. McDonald*, 153 Ohio App. 3d 679, 2003-Ohio-4342, *State v. Singer* (1977), 50 Ohio St. 2d 103, 109, *State v. Geraldo* (1983), 13 Ohio App. 3d 27, *State v. Stamper* (1995), 102 Ohio App. 3d 431, 441-442.

the alleged defendant also filed a second **CHALLENGE TO THE JURISDICTION** and **DEMAND FOR DISMISSAL** on January 7, 2021 which also went unanswered. *Why is the Prosecution allowed to play fast and loose with the rules?* Pursuant to ORC 2941.62, Motions to quash, pleas in abatement, and demurrers shall be heard immediately upon their filing... but not in this case! The court has failed to follow its own rules and the court of appeals has failed to address this violation of due process! The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings. See *Hagans v. Lavine* 415 U.S. 533.

“...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. *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178 (1936). The origins of this doctrine of law may be found in *Maxfield v. Levy*, 4 U.S. 330 (Dall.) 2 Dall. 381, 2 U.S. 381, 1 L.Ed. 424. **“The presumption is that a cause is without the jurisdiction of the court, until the contrary appears. Defendant must await the plaintiff’s declaration of jurisdiction.”** *Lyell v. Goodwin*, 15 F. CAS. 1126, 4 McLean 29 Case No. 8616 (1845). (Emphasis added)

The Prosecution did not answer the Demurrers and in a review of the docket in this matter, the alleged defendant could not find an order dismissing the alleged defendant’s pleadings. One would have to accept that the statements in the pleadings are accepted as “fact” by the Prosecution since there was no rebuttal entered on the record. **“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). (Emphasis added)

For the court to enter a plea for the alleged defendant prior to the establishment of all jurisdictional elements denies the alleged defendant of due process and attempts to claim

jurisdiction through subrogation and constructive fraud. (Transcript Vol. I, Pg. 48, L. 1-14) (See also: Transcript Vol. II, Pg. 7-8) The defendant is not required to plead until jurisdiction, when challenged, has been placed on the record. The Court of Appeals' failure to recognize these basic principles of law has denied the Alleged Defendant due process in this matter.

When the issue of jurisdiction is challenged, it must be proven on the record in writing before the court may proceed. For the court "to find that it has jurisdiction over this matter pursuant to the Ohio Revised Code" is not proof of jurisdiction pursuant to law. ("*[T]he 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; *Village Of Latana v. Hopper*, 102 F.2d 188 (1939); *Chicago v. New York*, 216 Fed.734-735 (1914); *Melo v. United States*, 505 F.2d 1026 (1974); *Cohens v. Virginia*, 19 U.S. 264 (1821)).

No such Declaration of Jurisdiction appears on the record. Jurisdiction can be challenged at anytime, even on appeal, was challenged in the Court of Appeals and is hereby being challenged again in this court.

"However late this objection has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law, to render a judgment or decree upon the rights of the litigant parties. If the law confers the power to render a judgment or decree, then the court has jurisdiction; what shall be adjudged or decreed between the parties, and with which is the right of the case, is judicial action, by hearing and determining it. 6 Peters, 709; 4 Russell, 415; 3 Peters, 203-7"; Cited by STATE OF RHODE ISLAND v. COM. OF MASSACHUSETTS, 37 U.S. 657, 718 (1838)

Furthermore, a court cannot acquire personal jurisdiction if it does not identify the proper parties. In this case, the alleged defendant identified himself as the beneficiary Michael Anthony Galluzzo, upper and lower case name, the flesh and blood man and stated that he was not the

named defendant MICHAEL A GALLUZZO, all caps, the Ens Legis entity, the corporate entity. (Transcript Vol. I, Pg. 3, L. 11-25/Pg. 4, L.1-3) When the alleged defendant, the beneficiary, requested “that the court recognize the difference between the corporate and non-corporate entities”, “The Court will not” was the response. The Court went on to state that it was “dealing with Michael A. Galluzzo, (sic) the person, the individual, a man seated at the table.” The alleged defendant in response stated, “That’s incorrect. I object to that.” “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.”) Clearly the court erred pursuant to the federal court’s statement. (See: Galluzzo v. STATE OF OHIO, 3:17-cv-218-TMR-MRM, Southern District of Ohio at Dayton)

In analysis: a person or individual can be “natural” or “artificial”. As a flesh and blood entity, the alleged defendant must be a “natural” entity and not an “artificial” entity. Where does the corporate administrative court get jurisdiction over the private “natural” man? Where is the contract? Where is the declaration of authority? Hence, the challenge to jurisdiction which was never answered! So what is in the name?

Bouvier’s Law Dictionary, 8th Ed., pg. 2287 – “The omission of the Christian name by either plaintiff or defendant in a legal process prevents the court from acquiring jurisdiction, ...”

Gregg’s Manual of English: “A name spelled in all capital letters or a name initialed, is not a proper noun denoting a specific person, but is a fictitious name, or a name of a dead person, or a nom de guerre.”

The reasoning behind a true name is that neither a State, nor the United States, can pick up a pencil or sneeze, being nothing more than a “piece of paper”. *They cannot*, therefore, assume

the liability of actions nor write a complaint. All activities carried on by governmental agencies are carried out by its *agents and actors*.

In *Monroe Cattle Co. v. Becker*, 147 U.S. 47, 13 S.Ct. 217 (1893), the Supreme Court stated: "Defendant was impleaded by the name of A. W. Becker. **Initials are no legal part of a name, the authorities holding the full Christian name to be essential.**" (Emphasis added; additional citations omitted.)

The United States Government Printing Office Style Manual clearly defines the rules of grammar for recording of a proper noun in Chapter 3.2, Capitalization. "Proper nouns are capitalized [examples given] Rome, Brussels, John Macadam, Macadam family, Italy, and Anglo-Saxon." It further defines, in Chapter 11.7, that "Names of vessels are quoted in matter printed in *other than* lower case roman...[examples given are] LUSITANIA [or] Lusitania."

Black's Law Dictionary, 4th Ed., pg. 751, "Fictitious Name": "A counterfeit, feigned, or pretended name taken by a person, differing in some essential particular from his true name (consisting of Christian name and patronymic), with the implication that it is meant to deceive or mislead."

The U.S. Government Style Manual, Chapter 3 requires only the names of corporate and other fictional entities, or those serving in corporate capacities to be in all capitalized letters.

Fictitious names exist for a purpose. **Fictions are invented to give courts jurisdiction.** *Snider v. Newell*, 44 SE 354.

"Thus, for the pleader to state that this court of limited and special jurisdiction has personam jurisdiction over the Accused, absent a common law crime, merely because he is Domiciled in the State or using machinery to Travel is insufficient." (*In re J. F.* (1969), 268 C.A.2d 761, 74 Cal. Rptr. 464) "The burden shifts to the court to prove jurisdiction." *Rosemond v. Lambert*, 469 F2d 416. "Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." *Lantana v. Hopper*, 102 F2d 188; *Chicago v. New York*, 37 F. Supp 150.

“Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather should dismiss the action.” *Melo v. U.S.*, 505 F2d 1026.

“Whenever it appears that the court lacks subject matter jurisdiction, the court is obligated to dismiss the action.” *Willy v. Coastal Corp.*, 503 U.S. 131, 136-37; *U.S. v. Texas*, 252 F. Supp 234, 254.

The “Prosecutor” failed to properly address and establish all seven (7) applicable elements of jurisdiction applied to the alleged defendant *in personam* and was prohibited to proceed, and where the ‘warrant’ is defective, the court has no subject matter jurisdiction as well. The Prosecution and the court have failed to disclose in which law form they are proceeding. (See Transcript Vol. II, Pgs. 31-34)

“...the requirements of due process must be met before the court can properly assert in personam jurisdiction.” *Wells Fargo v. Wells Fargo*, 556 F.2d 406, 416.

"The 'liberty' guaranteed by the constitution must be interpreted in the light of the common law, the principles and history of which were familiar and known to the framers of the constitution." *Meyer v. Nebraska*, 262 US 390, 399; *U.S. v. Won Kim Ark*, 169 US 649, 654.

The “Prosecution” did not establish full jurisdiction and did not properly address the alleged defendant’s claim that the court did not obtain *in personam* jurisdiction.

"There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent." *Cruden v. Neale*, 2 N.C. 388 (1796).

The “status” of the man, Michael Anthony Galluzzo, has not been challenged or disproved. “Under our system the people, who are there called subjects [in England], are sovereign.” *U.S. v. Lee*, 106 US 196 @ 208.

Pursuant to *Cruden*, supra, there can be no jurisdiction in any summary proceeding unless there is consent from the party being moved against. The natural person cannot be bound by

mere statutes or the will of the legislature, but is bound by a higher law, that being "Common Law" the "Law of the Land".

"The State cannot diminish rights of the people." *Hurtado v. California*, 110 U.S. 516 (1884)

"Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them. *Miranda v. Arizona*, 384 U.S. 22, 24.

As recently as 2000 in *Bond vs. UNITED STATES*, 529 U.S. 334, the Supreme Court held that the American People are in fact Sovereign and not the States or the Government. The Court went on to define that local, state and federal law enforcement officers were committing unlawful actions against Sovereign people by the enforcement of the laws and are personally liable for their actions. Statutes apply to 'persons' not people.

In the case; *THE PEOPLE v. HERKIMER*; 4 Cowen 345, (1825); 1825 N.Y LEXIS 80 the court ruled: "The people have succeeded to the rights of the King, the former sovereign of this State. They are not, therefore, bound by general words in a statute restrictive of prerogative, without being expressly named." (Emphasis added)

"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 Corp.*, 312 U.S. 600 (fn5, *In re Fox*, 52 N.Y. 530; *United States v. Fox*, 94 U. S. 315, 94 U. S. 321) (Emphasis added)

"There is an old and well known rule that **statutes which in general terms divest preexisting rights or privileges will not be applied to the sovereign** without express words to that effect." *United States v. Mine Workers*, 330 U.S. 258. (Emphasis added)

Pursuant to the U.S. Supreme Court, **statutes do not apply to the Sovereign**, only the Common Law.

How is the Prosecution and the lower court allowed to circumvent the Constitution and Supreme Court decisions?

CONCLUSION

Where the court failed to establish proper jurisdiction, denied the Defendant due process and interfered with the Defendant's ability to present a complete defense, in it is only proper that this matter be remanded and discharged with prejudice on all counts.

For the reasons stated above, this case involves matters of great public and general interest and substantial constitutional questions. It addresses the failure of the trial court to follow proper procedures and recognize the proper status of the parties. This case is a matter of due process and fundamental liberties protections.

The Appellant requests that this high court accept jurisdiction in this case so that the important issues presented may be presented in their entirety and reviewed on the merits.

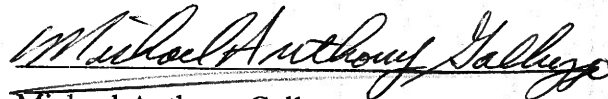
Respectfully submitted,



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 Champaign County Prosecutor, Counsel for Appellee/Plaintiff, 205 S. Main St., Urbana, Ohio 43078 on October 1, 2021.



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. 2021-CA-7

Trial Court Case No. 2020-CRB-764

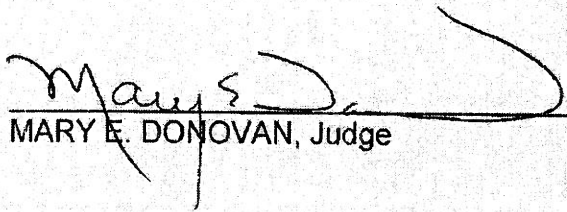
FINAL ENTRY

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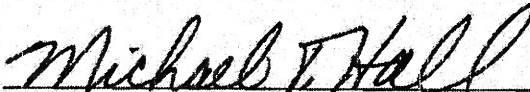
Pursuant to the opinion of this court rendered on the 20th day
of August, 2021, the judgment of the trial court is affirmed.


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. Additionally, the clerk of the Court of Appeals shall send a mandate to the trial court for execution of this judgment and make a note in the docket of the service. Pursuant to App.R. 27, a certified copy of this judgment constitutes the mandate.



MARY E. DONOVAN, Judge


MICHAEL T. HALL, Judge


JEFFREY M. WELBAUM, Judge

Copies sent to:

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Urbana, OH 43078
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Michael Anthony Galluzzo
P.O. Box 710
Saint Paris, OH 43072

Hon. R. David Picken, Visiting Judge
c/o Champaign County Municipal Court
205 S. Main Street, P.O. Box 67
Urbana, OH 43078

{¶ 1} Michael Anthony Galluzzo appeals pro se from his convictions for resisting arrest and obstructing official business, misdemeanors of the second degree, following a bench trial in the Champaign County Municipal Court. We affirm the judgment of the municipal court.

{¶ 2} Galluzzo had been previously convicted of three offenses related to his operation of a motor vehicle without a driver's license and while his license was suspended. See *State v. Galluzzo*, 2d Dist. Champaign No. 2019-CA-19, 2020-Ohio-308, ¶ 1-2. With respect to those offenses, the trial court sentenced Galluzzo to 180-days of incarceration and fined him \$100 for driving without an operator's license; it also imposed fines of \$50 each for two convictions for driving under suspension. The court also imposed court costs. *Id.* at ¶ 6. Galluzzo's payment agreement with the court (which was attached to his brief in this appeal as Attachment 1) provided that \$20 was due on the 15th day of each month, and it set forth a beginning balance of \$2,319.20. The agreement reflected payments for January, February, and March 2020. It further provided that, if the fines and costs were not paid as ordered, then Galluzzo was to appear in court on the 16th day of the month at 8:00 a.m., or the next business day if this date fell on a weekend or holiday. Galluzzo was advised that failure to appear for any court ordered appearance could result in a warrant for his arrest and contempt of court proceedings. It further provided that the penalty for a first offense contempt of court was a maximum of 30 days in jail and/or a \$25 fine, that failure to pay and to appear as ordered could result in the matter being turned over to a collection agency, and that a collection agency would add a 30% fee to any outstanding balance.

{¶ 3} On October 7, 2020, on the record, the municipal court issued the warrant

for Galluzzo's arrest, noting that he had failed to make the required \$20 payment on April 15 and had failed to appear in court the next day as ordered.

{¶ 4} On October 19, 2020, complaints were filed against Galluzzo for resisting arrest, in violation of St. Paris Ordinance 136.08(A), and obstructing official business, in violation of St. Paris Ordinance 136.06(A). At his arraignment the same day, the court indicated that Galluzzo was before the court for two matters: failure to pay his fines and costs in the previous case and the two new charges. Galluzzo refused the trial court's offer to appoint an attorney for him. The court set the matter for trial on November 4, 2020.

{¶ 5} On October 26, 2020, Galluzzo filed a document titled "Public Records Request (Freedom of Information Act)"; this document referenced the criminal case numbers, but it was not filed in the criminal cases. The Public Records Request requested the following items:

1. A certified copy of the alleged summons in Case # 18TRD01000, 16CRB00399, and 19TRD00928 for an alleged hearing on October 7, 2020.
2. A certified copy of the proof of service of the above summons.
3. A certified copy of the warrant that was issued in this matter on 10-07 2020.
4. A certified copy of the alleged charges from the above cases, itemized as to costs, fines, other alleged charges.
5. St. Paris police body cam video for October 19, 2020, from 1600 to 2000 hrs. for Officers Vlcek and Sagers and cruiser video and recording to the

same time period.

6. Certified copies of all reports and documentation related to the serving of a warrant for MICHAEL A GALLUZZO against *Michael Anthony Galluzzo*.

Galluzzo also filed a pro se "Counterclaim/Cross-Claim."

{¶ 6} On October 30, 2020, the municipal court judge recused himself from the case. The trial was rescheduled for December 11, 2020. On November 30, 2020, Galluzzo filed a "Notice of Default by Affidavit Demand to Show Cause Demand for Dismissal for Lack of Jurisdiction." On December 11, 2020, Galluzzo filed a "Demand for Dismissal."

{¶ 7} At the start of the proceedings on December 11, 2020, the prosecutor asked the court whether the Village needed to address "the * * * demurrer and the challenge to jurisdiction" that Galluzzo had filed before trial. The court responded, "If you want to take testimony out of, of those two matters first, that's fine. Your presentation, your burden of proof." The prosecutor asked the court to take judicial notice that the court had issued a valid warrant for Galluzzo's arrest for failing to appear to pay fines and costs.

{¶ 8} At trial, Amy Evans, the Clerk of Court for the municipal court, testified that her duties included keeping track of fines and court costs. She testified that Galluzzo had failed to make payments or to appear for a hearing for several months. Evans testified about the standard payment agreement that's given to every defendant at the conclusion of the proceedings, stating:

It indicates the monthly amount that they're supposed to pay, the total balance, and it has a disclaimer at the bottom to say if they are unable

to make those fines and costs, they are ordered to appear for a hearing in that matter the next business day the court is open, after their scheduled payment date, to go before the Court for that hearing to address the issue.

Evans testified that the court had issued the warrant for Galluzzo in the course of its standard operating procedure, and that the warrant was in effect on October 17, 2020 (the day of Galluzzo's arrest).

{¶ 9} Prior to conducting cross-examination of Evans, Galluzzo stated that he did not want the court to consider any questions he asked to be his "consent or assent" to the court's jurisdiction. The court agreed to consider the questions "for the merit of the questions and what they pertain to." Galluzzo then questioned Evans. In response to a question by Galluzzo regarding the issuance of any summons for the October 7, 2020 proceeding, Evans stated that "there's an automatic hearing set the next business day" after a missed payment, for which notice is provided with the payment agreement at the time of sentencing, and that additional notification other than what was provided at sentencing on the payment agreement was not sent. In response to a question by the court, Evans also stated that Galluzzo "made two payments recently," one in late November and one on the day of trial, "but prior to that there had been no payments * * * going back to spring." Evans also clarified that, pursuant to the court's entry and payment agreement, the court could enter a notice of contempt on each date after a nonpayment.

{¶ 10} On redirect examination, Evans testified that, when a defendant makes a payment, he or she receives a receipt that shows the balance remaining and when the next payment is due. Evans stated that the warrant for Galluzzo's arrest was issued for

failure to appear for a hearing, not for failure to make payments.

{¶ 11} Garrett Vlcek, a police officer in the Village of St. Paris, testified that on October 17, 2020, he learned that there was a warrant for Galluzzo in the course of his duties at work. Vlcek then observed Galluzzo in his yard on Main Street in New Paris and interacted with him there. Based on this testimony, and addressing Galluzzo's argument about the court's jurisdiction, the prosecutor pointed out that R.C. 1901.02(A)(13) "establishes that the City of Urbana will have a municipal court that is to be called the Champaign County Municipal Court, * * * and specifically the B section states that it will have jurisdiction over all misdemeanors in the state that are within Champaign County." The prosecutor argued that Officer Vlcek's testimony that he was within his jurisdiction as a law enforcement officer in the Village of St. Paris when he arrested Galluzzo and that all of their interactions were within Champaign County established the court's jurisdiction to hear the matters before it.

{¶ 12} Galluzzo then advised the court that he did not consent to personal jurisdiction and that, with respect to subject matter jurisdiction, there was still a "question of whether or not the warrant was valid since Rule 4 requires that * * * paragraph 8 says no warrant or alias warrant shall be issued unless a person fails to appear in response to the summons." Galluzzo asserted that no summons had been issued. Galluzzo also asserted that there was "no authority for them to issue a warrant, and the warrant was issued for Michael A. Galluzzo, the Ens Legis entity and not the flesh and blood man."

{¶ 13} The court found that it had jurisdiction over the matter pursuant to the Ohio Revised Code. It also found that Galluzzo was "the person who's involved in this particular case and has been charged," that he had "received due notification by virtue of

the entry already testified to by Ms. Evans," that if he failed to make the monthly payments on his payment agreement with the court, that his hearing date was set for the day after, and that his failure to make payments for several months in a row and failure to appear as ordered by this Court violated the court's order.

{¶ 14} The prosecutor then advised the court that "the only other challenge was for a demurrer," but noted that the Ohio Revised Code Section that Galluzzo relied upon referred only to felonies, Galluzzo was not charged with a felony, and "[t]here is no such thing as the demurrer for a misdemeanor." The court overruled Galluzzo's demurrer and indicated its intention to proceed with testimony about the allegations in this case related to obstruction of justice and resisting arrest.

{¶ 15} Officer Eloy Sagers of the St. Paris Police Department testified that, on October 17, 2020, he learned of an arrest warrant for Galluzzo and proceeded to Galluzzo's residence. He stated that he "entered from the back, down the street, and Officer Vlcek pulled the patrol car up to the front of the house." Sagers stated that Vlcek initiated contact with Galluzzo, who "started walking into the house." Sagers stated that he asked to speak to Galluzzo, who refused. Galluzzo "then proceeded up the steps into his residence," with Sagers "right behind him"; Galluzzo tried to shut the door, and Sagers pushed it back open. Galluzzo was saying "do not come in my house." Sagers testified that the officers advised Galluzzo numerous times that there was a warrant for his arrest and that he needed to come outside.

{¶ 16} According to Sagers, Vlcek "then went hands-on" to remove Galluzzo from the premises. When Galluzzo turned around, Sagers grabbed Galluzzo's left arm "to get control to put handcuffs on," but Galluzzo "started resisting, pulling his hands back to the

front of him." Sagers stated that he pushed Galluzzo up against the house, placed him in handcuffs, and took him to the patrol car.

{¶ 17} On cross-examination, Galluzzo asked Sagers if he and Vlcek had body cameras on at the time of his arrest, and Sagers indicated that he did. Galluzzo stated that he had requested the videos but had not received them. The prosecutor indicated that the Village was not in possession of any body camera videos. After a lengthy discussion, the court marked Galluzzo's October 26, 2020 "Public Records Request" as Defendant's Exhibit 1. The following exchange occurred regarding Exhibit 1:

THE COURT: Bottom line -- the bottom line is what he's fishing for here is a certified copy of proof of service of summons. That was an inherent part of the payment agreement as I understand.

[THE PROSECUTOR]: My office would not have proof of the service of the, the warrants. My office would have things related specifically to the new charges for the Resisting and the Obstruction, but in terms of warrants for failure to pay fines and costs, that is complete with this Court. My office does not have any records for that.

{¶ 18} Next, Officer Vlcek testified regarding Galluzzo's arrest. He stated that Galluzzo was advised repeatedly about the warrant; Galluzzo denied that there was a warrant and asserted that he had paid his fines. Vlcek stated that he asked Galluzzo multiple times to come out of the house and "just make this easier on all of us." Vlcek stated that he left the porch and called the Chief of Police, who told him to get Galluzzo in custody as soon as possible. Vlcek stated that Galluzzo told him multiple times that he wanted to get his receipts from the court; Vlcek told Galluzzo that he could get his

9

receipts if Vlcek could go in the house with him, "because I don't know what you're going for." Vlcek stated that "in the report you can read that he [Galluzzo] actually did pull a machete like knife when Officer Sagers interacted with him." Vlcek stated that he grabbed Galluzzo's shoulder, "pushed his shoulder up * * * towards his head," and then Galluzzo finally gave Vlcek his hand, "and then he gave Officer Sagers his hand to put behind his back too," and then Galluzzo was handcuffed.

{¶ 19} After discussion resumed regarding the body camera video, the following exchange occurred:

THE COURT: * * * Mr. Galluzzo, I'm going to ask you for a proffer to the Court of what you expect or think that this body cam may show, what evidence.

MR. GALLUZZO: I would have to see the body cam because I know several times I asked the officers to produce the warrant, and they said they couldn't produce it; it was only on the computer.

When they finally got me in the car and, um, pulled up the information, there was no warrant on there. So they said that um, I had missed a hearing on October 7th and I had no notice of any hearing. So my comments to them, um, I think established lack of probable cause in this matter.

I'm not adverse to the Prosecutor's staying the matter until the body cam issue can be resolved. * * *

{¶ 20} After a recess, the court indicated that it would pause the proceedings "to allow the Prosecution to check as to availability of a supposed body cam, or cams plural,

on the officers, there being some confusion as to whether or not they may have been destroyed when the police chief was relieved of her position." The prosecutor then advised the court that he had learned that the videos could be retrieved. The court stayed the proceedings until January 8, 2021, to enable Galluzzo to view the body camera videos. Galluzzo also asked the court for a copy of "the audio and video" of his "original arraignment," claiming that they would show he had never entered a plea in the case; the court pointed out that the case was proceeding as if Galluzzo had not entered a plea, but that a not guilty plea had been entered on his behalf when he remained mute at the arraignment.

{¶ 21} On December 14, 2020, Galluzzo filed correspondence addressed to the court clerk requesting multiple documents and recordings. On January 7, 2021, Galluzzo filed a "Challenge to the Jurisdiction Demand for Dismissal." On January 8, 2021, Galluzzo indicated to the court that he had received videos of the officers' body cameras but had not viewed them. The prosecutor stated that the videos had been mailed to Galluzzo on December 14, 2020, and he asked the court to "reopen" the State's case to allow the officer "to attest to his body cam." Galluzzo then advised the court as follows:

If I may, I would like to make a statement for and on the record that number one, I am not here voluntarily. I'm here under threat, duress, and coercion.

Number two, I have not pled in this matter. I have never been asked to plead in this matter.

Number three, the jurisdictional issue of when the arrest was made

and the reason the arrest was made for failure to appear at a hearing that I never received notice of makes the proceedings improper and violation of due process.

And number four, the question of who I am as a man versus the corporate entity that they claim I am has not been clarified.

{¶ 22} The court advised Galluzzo that it had already rejected his jurisdictional arguments and his argument with respect to not entering a plea. It also found that he had not been denied any constitutional rights, that he was not under arrest at the time of trial, and that he had been notified on the trial date and appeared on his own.

{¶ 23} Officer Sagers's body camera video of Galluzzo's arrest was played for the court and authenticated by Officer Sagers.

{¶ 24} After the State rested, Galluzzo renewed his motion to dismiss, and the court denied the motion.

{¶ 25} Galluzzo then recalled Amy Evans to testify. She stated that there "was a time period where the Court was not enforcing [payment agreements], allowing people to have extra months as a courtesy due to the virus." She stated, "[b]ut that order renews every month. Any month that you do not pay, a warrant can be issued for your arrest."

The following exchange occurred:

[EVANS]: * * * It looks like this is the most current agreement that you've had where it was indicated that you would pay by the 15th of each month or appear the 16th day of the month or the next business da[y] if it falls on a weekend or holiday for a hearing on your ability to pay.

* * *

Q [GALLUZZO]. * * * What was the last payment that was made on that? Do you have that?

A. The last payment, according to this agreement, was made on March the 5th. I know there was a payment that was made after your warrant was issued in December

Q. Would you take a look at this receipt from the court?

A. Okay.

Q. * * * Uh, according to the previous receipt and that, there was \$140 due - - let's say \$160, including October, that was due on the 15th of October, correct?

A. There was a \$50 payment on the 15th of October, that's correct.

Q. There was how much?

A. I'm sorry. It looks like it went toward your fine. There was a total of \$200 paid on that October date.

Q. So that was more than what was due at that time, correct?

A. Your payment is to be made every month or you're to appear every month. You can't not pay for six months and then come in and make a lump sum after a warrant has been issued. That's not how the Judge's policy works. The warrant was already in effect at some point when a payment was made. I don't have the warrant in front of me to see when this coincides with the payment.

Q. Well, if I was not issued a summons to appear in court on the 15th or 16th, and it was prematurely made on the 7th, working off of the old

documents, the old order, my question would be why was the -- as from the testimony of the officer, the warrant was dropped on the 17th, and it also indicates that the payment was made on the -- the \$200 payment was on the warrant as well.

So wouldn't * * * if the warrant was * * * dropped on the 17th, would it not have been after the payments were made and brought up to date and paid in advance?

A. * * * I don't have the warrant in front of me to see the date. You handed me a receipt and asked me about the receipt.

Q. Do you have a copy of the warrant there?

A. I do. Sir, it looks like your warrant was issued on October the 7th for your failure to pay. The warrant was issued October 7th for your failure to pay April, May, June, July, August, and September.

Your \$200 payment was then made after that warrant was issued on October the 15th. There was also a subsequent payment of \$20 made on December the 11th.

The bond amount for the warrant is \$2,409.20. The \$220 you paid total did not pay that in full; therefore, the warrant remained in effect.

* * *

Q. So if the Court was showing leniency on payments, primarily because of the COVID epidemic or pandemic, should this not have been delayed until the appearance should've been on the 17th of October?

A. This is not my order. I don't issue warrants. The Judge does.

It's his policy. You didn't appear for one, two, three, four, five, six - - six months, six potential hearings.

Q. Well, during that six months weren't the people ordered to stay home, not go out because of the pandemic and such?

A. I don't know the time frame on that, sir. We conducted court continuously throughout that time. * * *

* * *

THE COURT: The documents you're reading from, the heading of that document is what, please?

THE WITNESS: Contempt warrant, sir.

THE COURT: And is that a document that is issued in the ordinary course of business of this court?

THE WITNESS: That is correct, sir.

* * *

THE COURT: * * * And does that take the form of an order?

THE WITNESS: It's on a payment agreement order, yes, sir.

THE COURT: * * * So it is then a court order and that's how the Judge enforces his policies?

THE WITNESS: Correct, sir.

THE COURT: * * * The contempt citation that is dated October 7th is executed by what person?

THE WITNESS: The warrant is signed by Judge G.S. Weithman, sir.

THE COURT: * * * And if I understand correctly, it is for failure to appear and not because of the nonpayment?

THE WITNESS: That's correct.

{¶ 26} When asked if he wished to testify as to the facts of the case, Galluzzo stated as follows:

THE WITNESS: Well, the facts in this case are that I was never apprised or noticed of a hearing on October 7th. Uh, without that notice, * * * pursuant to the Constitution and Supreme Court law, that invalidates the warrant and makes it a false - - invalid, false warrant, which makes the arrest, uh, under the warrant, uh, unlawful, and further makes the charges invalid or void.

Uh, therefore I see it the only, the only op - - the option this Court has under the Constitution and Supreme Court rulings is to dismiss this matter.

{¶ 27} After the State's closing argument, the prosecutor stated that, at all times the officers who arrested Galluzzo believed that the arrest warrant was valid; the body video showed that they checked with their dispatch multiple times and "had every reason to believe that warrant was valid."

{¶ 28} The court found Galluzzo guilty of resisting arrest and obstructing official business. The court also found that the officers made the arrest under a valid warrant issued by the court on October 7, 2020, for failure to appear in the Champaign County Municipal Court to answer a charge of contempt of court for fines and costs "and/or to hold for the next court date." The court noted that the record attached to the court's order showed payments made by Galluzzo in the amount of \$20 for the month of January,

February, and March 2020, but none thereafter until \$200 was paid on his behalf on the October 15, 2020.

{¶ 29} When asked to address sentencing, Galluzzo responded, "I have not seen anything on these charges related to Village Ordinances." The court responded:

* * * The fact that you have not seen it or taken time - - you were probably too busy arguing that you were a corporate entity to take a look at the paperwork and/or refused to get it. I can't answer that.

The, the sole purpose for us to be here today is to determine whether or not you are guilty as charged.

The officers have already testified that they, that they believed they had a valid warrant, that all times they were operating under a warrant. The Clerk has established that a warrant was issued on the 7th of October ordering your arrest. The officers went forward with their obligations as a result of that warrant and their belief in its validity.

They attempted, as shown by your own video, as you requested it, to elicit a peaceful and cooperative arrest. They ended up as a result of this having to cuff you and physically take you from your premises and put you in a squad car.

If you chose not to cooperate and didn't read what was given to you or didn't pay attention, I'm sorry, but that not - - that's not the problem.

{¶ 30} For resisting arrest, the court imposed 90 days in jail, a \$750 fine, and costs; the jail sentence was ordered to be served consecutively to all cases, with 88 days suspended. The court also suspended \$700 of the fine. For obstructing official

business, the court imposed 90 days in jail, a \$750 fine, and costs, to be served consecutively to all cases; the court suspended 90 days and \$700 of the fine. With respect to the suspended days in jail (178 days), the court placed Galluzzo on a two-year, reporting probation; the terms of probation included committing no "jailable offenses" and obeying all terms and conditions of the probation staff.

{¶ 31} The court's judgment entry further provided that Galluzzo's fines and costs would be added to the existing payment agreement; he would pay \$20 per month on the 15th of each month or appear in court on the next business day that the Court was open for a hearing on his ability to pay. Again, the court notified Galluzzo that his failure to appear for any such hearing may result in a warrant for his arrest and result in contempt proceedings.

{¶ 32} Galluzzo appeals from his conviction, raising two assignments of error. In the first assignment, he argues that the municipal court committed plain error when it failed to give him proper notice of the October 7, 2020 hearing. In his second assignment of error, Galluzzo asserts that the municipal court committed plain error and "demonstrated bias and prejudice in favor of the Prosecution" when it denied his demurrer and jurisdictional challenge. Galluzzo asserts that the "court erred when it failed to identify the proper lawful parties," asserting that he "identified himself as the beneficiary Michael Anthony Galluzzo, upper and lower case name, the flesh and blood man and stated that he was not named defendant MICHAEL A GALLUZZO, all caps, the Ens Legis entity, the corporate entity."

{¶ 33} The Village asserts that Galluzzo's "Attachment 1," the payment agreement on the driver's license and suspension offences, gave the required notice that Galluzzo

was required to appear in court on April 16th, 2020 if he could not make the payment due on April 15. Clerk of Court Amy Evans testified that this was the Court's "standard operating procedure"; moreover, the warrant was not issued immediately after Galluzzo missed the April 16th meeting, but he "was allowed leeway to appear due to the Covid-19 pandemic." According to the Village, Galluzzo was not required to have notice that the Court was issuing the warrant on October 7; by that time, the hearing at which Galluzzo's presence was required had already passed. Therefore, the warrant "should be considered valid," and the first assignment of error should be overruled. The Village also asserts that the trial court properly denied Galluzzo's "challenge on demurrer," and the second assignment of error should be overruled.

{¶ 34} Initially, the Village incorrectly asserted that Galluzzo had failed to file the transcript of the proceedings in the Champaign County Municipal Court. However, it later acknowledged that the transcript had been filed.

{¶ 35} We agree with the Village that Galluzzo was not entitled to notice of the proceedings on October 7, 2020, at which the court issued the contempt warrant for his failure to appear. His duty to appear was predicated on his failure to pay, as set forth in the court's payment agreement. As the Village asserts, Galluzzo had notice to appear to address his failure to pay as set forth in the payment agreement. The "disclaimer" in the agreement provided: "failure to appear for any court ordered appearance may result in a warrant for the Defendant's arrest and contempt of court proceedings." The municipal court did not hold a hearing on October 7, 2020; it simply issued a warrant for officers to detain Galluzzo for contempt of court proceedings. Galluzzo was subsequently arrested when he resisted arrest and obstructed official business.

Galluzzo's first assignment of error is overruled.

{¶ 36} Regarding Galluzzo's second assignment of error, the record reflects that the court considered Galluzzo's jurisdictional arguments and properly found that, as a municipal court, it had jurisdiction over Galluzzo for his misdemeanor offenses committed in Champaign County. As this Court has noted:

Ohio municipal courts "are created by statute, R.C.1901.01, and their subject-matter jurisdiction is also set by statute." *State v. Mbodji*, 129 Ohio St.3d 325, 2011-Ohio-2880, 951 N.E.2d 1025, ¶ 11. An Ohio municipal court "has jurisdiction over misdemeanors occurring within its territorial jurisdiction." *Id.*, citing R.C.1901. 20(A)(1). The filing of a complaint invokes the jurisdiction of a municipal court. *Id.* at ¶ 12. See also *State v. Gunnell*, 10th Dist. Franklin No. 13AP-90, 2013-Ohio-3928, ¶ 8. * * *

With respect to personal jurisdiction, many courts have addressed and rejected arguments * * * that a citizen must consent to the jurisdiction of the court. This court and others have found that consent is unnecessary and irrelevant to a court's jurisdiction. We addressed this jurisdictional argument in *St. Paris v. Galluzzo*, 2d Dist. Champaign No.2014-CA-4, 2014-Ohio-3260 [¶ 11, quoting *City of Mount Vernon v. Young*, 5th Dist. Knox No.2005CA45, 2006-Ohio-3319. See also *Dayton v. Galluzzo*, 2d Dist. Montgomery No. 25913, 2014-Ohio-4854, ¶ 8] as follows:

The judicial power of the state is vested in "such other courts inferior to the supreme court as may from time to time be established by law." Section 1, Article IV, Ohio Constitution. The constitution

gives the General Assembly the power to provide for municipal courts and their jurisdiction. *Behrle v. Beam*, 6 Ohio St.3d 41, 42, 451 N.E.2d 237 (1983). Municipal courts, as they exist today in Ohio, were established in 1951 with the enactment of R.C. Chapter 1901. *Id.*[:] *State v. Spartz*, 12th Dist. Madison No. CA99-11-026, 2000 WL 204280, * 1 (Feb. 22, 2000).

Generally, all Ohio courts have jurisdiction over violations of Ohio law occurring in Ohio. See R.C. 2901.11(A). More to the point, municipal courts have jurisdiction over misdemeanor offenses.

Pursuant to R.C.1901.20, "The municipal court has jurisdiction of the violation of any ordinance of any municipal corporation within its territory * * * and of the violation of any misdemeanor committed within the limits of its territory."

* * *

State v. Matthews, 2d Dist. Greene No. 2015-CA-73, 2016-Ohio-5055, ¶ 4-5.

{¶ 37} Regarding his demurrer, Galluzzo asserts that pursuant to R.C. 2941.62, "demurrers shall be heard immediately." But as the Village points out, demurrers were abolished by Crim.R. 12(A), which provides, "[p]leadings in criminal proceedings shall be the complaint, and the indictment or information, and the pleas of not guilty, not guilty by reason of insanity, guilty, and no contest. All other pleas, demurrers, and motions to quash, are abolished. * * *." See *State v. Shutway*, 2d Dist. Champaign No. 2013-CA-55, 2015-Ohio-2432, ¶ 37. Further, demurrers " 'were previously abolished in misdemeanor cases by R.C. 2937.04, and exceptions to the complaint that could have

been made thereunder were consolidated into a motion to dismiss the complaint.' [*Village of St. Paris v. Galluzzo*, 2d Dist. Champaign No. 2014-CA-4, 2014-Ohio-3260] at ¶ 10, citing 2 Katz & Giannelli, *Criminal Law*, Section 47.2, fn. 2 (2009).' " *Shutway* at ¶ 38.

{¶ 38} Galluzzo's second assignment of error is overruled.

{¶ 39} The judgment of the municipal court is affirmed.

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HALL, J. and WELBAUM, J., concur.

Copies sent to:

Roger A. Steffan
Michael Anthony Galluzzo
Hon. R. David Picken, Visiting Judge

IN THE CHAMPAIGN COUNTY MUNICIPAL COURT, URBANA, OHIO
CHAMPAIGN COUNTY DEPARTMENT

STATE OF OHIO
CITY OF URBANA

CASE NO. 18 TRD 1000

18CRB 399

Michael A. Galluzzo
Defendant

JUDGE G. S. WEITHMAN

2019 Payment Agreement Record

\$ 20 Monthly Due on the 6th

Beginning Balance on all cases: 1509.00

Month	Amount	Date Paid	Receipt #	Balance	Initials
January	<u>20.00</u>	<u>1/7/19</u>	<u>26226</u>	<u>1489.00</u>	<u>MR</u>
February	<u>20.00</u>	<u>2/7/19</u>	<u>26172</u>	<u>1469.00</u>	<u>EC</u>
March	<u>20.00</u>	<u>3/7/19</u>	<u>26158</u>	<u>1449.00</u>	<u>EC</u>
April	<u>20.00</u>	<u>4/8/19</u>	<u>26225</u>	<u>1429.00</u>	<u>MR</u>
May	<u>20.00</u>	<u>5/7/19</u>	<u>26395</u>	<u>1409.00</u>	<u>EC</u>
June	_____	_____	_____	_____	_____
July	_____	_____	_____	_____	_____
August	_____	_____	_____	_____	_____
September	_____	_____	_____	_____	_____
October	_____	_____	_____	_____	_____
November	_____	_____	_____	_____	_____
December	_____	_____	_____	_____	_____

FILED
DEC 07 2018
Champaign County Municipal Court
Urbana, Ohio
Amy Evans

CERTIFIED
TO BE A TRUE COPY OF THE
Original Payment Agreement Filed 12/7/18
Certified This 15th Day of Dec 2020
Any Evans, Clerk
Champaign County Municipal Court
Urbana, Ohio
BY Ashley Rose DEPUTY CLERK

**In the event that fines and costs are not paid then the Defendant is ordered to appear on the 7th day of the month at 8:00am (or the next business day if this date falls on a weekend or holiday). Failure to appear for any court ordered appearance may result in a warrant for the Defendant's arrest and contempt of court proceedings. The penalty for a first offense contempt of court is a maximum 30 days jail and/or a \$250.00 fine. In addition, if Defendant fails to pay and fails to appear as ordered the filed may be turned over to a collection agency and the collection agency will add a 30% fee to any outstanding balance.

***If Defendant gets a new charge please complete the section below and start a new payment agreement record.
Date: 6-6-19
Old balance \$ 1409.00
New case # 19 TRD 928 A new fines and costs amount \$ 410.00
Total balance to be carried over to new pay agreement record \$ 1819.00

IN THE CHAMPAIGN COUNTY MUNICIPAL COURT, URBANA, OHIO
CRIMINAL/TRAFFIC DIVISION

STATE OF OHIO
CITY OF URBANA

CASE NO: 18TRD1000

18TRD349, 19TRD928

Michael A. Ballinger
Defendant

JUDGE G.S. WEITHMAN

2019
2019 Payment Agreement Record

\$ 20 Monthly Due on the 15th

Beginning Balance on all cases \$ 2319.

FILED

JUN 06 2019

Champaign County Municipal Court
Urbana, Ohio
Amy Evans

Month	Amount	Date Paid	Receipt #	Balance	Initials
January	<u>20.00</u>	<u>1/14/2020</u>	<u>273802</u>	<u>2299.20</u>	<u>MB</u>
February	<u>20.00</u>	<u>2/12/2020</u>	<u>274578</u>	<u>2279.20</u>	<u>EL</u>
March	<u>20.00</u>	<u>3/5/20</u>	<u>274999</u>	<u>2259.20</u>	<u>EL</u>
April					
May					
June					
July					
August					
September					
October					
November					
December					

2259.20 10-7-20
+ 150.00 WB
2409.20 EW

CERTIFIED
TO BE A TRUE COPY OF THE
Original Pay Agreement Filed 6/16/2019
Certified This 15th Dec. 20 20
Amy Evans, Clerk
Champaign County Municipal Court
Urbana, Ohio
BY Ashley Rose DEPUTY CLERK

**In the event that fines and costs are not paid then the Defendant is ordered to appear on the 10th day of the month at 8:00am (or the next business day if this date falls on a weekend or holiday). Failure to appear for any court ordered appearance may result in a warrant for the Defendant's arrest and contempt of court proceedings. The penalty for a first offense contempt of court is a maximum 30 days jail and/or a \$250.00 fine. In addition, if Defendant fails to pay and fails to appear as ordered the filed may be turned over to a collection agency and the collection agency will add a 30% fee to any outstanding balance.

***If Defendant gets a new charge please complete the section below and start a new payment agreement record:

Date: _____
Old balance \$ _____
New case # _____ new fines and costs amount \$ _____
Total balance to be carried over to new pay agreement record \$ _____