

FIFTH DISTRICT

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STATE OF NORTH CAROLINA
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STATE OF NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA,)	
Plaintiff/Appellee)	
v.)	FROM PENDER
)	COUNTY
LTC Donald Sullivan,)	O8CRS01482
Defendant/Appellant, <i>In Pro Per</i>)	

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STATEMENT OF ORGANIZATION OF TRIAL COURT

From the Finding in The General Court of Justice, Superior Court Division, from the Fifth Judicial District in Burgaw, NC, dated February 25, 2009, Judge Jay D. Hockenbury, presiding.

The record on appeal was filed in the North Carolina Court of Appeals on May 29, 2009, and was docketed on June 11, 2009.

STATEMENT OF TRANSCRIPT OPTION

Per Appellate Rule 9(c), the transcript of the entire proceedings in this case (Excepting Jury Selection and Opening and Closing Arguments), taken by Ms. Vicky Schley, Court Reporter, from February 24, 2009, through February 25, 2009, consisting of 141 pages numbered 1-141 and bound in one volume, is filed contemporaneously with this record.

STATE OF NORTH CAROLINA File No. 08CRS001482 51
PENDER County BURGAW Seat Of Court In The General Court Of Justice
 NOTE: (This form is to be used for misdemeanor offense(s). Use AOC-CR-342 or AOC-CR-310 for DWI offense(s).) District Superior Court Division

STATE VERSUS JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR(S)
 Name Of Defendant SULLIVAN, JAMES DONALD
 IMPOSING AN INTERMEDIATE PUNISHMENT
 IMPOSING A COMMUNITY PUNISHMENT (STRUCTURED SENTENCING)
 Face W Sex M DOB 4/30/1948 G.S. 15A-1341, -1342, -1343, -1343.2, -1346
 Attorney For State BOWMAN, JOSEPH Def. Found Not Indigent Def. Waived Attorney Attorney For Defendant SELF Appointed Retained

The defendant pled guilty to: was found guilty/responsible by the Court of: was found guilty by a jury of: pled no contest

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	CL.
08CRS001482	51	OPERATE VEH NO INS	6/2/2008	20-313(A)	1
08CRS001482	52	DRIVE/ALLOW MV NO REGISTRATION	6/2/2008	20-111(1)	2

The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be 2 Level: I (0) II (1-4) III (5+)

- 1. The Court imposes the punishment term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- 2. The Court finds: (a) enhancement for: G.S. 90-95(e)(4) (drugs). G.S. 14-3(c) (hate crime). G.S. 14-50.22 (gang).
 (b) enhancement from required suspended sentence to Class 2 misdemeanor, G.S. 90-95(e)(7).
 If in District Court, the Court found this issue beyond a reasonable doubt or the defendant pled guilty or not contest to this issue. If in Superior Court, this finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
- 3. The Court imposes mandatory punishment. G.S. 14-33(d) (assault in the presence of a minor).
- 4. The Court finds the above designated offense(s) is a reportable conviction under G.S. 14-208.6 and therefore
 a. imposes the special conditions of probation set forth on the attached AOC-CR-603, Page Two, Side Two, and
 b. makes the additional findings and orders on the attached AOC-CR-615, Side Two.
- 5. The Court finds the above-captioned offense(s) involved the (check all that apply) physical or mental sexual abuse of a minor
 (If No. 4 not found) and therefore imposes the special conditions of probation set forth on the attached AOC-CR-603, Page Two, Side Two.
- 6. The Court finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
- 7. The Court finds that the above designated offense(s) involved criminal street gang activity. G.S. 14-50.25.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned

for a term of 45 days in the custody of the: N.C. DOC. Sheriff of _____ County. Other _____

This sentence shall run at the expiration of sentence imposed in file number _____

The defendant shall be given credit for 0 days spent in confinement prior to the date of this Judgment as a result of this charge(s), to be applied toward the sentence imposed above. imprisonment required for special probation below.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised unsupervised probation for 12 months.

- 1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
- 2. The Court finds that it is NOT appropriate to delegate to the Division of Community Corrections in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.
- 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.
- 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.

File Number	Offense	County	Court	Date

- 5. The defendant shall comply with the conditions set forth in file number _____
- 6. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, pursuant to a schedule determined by the probation officer. set out by the court as follows:

IMMEDIATELY THIS DATE

Court Costs	Miscellaneous	Fine	Restitution*	Attorney's Fee	Comm. Service Fee	EHA Fee	SBM Fee	Total Amount Due
\$ 259.50	\$ 0.00	\$ 750.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 1,009.50

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- All payments received by the Clerk shall be distributed pro rata among the persons entitled to restitution in this priority: first among all G.S. 7A-304(d) priorities and before payment of community service and probation supervision fees.
- Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation.

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342. The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court.
If the defendant is on supervised probation, the defendant shall also: (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons.
If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

- 11. The court finds that the defendant is responsible for acts of domestic violence and there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, and the defendant shall attend and complete that program. there is not an approved abuser treatment program reasonably available. it would not be in the best interests of justice to order the defendant to complete an abuser treatment program because _____

NOTE: See AOC-CR-603, Page Two, Side Two for Additional Conditions For Persons Convicted Of Domestic Violence.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-262(c)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- 12. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 13. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:
 stolen goods controlled substances contraband child pornography _____
- 14. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- 15. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.
- 16. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- 17. Complete _____ hours of community or reparation service during the first _____ days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-262.4(b). pursuant to the schedule set out under monetary conditions above. within _____ days of this Judgment and before beginning service.
- 18. Report for initial evaluation by _____ participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 19. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with _____ "Contact" includes any defendant-initiated contact, direct or indirect, by any means including but not limited to telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except _____
- 20. Other:

NOT VIOLATE ANY LAWS OF THIS OR ANY OTHER STATE OR THE FEDERAL GOVERNMENT.
NOT OPERATE THIS VEHICLE (1979 CHEV PICKUP) UNTIL IT HAS PROPER FINANCIAL RESPONSIBILITY AND IS PROPERLY REGISTERED ACCORDING TO STATUTES.

- 21. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.
- A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

- 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- 3. The current pretrial release order is modified as follows: _____
- 4. The defendant gives notice of appeal from the judgment of the trial court to the appellate division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
2/25/2009	JAY D. HOCKENBURY	

CERTIFICATION

I certify that this Judgment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- 1. Appellate Entries (AOC-CR-350)
- 2. Judgment Suspending Sentence, Page Two (Special Conditions Of Probation (AOC-CR-603, Page Two)
- 3. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- 4. Judicial Findings As To Required DNA Sample (AOC-CR-319)
- 5. Judicial Findings And Order As For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two)

Date Of Certification	Signature	SEAL
Date Certified Copies Delivered To Sheriff	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court	

STATE OF NORTH CAROLINA

File No.

08CRS001482 51

PENDER County

Additional File No.(s)

In The General Court Of Justice
[] District [X] Superior Court Division

STATE VERSUS

Name Of Defendant

SULLIVAN, JAMES, DONALD

Social Security No.

APPELLATE ENTRIES

Rules 7, 9, 11, 27; N. C. Rules Of App. Proc.

Codefendant(s) If Tried Jointly

Name And Address Of Defendant's Trial Counsel

SELF

Telephone No.

Name And Address Of Trial Prosecutor

BOWMAN, JOSEPH

PO BOX 310

BURGAU, NC 2845

Telephone No.

910-259-1388

Telephone No.

Name And Address Of Trial Transcriptionist(s)

VICKEY SCHLEY

(See Addendum 2)

8743 W TELFAIR CIRCLE

WILMINGTON, NC 28412

Telephone No.

Telephone No.

Name And Address Of Defendant's Appellate Counsel

[] The Appellate Defender (919) 560-3334
123 W. Main St., Suite 500, Durham, NC 27701

NOTE: All indigent appeals are assigned to the Appellate Defender.

[] Retained Appellate Counsel

Telephone No.

Date(s) Of Trial

02/24/09-02/25/09

Name And Address Of Transcriptionist(s) Of All Other Proceedings

Date(s)

Telephone No.

Name And Address Of Transcriptionist(s) Of All Other Proceedings

Date(s)

Telephone No.

Name And Address Of Transcriptionist(s) Of All Other Proceedings

Date(s)

Telephone No.

Name And Address Of Transcriptionist(s) Of All Other Proceedings

Date(s)

Telephone No.

(Attach additional sheet(s) if necessary)

JUDGE'S INITIAL APPEAL ENTRIES

- 1. [X] a. The defendant has given Notice of Appeal to the N.C. Court of Appeals, or
[] b. This is a capital case appealable as of right to the N.C. Supreme Court.
2. Release of the defendant pursuant to G.S. 15A-536 is [] denied [X] allowed upon execution of a secured bond in the amount of \$ 200.00 and compliance with the following additional conditions:
3. Unless indigent, the defendant shall arrange for the transcription of the proceedings as provided in the Rules of Appellate Procedure.
4. (NOTE: Check in all cases where defendant is indigent.) The defendant is indigent and has requested a transcript and the appointment of counsel. It is ORDERED that the defendant is allowed to appeal as an indigent and:
a. The Office of Indigent Defense Services shall pay the costs of producing a transcript, and of reproducing the record and the defendant's brief.
b. The Appellate Defender is appointed to perfect the defendant's appeal or assign other appellate counsel pursuant to rules issued by the Office of Indigent Defense Services.
c. Upon request, the Clerk shall furnish to the Appellate Defender, or to alternate counsel designated by the Appellate Defender, a copy of all documents on file in this case.
d. Unless the parties stipulate that parts of the proceedings shall not be transcribed, the Clerk shall order from the transcriptionist(s) a transcript of all parts of the proceedings except:

Original-File Copy-Transcriptionist(s) Copy-Defendant's Trial Counsel Copy-Defendant's Appellate Counsel (or defendant if unrepresented) Copy-District Attorney

Material opposite unmarked squares is to be disregarded as surplusage.

(Over)

JUDGE'S INITIAL APPEAL ENTRIES (continued)

- 5. If a transcript has been ordered, the defendant in a non-capitally tried case shall serve a proposed record on appeal on the State within 35 days after the reporter's or transcriptionist's certification of delivery of the transcript. If a transcript has been ordered, the defendant in a capitally tried case shall serve a proposed record on appeal on the State within 70 days after the reporter's or transcriptionist's certification of delivery of the transcript. If no transcript has been ordered, the defendant shall serve a proposed record on appeal on the State within 35 days after filing notice of appeal.
- 6. The State shall serve its amendments, objections or proposed alternative record on appeal on the defendant within 30 days if this is a non-capital case or 35 days if this is a capital case, after service upon it of the defendant's proposed record on appeal.
- 7. The indigent defendant does not read or speak the English language, but reads and/or speaks his or her native language of _____ . The Court therefore authorizes the services of a language translator or interpreter during the pendency of the appeal for the purposes of (1) written translation of attorney-client correspondence, assignments of error in the settled record on appeal, appellate briefs filed by the defendant and the State, and appellate opinion(s), and/or (2) verbal interpretation of attorney-client communication at each critical stage of the appellate proceedings.

The Court further Orders that a language translator or interpreter with the necessary knowledge, skill, experience, training and education to perform the above services shall be selected and paid by the Administrative Office of the Courts.
- 8. The Clerk shall deliver a copy of these Appellate Entries to the Appellate Defender, counsel for all parties, or the defendant, if not represented by counsel.

Date 02/25/2009	Name Of Presiding Judge (Type Or Print) JAY D. HOCKENBURY	Signature Of Presiding Judge 
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CLERK'S TRANSCRIPT ORDER AND CERTIFICATE

(NOTE: To be completed ONLY when defendant is indigent.)

To The Transcriptionist(s) Named On The Reverse:

Prepare and deliver to the parties a transcript of all portions of the proceedings in the above-captioned case except:
(Specify any portions of the proceedings which need not be transcribed pursuant to a stipulation filed by the parties under Rule 7(a)(2), or pursuant to No. 4. d. on reverse side.)

I certify that I delivered a copy of this Transcript Order to the transcriptionist(s) on the date shown below:

- personally.
- by mailing it to the transcriptionist(s) at the address(es) shown on the reverse.

Date Clerk's Transcript Order Entered And Filed	Signature
Date Order Delivered To Transcriptionist(s), If Different	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

EXTENSION OF TIME TO PREPARE TRANSCRIPT OR SERVE RECORD

- 1. **Extension of time to file transcript:** Pursuant to Rule 7, N.C. Rules of Appellate Procedure, upon motion of the appellant and for good cause shown, the court finds that this is a criminal case that did not result in a sentence of death and it is ORDERED that the time for preparation of the transcript is extended for 30 days.
- 2. **Extension of time to serve proposed record on appeal:** Pursuant to Rules 11 and 27, N.C. Rules of Appellate Procedure, upon motion of the appellant and for good cause shown, it is ORDERED that the time for service of the proposed record on appeal is extended for 30 days.

NOTE: The trial court may grant only one extension of time to serve the proposed record on appeal. Any additional motion for an extension of time to serve the proposed record on appeal must be made to the appellate court where the appeal is to be heard. In a case in which a sentence of death was not entered, the trial court may grant one motion for an extension of time to prepare the transcript. Any subsequent motions for an extension of time to prepare the transcript must be made to the appellate court where the appeal is to be heard. In capitally tried cases that resulted in the imposition of death penalty, motions for an extension of time to prepare the transcript must be made directly to the Supreme Court. Rules 7 and 27, N.C. Rules of Appellate Procedure.

Date	Name Of Judge (Type Or Print)	Signature Of Judge
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CERTIFICATION

I certify this Appellate Entries form is a true and complete copy of the original on file in this case.

Date	Signature And Seal	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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State of North Carolina
County of Pender

In The General Court Of Justice
Superior Court Criminal Division
08 CRS 1482

State of North Carolina
v.
James Donald Sullivan,
Defendant

Verdict

We, the jury, unanimously find the defendant, James Donald Sullivan,

Count One:

12 Guilty of not having in full force and effect financial responsibility as required by statute, or

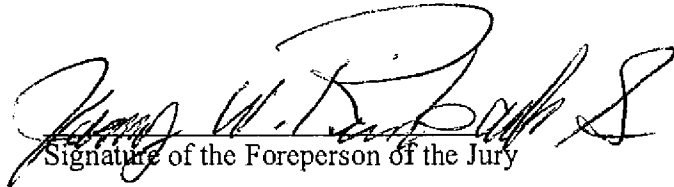
Not Guilty

Count Two:

12 Guilty of failing to register the vehicle with the NC Division of Motor Vehicles, or

Not Guilty

This the 25 day of February, 2009.


Signature of the Foreperson of the Jury

JERRY W. RIVENBARK, SR.
Printed name of Foreperson

FILED

STATE OF NORTH CAROLINA
COUNTY OF PENDER

2008 DEC -1 PM 1: 28

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case # 08CRS001482

PENDER CO., C.S.C.

STATE OF NORTH CAROLINA, INC.)

Plaintiff)

v.)

Donald Sullivan,)

Accused)

ACCUSED'S NOTICE OF
OBJECTION TO JURISDICTION,
DEMAND TO DISMISS ALL
CHARGES AND DEMAND
FOR TRIAL BY JURY

Accused

I, Lt. Col. Donald Sullivan, ~~Plaintiff~~, come now before this court "at law" and not "of law"; specially and not generally; *in propria persona* and *sui juris*; demanding all my rights at all times and waiving none of my rights at any time, to submit this NOTICE OF OBJECTION TO JURISDICTION, DEMAND TO DISMISS ALL CHARGES AND DEMAND FOR TRIAL BY JURY in the action filed by the Plaintiff against me in this instant matter together with my AFFIDAVIT and BRIEF in support. As I am appearing in this matter *in propria persona* and *sui juris* and have granted no jurisdiction to this court or to the Plaintiff over any of my natural, primordial and constitutionally protected rights, I respectfully demand the court take judicial notice of the following affidavit as pertaining to the jurisdiction of both the court and the Plaintiffs in this matter, and asking the court also to take judicial notice also of the quote below:

"...pleas to the jurisdiction of the court must be plead *in propria persona*, because if pleaded by attorney they admit the jurisdiction, as an attorney is an officer of the court, and he is presumed to plead after having obtained leave, which admits the jurisdiction." (Black's Law Dictionary, Fifth Edition.)

It should be apparent that I have granted no extraordinary jurisdiction to this court in the matter of my peacefully exercising my right to liberty or of any other matter pertaining to my rights as a natural born, constitutional citizen, not a U.S Person and not

a Fourteenth Amendment citizen. Nothing in the filings or pleadings of the Plaintiff provide any nexus for the grievous fines and penalties allowed to the court in this matter before it. No harm was threatened or intended to the Plaintiff State or to any other free person on June 2, 2008, as I was traveling in my private property automobile for my own private purposes when Deputy Malpass illegally restrained me and denied my liberty. Locomotion, the right to remove oneself from one place to another without regulation, restriction, or restraint, is a long-standing primordial right and a part of the right to liberty guaranteed us in our Constitutions.

Therefore, the following Affidavit is submitted such that the court may take judicial notice of the relevance of law in matters of jurisdiction in this case and to provide support for a decision to dismiss all charges against me in this instant matter:

AFFIDAVIT

Whereas, I am a Natural Born Citizen accused in this entitled case, being of lawful age, and having been accused and charged by the Plaintiff with a violation of a corporate statute of the said State of North Carolina, I respectfully demand a determination by this court of how the County of Pender and the Plaintiff State of North Carolina in their corporate capacities could include a natural-born, flesh-and-blood Citizen such as myself, without presenting any contract degrading my status from free person to subject, into their corporate body politic and subject to said corporate statutes;

Whereas, it is the understanding of this Citizen that there are two distinct jurisdictions within this State of North Carolina, denoted Civil and Criminal jurisdiction; that Civil jurisdiction is pursuant to Contract and any violations thereof; and Criminal jurisdiction is pursuant to the cause of some loss of Life, Liberty or property of another Citizen, known as a *corpus delicti*. This alleged case would have been criminal had there been an actual case or controversy where the rights to life, liberty or property of others had been

violated or threatened; however, it is lacking a valid nexus between the two parties for it to be criminal in nature, and there was no case or controversy at the outset, only a claim by the Plaintiff of violation of a corporate statute, a statute which can only have jurisdiction over a voluntary, willful subject and grants no power over a free person who accepts no benefit from the State and has no contract with the State over his private person, property or effects.

The State, in all of its efforts to bring charges against this free man, has failed to bring forth any proof of attachment between the two parties which would grant jurisdiction to do so while he is in the private exercise of his right to liberty. Thus, their claim of jurisdiction fails for lack of attachment (jurisdiction) *in rem* and *in persona*;

Whereas, the Plaintiff State of North Carolina is a Corporation and a body Politic; Whereas, this mentioned Corporation, body politic, has failed or refused to supply the Court with any legal or lawful documentation showing that this Citizen has knowingly, willingly or intelligently entered into this body politic by any known Certificate(s) of Authority/Power of Attorney, Specialty/Commercial Admission/Acceptance/Contract Scheme(s), and by their own confession none has been accepted by them; this Citizen, therefore, without knowledge of any proven diversity of Citizenship through and by Certificate(s) of Authority/Power of Attorney, Specialty/Commercial Admission/Acceptance/Contract Scheme(s) can only question as to how any "citation" specifying damages could have been legally issued on this non-corporate person as he exercised his right of private travel on the public highway;

Whereas, being born within the borders of North Carolina does not bring a Citizen within any Corporate body politic; and to be forced through fear and intimidation to contract with this stated Corporate body politic known as the State of North Carolina by birth is to take away all of the guarantees of unalienable and natural, primordial rights contained in the Constitutions of North Carolina and of the United States of America;

Whereas, this Citizen is now well informed about the North Carolina General Statutes and the statute attempted to be enforced in this case, and knows that the Attorney for the State will attempt to show the Court that there are no exemptions from the North Carolina General Statutes under review in this case; however, he also knows that said Attorney is incorrect in his thinking as the statute is not binding on any natural, constitutional free person who has not voluntarily of his own free will or by his acts in violation of the rights of another granted such authority over his private rights, as it is in contravention to the said Constitutions *supra*; and

Whereas, for this Citizen to be found in error in this case is to say that the introduction to our North Carolina State Constitution, written by and for the Director of the Institute of Government, University of North Carolina at Chapel Hill, at page 14, has no real meaning. It states, in part:

● "The purpose of a state constitution is two-fold: (1) to protect the rights of the individual from encroachment by the State; and (2)...".

This advice was also offered by the late John J. Parker, Chief Judge of the United States Court of Appeals for the Fourth Circuit (1925-1958).

Additionally, we find in the Alabama Constitution at Article 1, Sec. 35, entitled "Objective of Government, that,

● "It is the objective of government that the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when government assumes other functions it is usurpation and oppression."

Further, we must then conclude that our Supreme Court decisions, empowered via the exercise of judicial tyranny and implemented by the doctrine of *Stare Decisis*, and our protected rights under the United States and North Carolina Constitutions also have no real meaning, to wit:

● "Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491;

● "The State cannot diminish the rights of the people." *Hurtado v. California*;

● "The claim and exercise of a Constitutional right cannot be converted into a crime." *Miller v. US*, 230 F 2d 486, 489;

- "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 US 22, at 24;
- "There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen*, 481 F 946;
- "Statutes that violate the plain and obvious principles of common right and common sense are null and void." *Bennett v. Boggs*, 1 Baldw 60; and, the classic,
- "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law." *Marbury v. Madison*, 5 US 137.

In that case, with the help of the judiciary our Republic has been replaced by something more attuned to "fascism", as it is the duty of a republic form of government also to, "protect the rights of an individual from encroachment by the State."

Thus, it is obviously incumbent upon this court to respect my individual right to liberty, including the right to travel, as long as I do not threaten the protected rights of others and am not engaged in trade, commerce, business or industry, and to acknowledge the lack of jurisdiction of the Defendant County to exercise any authority over me or my property under color of law without first proving some link between me and that corporation which would abrogate my private rights. Or, failing that, this court must produce or furnish some grant of permission for it to circumvent Article I, Sections 1 and 5, and Article VI, Section 7, of the North Carolina Constitution; and Article VI, Section 2, and the Fourth, Fifth and Fourteenth Amendments to the United States Constitution. In that case, the court must take careful judicial notice that,

"When the bench violates its oath, knowingly denies constitutionally guaranteed rights, or fails to follow the rules of the court, it waives its judicial immunity and acts as an individual in its own way, thus becoming subject to civil action under the laws which protect an individual's right to life, liberty and property."

Further Affiant sayeth not.

PLAINTIFF'S CLAIMS ARE FRIVOLOUS

Bouvier's Law Dictionary, Third Edition, defines "Frivolous" as,

“An answer or plea is frivolous which controverts no material allegation in the complaint, and which is manifestly insufficient.”

As shown *supra*, Plaintiff's alleged complaints against me must fail for lack of any sufficient basis in law as determined by the numerous state and federal appeals and supreme courts quoted herein. Their aversions in the citations issued to me are based upon their false and ignorant understandings of the laws as they relate to my rights to travel the roadways using my private automobile for my own private purposes. Plaintiff can show no instance whereby my alleged “crimes” have in any way affected the public safety or the orderly flow of “traffic” on the public highways.

CONCLUSION

It is the duty of the court to recognize the substance of things and not the mere form.

“The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty--indeed they are under a solemn duty-- to look at the substance of things, whenever they enter upon the inquiry, whether the legislature has transcended the limits of its authority, if therefore, a statute purported to have been enacted to protect... the public safety, has no real or substantial relation to those objects or is a palpable invasion of Rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.” *Mulger vs. Kansas*, 123 US 623, 661

The court has taken an oath to the constitutions of the United States and of the State of North Carolina which acknowledges the supremacy of the former at law. Article VI, Section 2, makes it very plain to us all where the true authority dwells for all officers of the state and federal governments, including judges:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

Thus,

“It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon.” *Boyd vs. United States*, 116 US 616

The courts are "duty bound" to recognize and stop the "stealthy encroachments" which have been made upon our Rights to travel and to use the roads to transport our property in the "ordinary course of life and business. (*Boyd, supra.*)

Further, the court must recognize that the Right to travel is a part of the Liberty of which we cannot be deprived without specific probable cause and without the 'due process of law' guaranteed in the Fifth Amendment.

The history of this "invasion" of the our Right to use the public highways shows clearly that the legislature simply found a heretofore untapped source of revenue, got greedy, and attempted to enforce a statute in an unconstitutional manner upon those free and natural individuals who have a Right to travel upon the highways. This was not attempted in an outright action, but in a slow, meticulous, calculated encroachment upon the Citizen's Right to travel. It is not difficult to look back a few years to a time when the automobile and the rights of Citizen's to travel the highways were completely unfettered. Then came the license; then the registration; then license plates; then the annual renewal; then the inspection; then mandatory insurance (In this instance, it might serve us well to take a look at the conflict of interest between the Plaintiff and the insurance industry, since the Plaintiff is heavily invested in the insurance companies who do business in this State. How better to insure a continuous high rate of return than by making it "illegal" to "travel" the public highways without entering into an insurance contract?); then seat belt laws; then child restraints; and, then...; and, then...; and, then...*ad infinitum!* However, the solution is in the recognition that it is all V-O-L-U-N T-A-R-Y!

This position must be accepted unless the prosecutor can show his authority for the conclusion that the "use of the road in the ordinary course of life and business" is a

privilege. A conclusion, that is, which is not, "Everybody has to have a license, registration and insurance!"

To rule in any other manner, without clear authority for an adverse ruling, will infringe upon fundamental and basic concepts of Constitutional Law. This position, that a Right cannot be regulated under any guise, must be accepted without concern for the monetary loss of the state.

- "Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interest of the public." *Slote vs. Examination*, 112 ALR 660

And,

- "Economic necessity cannot justify a disregard of Constitutional guarantee." *Riley vs. Carter*, 79 ALR 1018; 16 Am. Jur. (2nd) Const. Law, Sect. 81

And,

- "Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them." *Watson vs. Memphis*, 375 US 526

Therefore, the court's decision in the instant case must be made without the issue of cost to the state being taken into consideration, as that issue is irrelevant. The state cannot lose money that it never had a right to demand from the "Sovereign People". In a more real and just sense, it would be completely righteous if the People of this State were to "belligerently" demand refunds for all these years of coercion, except that the refund would only come out of their own pockets in the form of other taxation.

Finally, we come to the issue of "public policy." It could be argued that the automobile insurance and registration "scheme" required of all persons is a matter of "public policy." However, if this argument is used, it too must fail, as:

- "No public policy of a state can be allowed to override the positive guarantees of the U S. Constitution." 16 Am. Jur. (2nd), Const. Law, Sect. 70

So even "public policy" cannot abrogate my Right to travel and to use the public highways in the ordinary course of my private life, when not engaged in trade, commerce, business or industry, without regulation or restriction. On the other hand, it must also be concluded that:

● "We have repeatedly held that the legislature may regulate the use of the highways for carrying on business for private gain, and that such regulation is a valid exercise of the police power." ... "*Northern Pacific R.R. Co. vs. Schoenfeldt*, 213 P. 26.

And...

● "The act in question is a valid regulation, and as such is binding upon all who use the highway for the purpose of private gain." *Ibid*.

Since no notice is given to people applying for driver's (or other) licenses, registrations, certificates of title, inspections, etc., that they have a perfect right to use the roads for their private, not for gain, uses without any permission or registration, and that they surrender valuable rights by taking on the regulation system of licensure, the State commits a massive constructive fraud. This occurs when any person is told that they must have a license and all the other trappings in order to use the public roads and highways for their own private purposes.

The license, being a legal contract under which the state is empowered with policing powers, is only valid when the licensee takes on the burdens of the contract in a commercial way and bargains away his or her rights knowingly, intentionally, and voluntarily.

Few know that the driver's license is a contract without which the police are powerless to regulate the people's actions or activities and that it is only applicable to trade, commerce, business and industry, not to the private use of the public way. Few (if any) licensees intentionally surrender valuable rights. They are told that they must have

-18-

the license under penalty of law. As we have seen, this is not the case. It is merely Pabulum being fed to us by the blind and ignorant agents of the State in order to keep their jobs, their retirement checks, and their benefits.

No one in their right mind voluntarily surrenders complete liberty and accepts in its place a set of regulations.

"The people never give up their liberties but under some delusion." Edmund Burke, (1784)

Any other construction of Chapter 20 of the NCGS would render it unconstitutional as applied to me, or any Citizen, in accordance with the numerous arguments in support provided herein. If these said arguments do not convince this court to accept the position that the liberty of the People must be respected and protected by this court, then it must become obvious that the "time" to which Jefferson referred may not be that far off, when he said,

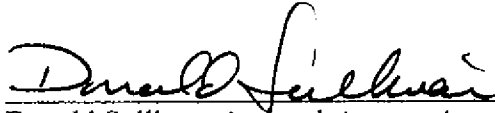
"The tree of liberty must be refreshed, from time to time, with the blood of patriots and tyrants. It is its natural manure." Letter to William Smith, January 30, 1787, in Jefferson, On Democracy pg. 20 (S. Padover Ed., 1939).

For, as Washington warned in his farewell address, "The price of Liberty is eternal vigilance." Or, perhaps Gene Pitney was the wisest sage of them all when he opined, "The point of a gun was the only law Liberty understood", in one of his ballads. God help us all if we are forced to return to these laws of necessity.

Therefore, due to the overwhelming preponderance of evidence presented herein and in my subsequent BRIEF, I DEMAND this court dismiss the charges now brought against me by the Plaintiff, with prejudice, for lack of jurisdiction *in rem* and *in persona*. In the absence of said grant by this court of the dismissal of all charges as amply

supported by this filing, I demand the court schedule this matter to be heard by a jury of my peers, and in the ancient mode, forthwith.

Respectfully submitted this the 1st day of December, 2008.



Donald Sullivan, Accused, *in propria persona* and *sui juris*
PO Box 3061
Wilmington, NC 28406
910-617-2559

FILED

2009 MAR -5 PM 3: 44

State of North Carolina
County of Pender

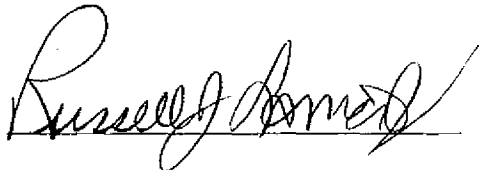
IN THE General Court of Justice
Superior Court Division
BY _____ 08-CRS 1482

State of North Carolina)
)
Vs)
)
James Donald Sullivan)
)

ORDER

The defendant's motion to dismiss filed on December 1, 2008 and heard in open court on this date is hereby DENIED. The defendant's demand for trial by jury filed on December 1, 2008 and heard in open court on this date is allowed. This case is continued until January 26, 2009 for trial.

This 15th day of December 2008.



Hon. Russell J. Lanier
Superior Court Judge presiding

Reference: 02KT00003T
Msg Key : QVR
Date/Time: 20090223080935
Source : DMVREG

02KT00003T.DMVREG.QVR.20090223080935.
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FROM: DMVREG 20090223 08:09:35
N.C. VEHICLE REGISTRATION SYSTEM
RESPONSE BASED UPON:
CUSTOMER ID: 29041225 LIENS: PAGES: 7
ATTENTION:

VIN: 1FAFP52U2WA145357 VEHICLE DETAIL RESPONSE
1998 FORD 4S
TITLE NO: 772607071426145 PURCHASE DT: 12062006

CUSTOMER ID: 29041225 DOB: 04301948 HANDICAP PLACARD:
JAMES DONALD SULLIVAN PLACARD STATUS:
228 E CHURCH ST TAX COUNTY: PENDER
ATKINSON NC 28421-9200 PLT STATUS:

PLATE(S) ARE NOT ASSIGNED TO VEHICLE

END OF MESSAGE



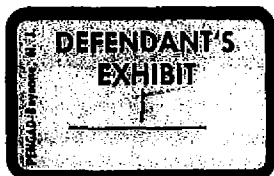
Article 9A.

Motor Vehicle Safety and Financial Responsibility Act of 1953.

§ 20-279.1. Definitions.

The following words and phrases, when used in this Article, shall, for the purposes of this Article, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

- (1) Repealed by Session Laws 1973, c. 1330, s. 39.
- (2) Repealed by Session Laws 1991, c. 726, s. 20.
- (3) "Judgment": Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.
- (4) to (6) Repealed by Session Laws 1973, c. 1330, s. 39.
- (7) "Nonresident's operating privilege": The privilege conferred upon a nonresident by the laws of this State pertaining to the operation by him of a motor vehicle in this State.
- (8) to (10) Repealed by Session Laws 1973, c. 1330, s. 39.
- (11) **"Proof of financial responsibility": Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident. Nothing contained herein shall prevent an insurer and an insured from entering into a contract, not affecting third parties, providing for a deductible as to property damage at a rate approved by the Commissioner of Insurance.**





Bank of America



Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

H1

Advantage Statement
Page 1 of 4 237003818172
Statement Period
03-21-08 through 04-21-08
B 13 0 A P PA 13 006776:
Number of checks enclosed: 0

00012918 01 AV 0.312 13 22001 001 SCM999 I12
JAMES DONALD SULLIVAN
PO BOX 3061
WILMINGTON NC 28406-0061

Our free Online Banking service allows you to check balances, track account activity, pay bills and more. With Online Banking you can also view up to 18 months of this statement online and even turn off delivery of your paper statement. Enroll at www.bankofamerica.com.

Customer Service Information
www.bankofamerica.com

For additional information on services, you may call:
 1-800-432-1000 Priority Telephone Banking
 1-800-238-4608 TDD/TTY Users Only
 1-800-688-1586 Braille Service

Or you may write to:
 Bank of America, N.A.
 P.O. Box 25118
 Tampa, FL 33622-5118

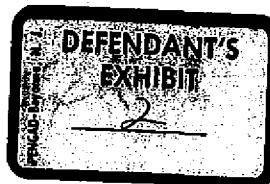
Your Statement Summary

Account Name	Account Number	Statement Date	Balance (\$)
Bank Deposit Accounts **			
Regular Checking	2370 0381 8172	04-21	2,427.92
11Mo Risk Free CD	* 910 000 8725 5036	04-21	8,905.38
11Mo Risk Free CD	* 910 000 9353 3470	04-21	91,152.87
9 Mo Risk Free CD	* 910 000 9360 7225	04-21	202,998.79
9 Mo Risk Free CD	* 910 001 0335 6301	04-21	1,083,878.51
4 Mo Featured CD	* 910 001 0342 7463	04-21	125,610.75
Total Deposit Account Balance			\$1,514,974.22

* Detailed information about this account is not included on this statement.

** Banking products such as checking and savings accounts and credit accounts are offered by Bank of America, N.A., member FDIC. Credit card accounts are offered by Bank of America, N.A. (USA).

DM



Part 3. Registration and Certificates of Titles of Motor Vehicles.

§ 20-50. Owner to secure registration and certificate of title; temporary registration markers.

(a) A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State.

The Commissioner of Motor Vehicles or the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. When the owner of a vehicle leases the vehicle to a carrier of passengers or property and the vehicle is actually used by the carrier in the operation of its business, the license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. When the owner of a vehicle leases the vehicle to a farmer and the vehicle is actually used by the farmer in the operation of a farm, the license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require.

(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

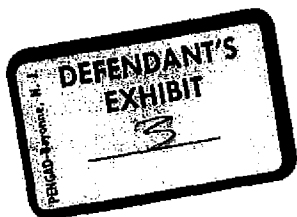
A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

- (1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
- (2) It expires on midnight of the day set for expiration.
- (3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.
- (4) If it is lost or stolen, the person who applied for it must notify the Division.
- (5) It may not be issued by a dealer.
- (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible. (1937, c. 407, s. 15; 1943, c. 648; 1945, c. 956, s. 3; 1947, c. 219, s. 2; 1953, c. 831, s. 3; 1957, c. 246, s. 2; 1961, c. 360, s. 1; 1963, c. 552, s. 1; 1973, c. 919; 1975, c. 462; c. 716, s. 5; c. 767, s. 1; 1995, c. 394, s. 1; 1999-438, s. 26; 2005-276, s. 44.1(i).)

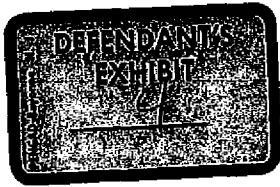
*This document (also available in PDF and RTF formats) is not an official document.
Please read the caveats on the main NC Statutes page for more information.*



§ 20-52. Application for registration and certificate of title.

(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application provided by the Division. The application must request all of the following information and may request other information the Division considers necessary:....

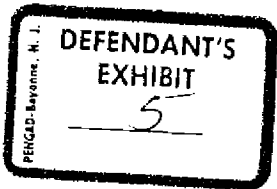
... (b) When such application refers to a new vehicle purchased from a manufacturer or dealer, such application shall be accompanied with a manufacturer's certificate of origin that is properly assigned to the applicant. If the new vehicle is acquired from a dealer or person located in another jurisdiction other than a manufacturer, the application shall be accompanied with such evidence of ownership as is required by the laws of that jurisdiction duly assigned by the disposer to the purchaser, or, if no such evidence of ownership be required by the laws of such other jurisdiction, a notarized bill of sale from the disposer. (1937, c. 407, s. 17; 1961, c. 835, ss. 2, 3; 1975, c. 716, s. 5; 1991, c. 183, s. 2; 1993 (Reg. Sess., 1994), c. 750, s. 5; 2007-164, s. 4; 2007-209, ss. 1, 2; 2007-443, s. 6; 2007-481, ss. 4-7; 2008-124, s. 4.1.)



640 NEW HANOVER ICA INQUIRY 02 08CR 700204 FILM:
 DISPOSED R S DOB/AGE CR FILING DATE: 011008
 CITATION W M 04301948 DL#: 29041225 NC
 SULLIVAN, JAMES, DONALD CITH: 7E66477 TRIAL DATE: 041708
 226 E CHURCH ST CSLR: CSLRC: AM
 AFRINSON NC 26421 DEF ATTY: WAIVED TYP: W VRA:
 CBC/ARRN OPFN. T DRIVE/ALLOW MV NO REGISTRATION 20-111(1)
 COMPLAINANT: PHELLIPS, B, R SHP ISSUED: 011008 SERVED: 011008
 OPFN DATE: 011008 ARRN DATE: MOTIONS DATE: DISP DATE: 041708
 CONT. D: 00 S: 00 C: 00 NR: 00 DV CV: N

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 CONV OPFN SENT TYPE: CONS F/JGMT:
 SENT LEN: WITHDRAWN: APPEALED TO SUPERIOR:
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 ARRA CD: 04 ACCT: N HWY: NC133 V LIC: NONE TRANS TO SUPERIOR:
 CD: N CMV: N BAZ: N TRP/DIST: H6 V ST: NC V TYP: PU APPELLATE:

ARREST DATE: CHECK DIGIT: SID: LID:
 NEXT# PF2 - NAME INQUIRY ADDL CHARGES:



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 CITATION W M 04301948 DL#: 29041225 NC
 SULLIVAN, JAMES, DONALD CIT#: 7E66477 TRIAL DATE: 041708
 228 E CHURCH ST CSLR: CSLRC: AM
 ATKINSON NC 28421 DEF ATTY: WAIVED TYP: W VRA:
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ARREST DATE: CHECK DIGIT: SID: LID:
 NEXT#: PF2 - NAME INQUIRY ADDL CHARGES: Y

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 SULLIVAN, JAMES, DONALD CITH: 8E18640 TRIAL DATE: 041708
 228 E CHURCH ST CSLR: CSLRC: AM
 ATKINSON NC 28421 DEF ATTY: WAIVED TYP: W VRA:
 CHG/ARRN OFFN: T DRIVE/ALLOW MV NO REGISTRATION 20 111(1)
 COMPLAINANT: THOMPSON, C, S SHP ISSUED: 021908 SERVED: 021908
 OFFN DATE: 021908 ARRN DATE: MOTIONS DATE: DISP DATE: 041708
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 PROB: WITHDRAWN: APPEALED TO SUPERIOR:
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ARREST DATE: CHECK DIGIT: SJD: BID:
 NEXT#: PF2 - NAME INQUIRY ADDL CHARGES:

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 SULLIVAN, JAMES, DONALD CITH: 8E18641 TRIAL DATE: 041708
 228 E CHURCH ST CSLR: CSLRC: AM
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 COMPLAINANT: THOMPSON, C, S SHP ISSUED: 021908 SERVED: 021908
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ARREST DATE: CHECK DIGIT: SID: LID:
 NEXT#: PF2 - NAME INQUIRY ADDL CHARGES:
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STIPULATION SETTLING RECORD ON APPEAL

I, the undersigned appellant, stipulate as follows:

1. The proposed record on appeal was duly served on April 29, 2009, to the counsel for the appellee in apt time and in accordance with Rule 11(b) of the North Carolina Rules of Appellate Procedure. The USPS record indicates the proposed record on appeal was received by said addressee on May 1, 2009.
2. Counsel for the appellee failed to respond with any objections or amendments to the proposed record on appeal after having been duly served and after having acknowledged receipt of said service.
3. In the absence of any objections or amendments from the counsel for the appellee, the record is constituted as served to the counsel for the appellee with the only changes being in this Stipulation to reflect service and non-response in Paragraphs 2 and 3, and to delete the exhibit numbers in Paragraph 5.
4. All captions, signatures, headings of papers, certificates of service and documents filed with the trial court that are not necessary for an understanding of the appeal have been omitted from the record, except as required by Rule 9 of the Rules of Appellate Procedure.
5. Thus, the foregoing, including the transcript described in the Statement of Transcript Option (accompanying this record), constitutes the record of appeal.

This the Twenty-Ninth day of May, 2009.

Defendant/Appellant: Donald Sullivan
Lt. Col. Donald Sullivan, *In Pro Per* and *Sui Juris*
WITHOUT PREJUDICE (UCC 1-308)

For the Plaintiff/Appellee: _____
Roy A. Cooper, III, State Attorney General

ASSIGNMENTS OF ERROR

I, the Appellant, Lt. Colonel Donald Sullivan, am coming before this Court on appeal specially, but not generally, seeking affirmation of my assignments of error as stated below; and requesting this Court reverse my conviction by the lower court, or in the alternative remand this case to the Superior court for a new trial. I assign as error:

1. Whether the trial court committed reversible error by its assumption of jurisdiction over my constitutionally guaranteed rights to liberty (travel) and private property, in contravention to both the United States Constitution and the North Carolina State Constitution; and its overruling my written objections and oral arguments against personal and subject matter jurisdiction to the contrary, and denying my pre-trial demand to dismiss for said lack of jurisdiction in the face of overwhelmingly supportive constitutional and judicial opinions, where I neither knowingly and voluntarily waived my rights to liberty (travel) and private property, nor had threatened the rights of others in my exercise of said fundamental, natural law rights, which are encoded in the statutes.

R. pp. 9, 20; T. pp. 17, 19

2. Whether the trial court committed reversible error when it denied my demand to dismiss for lack of "willfully" having violated the law and sustaining the prosecution's claim that "ignorance of the law is no excuse".

T. pp.7

3. Whether the trial court committed reversible error when it denied my demand to include the words "the willful act that is done knowingly and purposefully with a direct object in view of injuring another" in its charge instructions to the jury, and improperly charged the jury by not adequately defining the term "willfulness" to the detriment of the my defense. Jury Instructions are contained in the court reporter's transcript.

T. pp. 114, 124

4. Whether the trial court committed reversible error when it charged the jury with instructions which were biased toward the Appellee and denied me my constitutional right to a fair trial. Jury Instructions are contained in the court reporter's transcript.

T. pp. 114, 120-127

5. Whether the trial court committed plain, reversible error in not being properly set: Upon information and belief, the presiding judge lacks having a proper Article 6, Section 7, oath on file with the clerk's office and is not a proper sitting judicial officer.

T. pp. 9

6. Whether the trial court committed plain, reversible error during sentencing including, but not limited to, determining a prior record level for my sentencing.

T. pp. 110, 135

7. Whether the trial court committed reversible error when it denied my demand for a directed dismissal due to the laws in question being “void for vagueness”, after the State’s admission on the record that presentation of the law to the jury would be “confusing” to them.

T. pp. 45, 57

8. Whether the trial court committed plain, reversible error when it denied my demand for dismissal due to the prosecution’s failure to present sufficient evidence to support its charges against me, under the applicable law.

T. pp. 57

9. Whether the trial court committed reversible error when it denied my right to unfettered counsel of choice to assist me in my defense.

T. pp. 18

10. Whether the trial court committed reversible error when it denied my right to unfettered counsel and my demand for assistance of licensed counsel pursuant to instant, pre-trial rulings of the court.

T. pp.12

NAMES AND ADDRESSES OF COUNSEL FOR THE APPEAL

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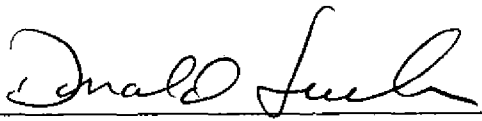
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CERTIFICATE OF SERVICE

I do certify I have this 28th Day of May, 2009, served the foregoing "Record On Appeal" in the above-captioned action upon the counsel for the Appellee pursuant to Rule 11(b) and (c) of the N. C. Rules of Appellate Procedure by placing copies of those pages revised since the mailing of the proposed record in the United States Mails, certified and return receipt requested, postage pre-paid, addressed as follows:

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