

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT AND IN FOR
SAINT LUCIE COUNTY, FLORIDA

STATE OF FLORIDA)
(Plaintiff/Respondent))
VS.)
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AMUNHOTEP EL BEY)
(Petitioner/Secured Party/Affiant))
_____)

CASE NO's: 98-823-CFB
562004CT005567
2004CT0005567
2005CT002801
562007CF4217
2007TR043187 A1
2007TR043182 A1
2010MM001552 A
11CA2316

JUDGE: DAN VAUGHN

**CONSTRUCTIVE NOTICE OF REFUSAL: IN THE NATURE OF WRIT OF CORAM
NON JUDICE.**

COMES NOW, the defendant/petitioner/secured Party Creditor, **Amunhotep El Bey**, in propria persona (my own proper self), formerly known as the artificial person, **Eugene James Williams**; hereby, notifies this court that the attached order, dated May 23, 2012, striking motion to dismiss sham pleadings; motion to Consolidate; and affidavit in the nature of writ of Error Coram Nobis is void due to the fact that this court lacks jurisdiction to rule and Dan Vaughn is not a judge.

The petitioner/defendant is not a lawyer and his pleadings cannot be treated as such. In fact, according to *Haines v. Kerner*, 404 U.S. 519 (1972), a complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Id.*, at 520-521, quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). "[A] pro se petitioner's pleadings should be liberally construed to do substantial justice." *United States v. Garth*, 188 F.3d 99, 108 (3d Cir.1999).

Coram non judice, "In the presence of a person not a judge. When a suit is brought and determined in a court which has no jurisdiction in the matter, then it is said to be coram non judice, and the judgment is void." (See Black's Law Dictionary, Sixth Edition, 13th Reprint (1998)).

There is no judicial courts according to FRC vs. GE 281 U.S. 464, Keller vs. PE 261 U.S. 428, 1 Stat. 138-178) “Judges do not enforce statutes and codes. Executive Administrators enforce statutes and codes. There have not been any judges in America since 1789. There have just been administrators.”

“When acting to enforce a statue and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statues do not act judicially, but merely ministerially.” (See Thompson vs. Smith, 154 SE 583.).

“Without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences are considered, in law, as trespasser.” (See Elliot vs. Piersol, 1 pet. 328, 340, 26 U.S. 328)

“When a judge acts when he or she does not have jurisdiction to act, the judge is engaged in an act or acts of treason.” (See US vs. Will, 449 U.S. 200, 216, 101 S. ct, 471, 66 L. Ed. 2nd 392, 406 (1980) Cohen vs. Virginia, 19 U.S. (6wheat) 264, 404 5 L. Ed. 257 (1821)).

“Dismissal of charges is warranted, because of fraud placed on the court.” (See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944)).

STATEMENTS OF THE CASE AND FACTS

On April 17, 2012, the defendant/petitioner/affiant/Secured Party Creditor filed an Affidavit: In the nature of Writ of Error Coram Nobis, in the circuit court of the 19th Judicial Circuit, State of Florida, in the criminal division. The defendant filed the said pleading to correct the illegal null and void judgments of convictions that arose because the state of Florida lacked subject matter and personal jurisdiction, improper venue, standing, no Corpus Delicti, no holder in due course, and etc., to try the defendant on all criminal and traffic cases in the above-styled cause (see the record: Writ of Error Coram Nobis, for further detail).

Defendant filed Writ of Error Coram Nobis because he was asking the court to correct jurisdictional errors of fact and the defendant was no longer in state custody, so he couldn't file a 3.850 motion, under the Florida Rules of Criminal Procedure, which has a 2 year statute of limitations, if I'm not mistaken. If this is not the case, then this court should have construed the said pleading into the proper legal vehicle in order to do substantial justice. (See United States v. Garth, 188 F.3d 99, 108 (3d Cir.1999), quoting *Haines v. Kerner*, 404 U.S. 519 (1972), **“Pro se complaints are to be construed liberally in favor of the accused.”** Furthermore, according to *Latana vs. Hopper*, 103 F. 2d 118; and *McNutt vs. GMAC*, 298 U.S. 178, **it matters not how the issue of jurisdiction is raised**, and no enforcement can proceed until jurisdiction is proved.

On May, 10, 2012, the defendant/petitioner received a back-dated unsigned court order from the 19th Judicial Circuit, which resulted in the defendant filing a Motion to dismiss: Sham pleadings

(see the record), a motion to consolidate (see the record), and a First Amended Motion for Default Judgment (see the record: Case number 11CA2316), on May 11, 2012.

On May 18, 2012, the defendant/petitioner filed Petitioner's Motion for Default Judgment (see the record); because the 30 days petitioner gave the state of Florida to respond to his Affidavit/Writ of Error Coram Nobis had expired on May 17, 2012.

Thus far, the state has failed to prove jurisdiction on the record, because the state has failed to rebut the Affidavit in the nature of Writ of error Coram Nobis and is forever barred from doing so, because the 30 days to respond has expired. The said pleading is true and correct at law and this court only has jurisdiction to execute default judgment.

On June 1, 2012, the defendant/petitioner received an order striking Motion to Dismiss sham pleadings; Motion to consolidate; and Affidavit in the nature of writ of error coram nobis & a demand for dismissal or state the proper jurisdiction. (See attached order dated May 23, 2012). The defendant/petitioner has attached the postal-stamped date of May 30, 2012, in order to validate the date he alleges he received the attached order. The mail box rule affords the defendant 3 days from the postal-stamped date for arrival.

- 1.) This refusal is partly based upon Uniform Commercial Code (U.C.C. 3-501), which warrants refusal of instruments which are non-bona fide or fraudulent in nature.
- 2.) The fact that the state has no jurisdiction, no standing, no holder in due course, no corpus delicti, and the defendant enjoys 11th Amendment Immunity, and the defendant was tried and convicted in a non-Article III court by an administrative court, all orders and judgments of convictions are null and void; thereby, making the attached order a fraud. (See the record if this court needs actual evidence that it has no jurisdiction; to wit: Affidavit in the nature of Writ of Error Coram Nobis & a demand for dismissal or state the proper jurisdiction.)
- 3.) The fact that Dan Vaughn is an administrative clerk and is not a judge, according to FRC vs. GE 281 U.S. 464; and Keller vs. PE 261 U.S. 428, 1 Stat. 138-178, all orders and judgments of convictions imposed by him are fraudulent in nature; therefore, the attached order is fraud and the defendant/petitioner does not recognize it at law and the court must not either.
- 4.) Dan Vaughn has committed treason in case numbers 98-823-CF, and 562007CF004217A, because the state had and has no jurisdiction, whatsoever, but yet the said judge acts like the state of Florida has jurisdiction; therefore, it is evident that the treason is willful and is in violation of 18 USC Section 2381.

WHEREFORE, notice is hereby given that based upon the foregoing facts and the authorities cited therein, the defendant/petitioner does not recognize the attached order striking the said pleadings due to fraud and lack of jurisdiction. I have returned the fraudulent attached order and wrote in red at a 45 degree angle, "Void: I do not recognize."

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by US Mail to: The Clerk of the Circuit Court , P. O. Box 700, Fort Pierce, Florida, 34954; the State Attorney's Office, 411 South Second Street, Fort Pierce, Florida, 34950; the Office of the Attorney General, Sate of Florida, The Capitol PL-01., Tallahassee, FL 32399-1050; the Florida Department of State, Secretary of the State, R. A. Gary Building, 500 S. Bronough, Tallahassee, FL. 32399-0250; The US Department of the Treasury, 1500 Pennsylvania Avenue, NW Washington, DC 20220; The Florida Department of Highway Safety & Motor Vehicles – DMV, 1210-G Capitol Circle, Tallahassee, FL 32301; the US Department of Transportation, 1200 New Jersey, SE Washington, DC. 20590; and The United States District Court, Southern District of Florida, 101 South US Highway 1, Room #1016, Fort Pierce, FL. 34950, on this ____ day of _____, 2012.

Respectfully Submitted

by: _____

Defendant/petitioner, Amunhotep El Bey.

All Rights Reserved Without Prejudice;

U.C.C. 1-207/1-308, U.C.C. 1-103.

Amunhotep El Bey

1230 Avenue I

Fort Pierce, FL [34950].