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Pro Se

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF OREGON—PORTLAND DIVISION[1]

UNITED STATES OF AMERICA, Plaintiff, v. Bundy, et al, Defendants.	§ § § § § § § § § § §	Case No. 3:16-cr-00051-BR ****** STAY REQUESTED ****** ****** VERIFIED & NOTARIZED ****** DEFENDANT'S NOTICE OF MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION and MEMORANDUM IN SUPPORT OF MOTION QUASH JURY VENIRE DRAWN FROM WRONG, DISTRICT-DIVISION and / or VICINAGE AND VENUE **** VERIFID RESPONSE REQUIRED ****

DEFENDANT'S MEMORANDUM IN SUPPORT OF

MOTION TO QUASH JURY POOL UNCONSTITUTIONALLY

DRAWN IN WRONG VICINAGE AND VENUE

I. NOTICE

1) Notice based on the argument and legal presented in the memorandum filed in support of this motion to dismiss, and Fed. R. Crim. 12(b)(2), which allows a party to file "[a] notion that the court lacks jurisdiction . . . .at any time," Defendant Shawna Cox moves to dismiss the charges

[1] Note: Under Title 18 U.S.C. 3232 the correct court is the United States Court for District and Division is Pendleton. "Proceedings to be in district and division in which offense committed". (United States Code Title 18, § 3232)

against her for lack of federal subject matter jurisdiction and/or QUASH the Jury Pool as drawn from the wrong vicinage, venue and jurisdiction.

2) **NOTICE TO THE JUDGE OR MAGISTRATE IN THIS ACTION: THIS ACTION WAS TRANSFERRED WITHOUT SHAWNA COX EXPRESS CONSENT TO VENUE AND VICINAGE APPROXIMALLTY 282 MILES FROM THE LOCUS DELICTI (LOCATION) OF ALLEGED CRIME SCENE!**

3) **DEFENDANT NOTICES THE COURT OF A STANDING OBJECTION TO COMPLAINANT KATHERINE ARMSTRONG AND UNKNOW GOVERNMENT AGENTS "FORUM SHOPPING" AND "CHOICE OF LAW[2].**

4) **NOTICE TO THE JUDGE OR MAGISTRATE IN THIS ACTION: THE COURT IS IN WANT OF JURISDICTION.**

> **The sole question was whether this Park was within the exclusive jurisdiction of the United States** . . . Whether or not the National Government acquired exclusive jurisdiction over the lands within the Park or the State reserved, as it could, jurisdiction over the crimes there committed, depended upon the terms of the consent or cession given by the legislature of Georgia [*and in this case Oregon*]. [citations omitted] **If these statutes did not give to the United States exclusive jurisdiction over the Park, the indictment did not charge a crime cognizable under the authority of the United States**.
> (Bowen v. Johnston 306 U.S. 19, 22-24 (1930)

5) **THE JUDGE OR ANY MAGISTRATE SITING IN THIS MATTER NOTICE: DEFENDANT SHAWAN COX STANDING OBJECTION. DEFENDANT SHAWNA COX (accused defendant in error) **** HAS NEVER BEEN RE-ARRAIGNED **** ON THE SUPERSEDING INDICTMENT!**

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[2] **Choice of Law.** The Erie doctrine is based on a U.S. Supreme Court case, Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938). The doctrine states that the federal courts, when confronted with the issue of whether to apply federal or state law in a lawsuit, must apply state law on issues of substantive law. When the legal question is based on a procedural issue, the federal courts should apply federal law. "**Choice of law" is a set of rules to used select which jurisdiction's laws to apply in a lawsuit**. Choice of law questions most frequently arise in lawsuits in the federal courts that are based on diversity jurisdiction, where the plaintiff and defendant are from different states. In these lawsuits, the courts are often confronted with the question of which jurisdiction's laws should apply. The choice of law rules establish a method by which the courts can select the appropriate law.

6) **5) THE JUDGE OR ANY MAGISTRATE SITING IN THIS MATTER NOTICE: DEFENDANT SHAWNA COX HERE IN OBJCETS TO THE TRIAL IN A NON-JUDICIAL ADMINISTRATIVE PROCEEDING BY ALL APPOINTED (NON-ELECTED) OFFICERS (AND MOST SPECIFICALLY THE COMPLAINANT KATHERINE ARMSRONG, JUDGE, MAGISTRATE AND PROSECUTOR) WITH DIRECT CONFLICT IN INTEREST AND VIOLATING THE SEPERATION OF POWERS DOCTRINE.**

7) **THE JUDGE OR ANY MAGISTRATE SITING IN THIS MATTER NOTICE: THERE HAS BEEN NO ***** "RATIFICATION OF COMMENSEMENT" **** IN THIS ACTION as required in Title 28 U.S.C § 17!**

8) Complainant Katherine Armstrong has no standing in that she is not a fact competent private person under oath, having suffered a real injury (corpus delicti) qualifying her as a real party in interest.

> Rule 17. Parties Plaintiff and Defendant; Capacity
>
> (a) **Real Party in Interest.** **Every action shall be prosecuted in the name of the real party in interest**. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in that person's own name without joining the party for whose benefit the action is brought. **No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest**; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest. (Title 18 U.S.C. §17(a))
>
> (b) **Capacity to Sue or Be Sued.** The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by the law of the applicable state, except (1) that a partnership or other unincorporated association, which has no capacity by the law of its state, may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States, and (2) that the capacity of a receiver appointed by a court of the United States to sue or be sued in a court of the United States is governed by Title 28, U.S.C., Sections 754 and 959 (a). (Title 18 U.S.C. §17(b))

(c) **Infants or Incompetent Persons.** Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person. (Title 18 U.S.C. §17(c))

9) Further the COMPLAINT AND INDICTMENT fail to comport with Federal Rule of Civil or Criminal Procedure regarding the form action and the real party in interest.

There is one form of action—the civil action. (FRCP § 2)

The FRCP's are designed "**to secure the just**, speedy and inexpensive determination of every action." Colotex Corp, v. Caltreett, 477 U.S. 317, 327 (1986)

FRCP Rule 17. Plaintiff and Defendant; Capacity; Public Officers
(
a) Real Party in Interest.

(1) ***Designation in General.*** An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: **(A)** an executor; **(B)** an administrator; **(C)** a guardian; **(D)** a bailee; **(E)** a trustee of an express trust; **(F)** a party with whom or in whose name a contract has been made for another's benefit; and **(G)** a party authorized by statute.

(2) ***Action in the Name of the United States for Another's Use or Benefit.*** When a federal statute so provides, an action for another's use or benefit must be brought in the name of the United States.

(3) ***Joinder of the Real Party in Interest.*** The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) Capacity to Sue or Be Sued. Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;
(2) for a corporation, by the law under which it was organized; and
(3) for all other parties, by the law of the state where the court is located, except that:
(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and
(B) 28 U.S.C. §§ 754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.

(c) Minor or Incompetent Person.

(1) ***With a Representative.*** The following representatives may sue or defend on behalf of a minor or an incompetent person: **(A)** a general guardian; **(B)** a committee; **(C)** a conservator; or **(D)** a like fiduciary. **(2)** ***Without a Representative.*** A minor or an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem--or issue another appropriate order--to protect a minor or incompetent person who is unrepresented in an action.

(d) Public Officer's Title and Name. A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, **but the court may order that the officer's name be added**.

10) There has not been a single fact competent witness having suffered a real injury **** the corpus delicti[3] ****.

11) All acts alleged are merely hypothetical or conclusory opinions as perceive by an attorney interloper[4] Katherine Armstrong acting without a license to practice law in the state of Oregon.

12) No facts alleged that would allow the trier of fact (**the Jury**) to find necessary mens rea[5] (*criminal intent*) to distinguish whether the accused/defendant Shawna Cox was an "innocent agent[6]" or an "innocent trespasser[7] or a criminal trespass.

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[3] **Corpus delicti. The body of a crime.** The body (material substance) upon which a crime has been committed, e.g., the corpse of a murdered man, the charred remains of a house burned down. In a derivative sense, the objective proof or substantial fact that a crime has been committed. The "corpus delicti" of a crime is the body, foundation or substance of the crime, which ordinarily includes two elements: the act and the criminal agency of the act. **State v. Edwards**, 49 Ohio St.2d 31, 358 N.E.2d 1051, 1055.

A crime is defined as "[t]hat act intended to cause injury to a person or property." For a crime to exist, there must be an injured party (Corpus Delicti)." **Sherer v. Cullen**, 481 F. 945.

"For a crime to exist, there must be an injured party (Corpus Delicti). There can be no sanction or penalty imposed on one because of this Constitutional Right." **Sherer v. Cullen**, 481 F. 945

[4] **Interopers.** Persons who run into "business to which they have no right, or who interfere wrongfully ; persons who enter a country or place to trade without license. Webster. (**Black's Law Dictionary 4th ed.**, (1968) pg. 952, col. 1)

[5] **Mens rea.** . As an element of criminal responsibility: a guilty mind; a guilty or wrongful purpose; a criminal intent. Guilty knowledge and wilfulness. **United States v. Greenbaum**, C.C.A.N.J., 138 F.2d 437, 438. See Model Penal Code § 2.02. See also Criminal (Criminal intent); Knowledge; Knowingly; Premeditation; Specific intent. (**Black's Law Dictionary 6th ed.**, (1990) pg. 985, col 2)

[6] **Innocent Agent. In criminal law.** One who, being ignorant of any unlawful intent on the part of his principal, is merely the instrument of the guilty party in committing an offense ; one who does an unlawful act at the solicitation or request of another, but who, from defect of understanding or ignorance of the inculpatory facts, incurs no legal guilt. **Smith v. State**, 21 Tex.App. 107, 17 S.W. 552 ; State v. Carr, 28 Or. 389, 42 P. 215. (**Black's Law Dictionary, 4th ed.**, (1968) pg. 927, col. 1)

[7] **Innocent Trespass.** A trespass to land, committed, not recklessly, but through inadvertence or mistake, or in good faith, under an honest belief that the trespasser was acting within his legal rights. **Elk Garden Big Vein Mining CO. V. Gerstell**, 100 W.Va. 472, 131 S.E. 152, 153. (**Black's Law Dictionary, 4th ed.**, (1968) pg. 927, col. 1)

13) This action was commenced as a civil action by a government agent (*ignoring age old principles set out in the Magna Charta*) acting in excess of her authority as an attorney and agent for the government. Paraphrased: **Officers of the Crown cannot bring Pleas of the Crown**.

> **No sheriff, constable, coroners, or others of our bailiffs, shall hold pleas[2] of our Crown**. (Magna Charta § 24.) [Bolding and underling added]
>
> No bailiff for the future shall, **upon his own unsupported complaint**, put anyone to his "law", without credible witnesses brought for this purposes. (Magna Charta § 38.) [Bolding and underling added]
> No freemen shall be taken or imprisoned or disseised[3] or exiled or in any way destroyed, nor will we go upon him nor send upon him, **except by the lawful judgment of his peers[4] or by the law of the land**. (Magna Charta § 39.)
>
> We will appoint as justices, constables, sheriffs, or bailiffs **only such as know the law of the realm and mean to observe it well**. (Magna Charta § 45.)
>
> > 1. **Amerced.** 1. To fine, mulct, or inflict an arbitrary penalty upon. 2. To impose a legal pecuniary punishment upon, the amount being left to the discretion of the Court. (Webster's Twentieth-Century Dictionary, (1939) pg. 58, col. 1)
> >
> > 2. **Pleas.** Pleas of the Crown; in English Law, criminal actions. (Webster's Twentieth-Century Dictionary, (1939) pg. 1257, col. 1)
> >
> > 3. **Desseise.** In Law, to dispossess wrongfully; to deprive of actual seizin or possession . . . . (Webster's Twentieth-Century Dictionary, (1939) pg. 494, col. 2)
> >
> > 4. **Peers.** n. **1.** An equal; one of the same rank; as a man be familiar with his peers. **2.** An equal in excellence or endowments. In song he never had his peer. —Dryden **3.** A companion; a fellow; an associate; compeer[1]. He all his peers in beauty did surpass. —Spenser. 4. A nobleman; as a peer of the realm; the house of peers, called so called because noblemen and barons were originally considered as the companions of the king, like L. comes, count. In England, persons belonging to the five degrees of nobility are all peers. (Webster's Twentieth-Century Dictionary, (1928), pg. beginning with "PEEL", col. 1)
> >
> > > 1. **Compeer.** v.t. An equal; a companion; an associate. (Webster's Twentieth-Century Dictionary, (1939) , pg. 1204, col. 3)

14) Katherine Armstrong in her own words is an Attorney "*certified to practice . . . in Pennsylvania*", has declared herself, to be **1)** the only "complainant" (dkt. 14. Pg. 1) and **2)** and the only "affiant" in this case (dkt. 14, pg. 32, ¶57). (See USDC, District of Oregon, case 3:16-ms-00004, dkt. #14, pages 1, 2. ¶1, & 32. ¶57)

15) Complainant Armstrong concluded that defendant Shawna Cox committed "[c]onspiracy to impeded Officers of the United States from discharging their official duties through the use of force, intimidation, or threats" in violation of 18 U.S.C. § 372; when she states:

> "This affidavit and the requested arrest warrants were all reviews by two Assistant United States Attorneys (AUSAs) prior to being submitted to the Court. The AUSAs informed me that in their opinion, the affidavit is legally and factually sufficient to establish probable cause to support the issuance of the requested warrants. I respectfully request the Court to authorize the proposed arrest warrants on this complaint." (United States District Court, District of Oregon, case 3:16-mj-0004, Doc. 14 as filed 1/27/2016 pg. 32, ¶57)

16) There is not a single to support her erroneous legal conclusion the defendant committed "*conspiracy to impeded Officers of the United States from discharging their official duties through the use of force, intimidation, or threats*" (Easter Dist. Ct. 16-mj-00004.1, Dkt. 14, pg. 1)

17) The complaint is written in the language of the statute for example take the phrase ". . . *conspiracy to impede Officers of the United States* . . .".

a) Who were the officers?

b) What kind Officers were they?

c) Is there any offer of proof they are a bona fide[8] public Officer?

d) Did the "federal officers" have badges and ID tags?

e) Were the "federal officers" in uniform?

f) Were all "federal officers" employed at the Malheur Wildlife Refuge?

g) Have all the alleged "federal officers" taken the required oath in Title 5 U.S.C. § 3331?

h) Did at the time the "Federal Officers" alleged to have been threatened have proper delegation of authority to act on non-ceded land in a territory foreign to the "United States" meaning of the sovereign state of Oregon?

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[8] **Bona Fide. 1 :** made in good faith without fraud or deceit <a bona fide offer to buy a farm> **2 :** made with earnest intent : SINCERE **3 :** neither specious nor counterfeit : GENUINE synonyms see AUTHENTIC

a) No Affidavit or Certificate of Probable Cause found by a Neutral Magistrate taking Testimony Independent of Officer Armstrong.

18) Probable Cause must be found by a neutral magistrate; and the probable cause had to be found independent of the magistrate. Katherine Armstrong was merely an investigative officer thus the magistrate had to find Probable Cause independent of Kathrine Armstrong.

> **With no indictment and on his own complaint, a federal officer obtained a warrant for petitioner's arrest, but obtained no search warrant**. His complaint was not based on his personal knowledge, did not indicate the source of his belief that petitioner had committed a crime and set forth no other sufficient basis for a finding of probable cause. With this warrant, he arrested petitioner and seized narcotics in his possession. The arrest and seizure were not challenged at petitioner's arraignment, but a motion to suppress the use of the narcotics in evidence was made and denied before his trial. They were admitted in evidence at his trial in a federal district court and he was convicted.
>
> Held: **The arrest and seizure were illegal, the narcotics should not have been admitted in evidence, and petitioner's conviction must be set aside**. Pp. 481-488.
>
> 1. By waiving preliminary examination before the Commissioner, petitioner did not surrender his right to contest in court the validity of the warrant on the grounds here asserted. Pp. 483-484.
>
> 2. Under Rules 3 and 4 of the Federal Rules of Criminal Procedure, read in the light of the Fourth Amendment, probable cause was not shown by the complaint and the warrant for arrest was issued illegally. Pp. 484-487.
>
> 3. Having relied entirely in the courts below on the validity of the warrant, the Government cannot contend in this Court that the arrest was justified apart from the warrant, because the arresting officer had probable cause to believe that petitioner had committed a felony; nor should the case be sent back to the District Court for a special hearing on the issue of probable cause. Pp. 487-488. 241 F.2d 575, reversed. (**Giordenello v. United States**, 357 U.S. 480 (1958))

19) This does not qualify as an affidavit as it is not verified and sworn to and does not contain the language for an affidavit including that it is made from her own personal knowledge except as to those statements on information and belief.

> Mere allegations or conclusory statements of facts unsupported by evidence do not sufficiently establish such a genuine issue. (**Baldwin v. Sisters of Providence in Wash.**, Inc., 112 Wn.2d 132, 769 P.2d 298 (1989))
>
> Statements of counsel in their briefs or argument while enlightening to the Court are not sufficient for purposes of granting a motion to dismiss or summary judgment. (**Trinsey v. Pagliaro**, 229 F.Supp. 647 (1964))

20) Defendant notices the Court of an object to Complainant Katherine Armstrong's "forum shopping" and "choice of law[9]".

21) It is clear Attorney/Officer Armstrong and unknown government persons elected to kidnap, taking Defendant and seven (7) co-defendants, across multiple county lines to a distance some 282 miles from the vicinage, venue in Harney county to Portland Oregon on Multnomah county, Oregon ignoring the requirement under the United States Constitution for the United States of American, Amendment VI be brought in the vicinage, venue and county jurisdiction of the state.

22) The fundamental requirement that dates back to the Magna Charta where the English people were granted the right to trial be a *jury of your peers* in the vicinage in which the crime was alleged to occurred.

23) All acts occurred in Harney county, Oregon state, one of the fifty-two (52) several states of the united states of America.

24) As a result of all acts being committed within Oregon, Oregon's constitution and statutes apply providing "[i]n all criminal prosecutions, the accused shall have the right to public trial by an **impartial jury in the county** in which the offense . . ." as set out in Article I, section 11, of the Oregon Constitution.

> Article I, section 11, of the Oregon Constitution provides that, among other things, "[i]n all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the **county** in which the offense shall have been committed." (State v. Mills, 354 Or. 350, 351 (2013)) [Bolding and underling added]

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[9] **Choice of Law.** The Erie doctrine is based on a U.S. Supreme Court case, Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938). The doctrine states that the federal courts, when confronted with the issue of whether to apply federal or state law in a lawsuit, must apply state law on issues of substantive law. When the legal question is based on a procedural issue, the federal courts should apply federal law. **"Choice of law" is a set of rules to used select which jurisdiction's laws to apply in a lawsuit**. Choice of law questions most frequently arise in lawsuits in the federal courts that are based on diversity jurisdiction, where the plaintiff and defendant are from different states. In these lawsuits, the courts are often confronted with the question of which jurisdiction's laws should apply. The choice of law rules establish a method by which the courts can select the appropriate law.

II. Venue and Jurisdiction

25) Contrary to the erroneous conclusion of the Complainant Katherine Armstrong the correct locus delicti, venue and county jurisdiction of this alleged criminal action is:

State of Oregon

} Subscribed and Solemnly Attested

County of Harney

26) All acts alleged in the de facto COMPLAINT, INDICTMENT and SUPERSEDEING INDICTMENT all occurred at or near the Malheur Wildlife Refuge located at 36391 Sodhouse Ln, Princeton, Oregon, all within the county of Harney[i] and **within** the one of the several states, namely the state of Oregon[ii] the **Twenty-fourth Judicial District**[iii] consisting of Grant and Harney County.

> "In the **United States of America**, there are **two (2) separated and distinct jurisdictions**, such being the jurisdiction of the **[Union] states** within their own state boundaries, and the other being federal jurisdiction (United States), which is limited to the **District of Columbia**, the U.S. Territories and federal enclaves within the states, **under Article I, Section 8, Clause 17**." **Bevans v. United States**, 16 U.S. 336 **(1818)** [Bolding and underling added]

27) No facts were alleged in the INDICTMENT to distinguish between the United States as referenced and the United States meaning the U.S. Territories and federal enclaves" from the union states collectively known as the United States of America.

28) No facts were alleged in the INDICTMENT establishing with any certainty that the acts alleged occurred in the "United States" as defined in Title 18 U.S.C. §5 following:

> The term "United States," as used in this title is a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (18 U.S.C §5: June 25, 1948, P.L. 80-772, 62 Stat. 685)

29) Defendant avers the Courts of the several states have general jurisdiction over criminal acts committed within the respective territorial boundaries, **except as to such parts, if any**, over which the United States has exclusive jurisdiction.

30) In a foundational case decided in the Supreme Court of California 105 Cal. 504 (1895) was a case where the defendant sought to strike the indictment as insufficient because it did not allege the crime was not committed in a Federal territory. The court found:

> Since the jurisdiction of a state over crimes committed within its territory is general, and that of the United States exceptional, depending on the fact of purchase of land with the consent of the state legislature for forts, arsenals, and other needful buildings, it is not necessary to negative, in an indictment or information in the state courts, the jurisdiction of the federal courts.

31) However, the instant action is the opposite of that argument. Here, in U.S. v. Bundy et al, the government alleges without any supporting documentation that the Malheur Wildlife Refuge in a federal enclave with exclusive jurisdiction of the United States.

32) The underlying COMPLAINT, INDICTMENT and SUPERSEDING INDICTMENT fail to allege jurisdictional facts sufficient to establish the Refuge is a bona fide federal enclave including: 1) the question of whether the United States properly acquired the land (a matter in dispute; 2) whether the Legislature of the State of Oregon ceded the land to the United States; and 3) whether the Congress of the United States accepted the ceded land. The Court found:

> This objection concedes the jurisdiction of the superior court over all places within the limits of the city and county, **except as to such parts, if any, over which the United States has exclusive jurisdiction**. This exception is created by the constitution of the United States, which provides: "Congress shall have power to exercise exclusive legislation over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places *purchased* by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." (Const., art. I, sec. 8.)
>
> Article 1, § 8. Section 37 of our Political Code provides: 'The state has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law: (1) To punish for crime.' Both the general and state governments assume the jurisdiction of the state over all the territory within its borders, over all the

territory within its borders, of **the United States being regarded as exceptions merely, the exceptions depending upon the fact of purchase with the consent of the legislature**. The jurisdiction of the state being general, and that of the United States exceptional, it is not necessary to negative, in an indictment or information in the state courts, the jurisdiction of the federal courts.

The mere ownership by the United States of land or property within the county does not show any federal jurisdiction over crimes committed upon it, as that fact does not oust the jurisdiction of the state; but the ownership must be acquired by purchase with the consent of the legislature, which is held to include the acquisition of property by eminent domain when that proceeding is authorized by the legislature. (United States v. Cornell, 2 Mason, 60; United States v. Jones, 109 U. S. 514.)

The federal jurisdiction, therefore, involves a question of fact, viz., a purchase by the United States, or the acquisition of property by a proceeding to condemn it, and of such questions courts will not take judicial notice. It is a matter of common knowledge that the United States occupies buildings for custom-house, postoffice, and other purposes, but whether such buildings have been purchased by the United States, or whether they are occupied under leases from private owners, is a matter to be proved by the record of the conveyances.

The exceptional character of the federal jurisdiction is further shown by the **precedents used in the federal courts, which allege, not only that the place where the offense was committed was within the jurisdiction of such court, but that it was not within the jurisdiction of any state**. What has been said points out the distinction between this case and the case of People v. Wong Wang, 92 Cal. 281, 28 Pac. 270. (Supreme Court of California - People v. Collins, 105 Cal. 504, 508-510 (1895)

33) No facts were alleged documenting Malheur Wildlife Refuge is or was, a bona fide federal enclave under the Constitution for the united states of America, Article 1, section 7 wherein the Oregon Legislature gave exclusive jurisdiction to the United States. Bowen v. Johnston 306 U.S. 19 (1930) is a case exactly on point where the court found:

In the instant case, no question of fact was presented with respect to the place where the crime was committed. The indictment specified the place, that is,—
'a certain place and on certain lands reserved and acquired for the exclusive use of the United States and under exclusive jurisdiction thereof, and acquired by the United States by consent of the Legislature of the State of Georgia, to wit: Chickamauga and Chattanooga National Park, sometimes known as Chickmauga and Chattanooga National Military Park, in said State of Georgia'.

The sole question was whether this Park was within the exclusive jurisdiction of the United States. There is no question that the United States had the constitutional power to acquire the territory for the purpose of a national park and that it did acquire it. Whether or not the National Government acquired exclusive jurisdiction over the lands within the Park or the State reserved, as it could, **jurisdiction over the crimes there committed, depended upon the terms of the consent or cession given by the legislature of Georgia**. Collins v. Yosemite Park Co., supra, pages 529, 530, 58 S.Ct.

> page 1014. See, also, James v. Dravo Contracting Co., 302 U.S. 134, 146—148, 58 S.Ct. 208, 214, 215, 82 L.Ed. 155, 114 A.L.R. 318. The federal courts take judicial notice of the Georgia statutes. Owings v. Hull, 9 Pet. 607, 9 L.Ed. 246; Lamar v. Micou, 114 U.S. 218, 223, 5 S.Ct. 857, 859, 29 L.Ed. 94. **If these statutes did not give to the United States exclusive jurisdiction over the Park, the indictment did not charge a crime cognizable under the authority of the United States**.
> (Bowen v. Johnston 306 U.S. 19, 22-24 (1930)

34) No facts have been alleged that can establish as a matter of fact acts occurred in any special maritime and territorial jurisdiction of the "United States," as used in pertinent part Title 18 U.S.C. §7(3) which provides:

> Any lands reserved or acquired for the use of the United States, [*infra*] and under the exclusive or concurrent jurisdiction thereof, or any place purchased or other wise acquired by the United States **by the consent of legislature of the State** [Oregon] which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building. (18 U.S.C. 7(3)) [*Note. The statute provide for the "United States" and not the "United States of America" (infra also not missing is any reference to authority for a Wildlife Preserve*] [Bolding and underling added]
>
> *Expressio unius est exclusio alterius*. The expression of one thing is the exclusion of another. Coke, Litt. 210; Broom, Max. 3d Lond. ed. 596; 2 Parsons, Contr. 28; 3 Bingh. N. C. 85; 8 Scott, N. R. 10131 1017; 5 Term, 21; 6 id. 320; 12 Mees. t W. 761; 15 id. 110; 16 id. 244; 2 Curt. C. C. 365; 6 Mass. 84; 11 Cush. Mass. 328.

35) No facts have been alleged in the INDICTMENT wherein defendant Shawna Cox could be found to be a Citizen lawfully subject to a federal law, i.e. Title 18 U.S.C. et seq.

36) In the Government's response to defendant's (Ammon Bundy et al) motion to dismiss regarding adverse possession (#1155) the government states: "*Bundy's Motion to Dismiss the indictment for lack of jurisdiction should be denied. This Court has jurisdiction pursuant to 18 U.S.C. § 3231 because this is a case involving federal criminal charges. See United States v. Marks, 530 F.3d 799, 810-11 (9th Cir. 2008).*" [Italics added]

37) Ethan D. Knight Assistant United States Attorneys, statement is merely his legal opinion or conclusion that Title 18 U.S.C. § 3231 provides authority to the United States Court of the Eastern District to hear a criminal action.

38) The referenced title 18, section 3231 provides:

> The district **courts of the United States** shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

> Nothing in this title shall be held to take away or impair the jurisdiction of the **courts of the several States** under the laws thereof. (18 U.S.C. § 3231: June 25, 1948, P.L. 80-772, § 1, 62 Stat. 826) [Bolding and underling added]

39) Not facts have been alleged to distinguish which of the two (2) courts 1) "*the courts of the United States*" **or** 2) "*the courts of the several States under the laws thereof*" he refers too.

40) Attorney Knight provides **no facts** alleging Ammon Bundy or any of his co-defendants a committed acts in the "United States" as defined in Title 18 U.S.C. § 5 which defined territory in which Title 18 U.S.C, et. seq. applies.

> The term "United States," as used in this title in a territorial sense, included all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (Title 18 U.S.C. § 5: June 25, 1948, P.L. 80-772. 62 stat. 685.)

41) The government's response fails for specificity and want of facts. His opinion as far as it goes could be true, but is lacking facts to distinguish the factual basis to distinguish which court: "*the courts of the United States*" **or** "*the courts of the several States and the laws thereof*" referring to the fifty-two (52) states of the American union.

> "In the **United States of America**, there are **two (2) separated and distinct jurisdictions**, such being the jurisdiction of the **[Union] states** within their own state boundaries, and the other being federal jurisdiction (United States), which is limited to the **District of Columbia**, the U.S. Territories and federal enclaves within the states, **under Article I, Section 8, Clause 17**." **Bevans v. United States**, 16 U.S. 336 **(1818)** [Bolding and underling added]
>
> The Supreme Court, in Balzac v. People of Porto Rico, 258 U.S. 298 (1922) and Mookini v. United States, 303 U.S. 201 (1938), elucidates as to the nature and origin of a "United States District Court"; to wit, respectively and in pertinent part:
>
> "**The United States District Court is not a true United States court established under article 3 of the Constitution to administer the judicial power of the United States therein conveyed**. It is created by virtue of the sovereign congressional faculty, granted under article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court."
>
> "**The term 'District Courts of the United States,**' as used in the rules, without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under article 3 of the Constitution. **Courts of the Territories are legislative courts, properly speaking, and are not District Courts of**

the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the District Courts of the United States does not make it a 'District Court of the United States.' Reynolds v. United States, 98 U.S. 145, 154; The City of Panama, 101 U.S. 453, 460; In re Mills, 135 U.S. 263, 268,10 S.Ct. 762; McAllister v. United States, 141 U.S. 174, 182, 183 S., 11 S.Ct. 949; Stephens v. Cherokee Nation, 174 U.S. 445, 476, 477 S., 19 S.Ct. 722; Summers v. United States, 231 U.S. 92, 101, 102 S., 34 S.Ct. 38; United States v. Burroughs, 289 U.S. 159, 163, 53 S.Ct. 574." [Mookini, *supra*]

42) Further proof the District Court of the United States is merely an Administrative court in want of criminal authority can be found in Title 28 U.S.C. § 451 which provide:

As used in this title:

The term "**court of the United States**" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the Court of International Trade and any court created by Act of Congress the judges of which are entitled to hold office during good behavior. [Bolding and underling added]

The terms "district court" and "district court of the United States" **mean the courts constituted by chapter 5 of this title**. [Bolding added]

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of International Trade and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term "justice of the United States" includes the Chief Justice of the United States and the associate justices of the Supreme Court.

The terms "district" and "judicial district" means the districts enumerated in **Chapter 5 of this title**. [Bolding added]

The term "department" means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.
(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 86–3, § 10, Mar. 18, 1959, 73 Stat. 9; Pub. L. 89–571, § 3, Sept. 12, 1966, 80 Stat. 764; Pub. L. 95–598, title II, § 213, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96–417, title V, § 501(10), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97–164, title I, § 114, Apr. 2, 1982, 96 Stat. 29.)

43) Additional proof the court is not a true Judicial Court is in the realization the Judges, are appointed by the President.

44) However, unlike the Supreme Court Justices who serve for life unfettered by the political noise of Congress in the Legislative Branch or the President in the Executive Branch; **the district court judges are subject to whim of the President**.

> (a) The President shall appoint, by and with the advice and consent of the Senate, district judges for the several judicial districts, as follows: . . .". [listing the number of judges for each respective state of the Union.] (Title 28 U.S.C § 133.)

45) The fact the Judge is subject to the President is more that tinfoil hat theory or patriot mythology. (See U.S. sidelined judge who ruled for key rancher against Feds . . .". http://www.worldtribune.com/u-s-sidelined-judge-who-ruled-for-key-rancher-against-feds-rejected-same-sex-marriage/

46) This court is clearly an administrative court with all officers: Judge, Clerk, Recorder, Marshal, Prosecutor, and Public Defenders **subject to the whim of the President of the United States** and all paid under the executive branch; which violates the Separation of Powers Doctrine.

47) In the instant case the Complainant Katherine Armstrong, lists herself as a "Special Agent, FBI" is also subject to the control of the President and paid out of the Executive Branch.

48) Defendant makes an standing objection to the Eastern District Court, for the District of Oregon and the it is not a true judicial tribunal nor are the public officers that make up the court free to be a neutral tribunal, when they are on fact subject to whim of the appointing power (their boss) that is also the plaintiff; meaning the President of the United State.

49) Counsel for the complaining party (the Plaintiff) the "United States of American" Billy J, Williams (OSB # 901366), Ethan D. Night (OSB # 992984), Geoffrey A. Barrow (**NOT LICENSED IN OREGON**) and Craig H. Gabriel (OSB # 012571) that "[t]his Court has jurisdiction pursuant to 18 U.S.C. § 3231 because this is a case involving federal criminal charges."

> As reflected in the jurisdictional provisions of the Constitution, no territorial court, such as United States District Court for the Southern District of Texas, Houston Division, has jurisdiction anywhere within the exterior limits of any section of territory occupied by one of the several commonwealths united by and under authority of the Constitution—such as Texas; rather, only "[O]ver such District . . . as may . . . become the Seat of the Government of the United States . . . Places purchased . . . for the Erection of Forts,

Magazines, Arsenals, dock-Yards, and other needful Buildings,"[7] or "Territory or other Property belonging to the United States."[8]

7. Constitution, Article 1 § 8, cl. 17.
8 Ibide, Article 4 § 3, cl. 2.

50) No facts were alleged in the INDICTMENT to distinguish between the United States as referenced and the United States meaning the U.S. Territories and federal enclaves" from the union states collectively known as the United States of America. For example (Camp Pendleton, an army base in California) is recognized as a bona fide federal enclave.

> Camp Pendleton is a federal enclave and the federal government exercises exclusive criminal jurisdiction over it. (*United States v. Jenkins* (9th Cir. 1983) 734 F.2d 1322, 1325.)

51) No facts were alleged in the INDICTMENT establishing with any certainty that the acts alleged occurred in the "United States" as defined in Title 18 U.S.C. §5 following:

> The term "United States," as used in this title is a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (18 U.S.C §5: June 25, 1948, P.L. 80-772, 62 Stat. 685)

52) No facts have been alleged that would distinguish defendant Shawna Cox, a citizen, born on the land within the county of Washington[10], state of Utah[11], one of the several states of the America union, from "a citizen of the United States" defined as follows:

> "A citizen of the United States is a citizen of the federal government." (Kitchens v. Steele, 112 F.Supp. 383
>
> "The United States is located in the District of Columbia." Uniform Commercial Code § 9-307(h)

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[10] **Washington county.** Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of the Territory bounded south by latitude 37° north, west by Nevada Territory, north by a line running due east, and west through a point four miles due north from the northwest corner of Fort Harmony, and east by the thirty-second meridian west from Washington City, is hereby made and named Washington County: Provided, that such portions of Big Pinto Creek, and the lands drained by it, as are south of the aforesaid due east and west line four miles north of Harmony, are hereby included in Iron County. (An Act defining the Boundaries of Counties, and for other Purposes, Section 1, January 17, 1862; ACTS, RESOLUTIONS AND MEMORIALS, PASSED BY THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF UTAH, DURING THE ELEVENTH ANNUAL SESSION, FOR THE YEARS 1861-62, pg. 46.)

[11] **Utah Boundary**. U.C.A. 1953, Const. Art. 2, § 1, UT CONST Art. 2, § 1.

53) No facts have been alleged, wherein a finder of fact (a jury of peers) could determine the Defendant Shawna Cox or any one of the co-defendants are/were subject to the Laws of the United States as defined *supra*.

54) Defendant hereby objects to the government choice of venue ignoring the requirement of a public trial by an impartial jury in the "county" in which the offense" was committed in strict compliance with Article I, section 11, of the Oregon Constitution.

> Article I, section 11, of the Oregon Constitution provides that, among other things, "[i]n all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offense shall have been committed." (State v. Mills, 354 Or. 350, 351 (2013)) [Bolding and underling added]

III. Introduction

55) Plaintiff charged defendant and twenty-five (25) co-defendants by "COMPLAINT" (Dkt. 1) followed by "INDICTMENT" (Dkt. 58) and then "SUPERSEDING INDICTMENT" (Dkt. 250, 282) for alleged violations of title 18 U.S.C. §§ 372, 930(b), ~~924(c)(1)(a)~~ (stricken by court) 641, 1361, & 2.

56) Plaintiff the United States of America[12] and / or the President of the United States, is in want of authority granted under the limited powers as set out in the Constitution for the united states of America to prosecute a criminal action; **within the several states**.

> Generally speaking, within any State of this Union the preservation of the peace and the protection of person and property are the functions of the state government, and are no part of the primary duty, at least, of the nation. **The laws of Congress in respect to those matters do not extend into the territorial limits of the States, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government**. (Caha v. United States, 152 U.S. 211 (1894)) [Bolding and underling added]

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[12] **United States of America**. The nation occupying the territory between British America [Canada] on the north, Mexico on the south, the Atlantic Ocean and Gulf of Mexico on the east, and the Pacific Ocean on the west; being the republic whose organic law is the constitution adopted by the people of the thirteen states which declared their independence of the government of Great Britain on the fourth day of July, 1776. (A LAW DICTIONARY, ADAPTED TO THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA AND OF THE Seberal States of the American Union: with reference to the Civil and other systems of Foreign Law, By John Bouvier, 14th Ed. Revised and Greatly Enlarged. Vol. II, pg. 622. Col. 1) [*Seberal and old English font in original*]

57) The fact that the President of the United States is the ultimate power is also more that tinfoil hat or patriot mythology. Clear factual evidence can be found in the "Writ of Habeas Corpus Ad Prosequendum" issued for "Ryan Bundy" and filed February 12, 2016 wherein it purport to be in the name of "**THE PRESIDENT OF THE UNITED STATES OF AMERICA**" and issued to the Warden at the Multnomah County Jail. (See United States District Court for the District of Nevada, 2:16-cr-00046-GMN-PAL, doc. 13)

58) Defendant Shawna Cox was peacefully sojourning in the state of Oregon, traveling participate in a peaceful assembly at the Senior Center in John Day Oregon scheduled set 6:30 pm January 26, 2016 in Grant County Oregon.

59) The Plaintiff's Highwayman[13] masquerading as law enforcement officers (possibly Oregon State Police) vi et armis[14] set up an ambush[15], and assassinated LaVoy Finicum a fellow traveler sojourning peacefully on Oregon state highway 395, approximately twenty (20) miles east of Burns, Oregon.

60) Thought defendant and co-defendants made diligent requests copies of the warrant and affidavit of probable cause none were ever provided.

I. Facts

61) Note, see Venue and Jurisdiction facts *supra*.

62) Defendant through ongoing discovery efforts and legal research found documentation that proves the two Grand Juries in the instant action were not drawn according to the jury-selection plan in

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[13] **Highwayman.** A bandit; one who robs travelers upon the highway. **Anderson v. Hartford Accident & Indemnity Co.**, 77 Cal.App. 641, 247 P. 507, 510.

[14] **Vi et armis.** Lat. With force and arms. (**Black's Law Dictionary 6th ed.**, (1990) pg. 1568, col. 2)

[15] **Ambush.** The noun "ambush" means (1) the act of attacking an enemy unexpectedly from a concealed station ; (2) a concealed station, where troops or enemies lie in wait to attack by surprise, an ambuscade ; (3) troops posted in a concealed place for attacking by surprise. The verb "ambush" means to lie in wait, to surprise, to place in ambush. Dale County v. Gunter, 46 Ala. 118, 142, referred to in Darneal v. State, 14 Okl.Cr. 540, 174 P. 290, 292, 1 A.L.R. 638. (Black's Law Dictionary 4th ed., (1968) pg. 106, col. 1)

compliance with the U.S. Constitution, Amendment VI, United States Statutes/Code and the Jury Selection and Service Act and the Constitution and Statutes of the state of Oregon.

63) Plaintiff without notice violently trespassed on defendant right to be free of governmental interference absent a lawful warrant, kidnapped defendant on highway 282 near Burns, Oregon.

64) Defendants were arrested at approximately 4:30 pm, put in handcuffs and leg irons by actors believe to be Oregon State Police and driven approximately 282 miles driving through the night without food and water to the Multnomah County Jail.

65) Plaintiff's captors, also without a warrant and the supporting affidavit of probable cause, her humiliated stripe searched her person, personal possessions, cell phone, camera, notebooks etc.

66) Upon arrival at the Multnomah County Jail on Portland Oregon defendant was booked and striped searched again without the benefit of a lawful warrant or sworn Affidavit of Probable Cause.

67) No facts have been alleged that defendant waived her right to be tried under the laws of the state of Oregon.

68) Nor was there any facts alleged where defendant Shawna Cox, waived her right as a traveler sojourning in the state Oregon under Article I, section 11; to be tried in the county in which she was arrested.

69) Defendant hereby objects to the government choice of venue ignoring the requirement of a public trial by an impartial jury in the "county" in which the offense" was committed in strict compliance with Article I, section 11, of the Oregon Constitution.

> Article I, section 11, of the Oregon Constitution provides that, among other things, "[i]n all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the **county** in which the offense shall have been committed." (State v. Mills, 354 Or. 350, 351 (2013)) [Bolding and underling added]

IV. ARGUMENT

At issue are founding principal

70) In this case, the Court should quash the petite/trial Jury based on the grounds, that it was not drawn in the proper vicinage, venue (county of Harney, state of Oregon) wherein all accts alleged took place.

> **A petit jury may be drawn constitutionally from only one division** and not the whole district. **Ruthenberg v. United States**, 245 U.S. 480, 38 S.Ct. 168, 62 L.Ed. 414 (1918); United States v. Cates, 485 F.2d 26, 29 (1st Cir.1974). United States v. Herbert, 698 F.2d 981, 984 (1983) [Bolding and underling added])
>
> **Vicinage.** Neighborhood; near dwelling; vicinity. In modern usage, it means the county or particular area where a trial is had, a crime committed, etc. At common law, accused had the right to be tried by, jury of the neighborhood or "vicinage," which was interpreted to mean the county where the crime was committed. **People v. Goldswer**, 39 N.Y.2d 656, 385 N.Y.S.2d 274, 350 N .E.2d 604, 606. (**Black's Law Dictionary 6th ed.**, (1990) pg. 1567, col. 2)
>
> A concept related to, but distinct from, venue, "vicinage" refers to a defendant's right to be tried by a jury drawn from the area where the crime occurred. It springs from the Sixth Amendment guarantee of a criminal trial "**by an impartial jury** of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."[1] The Sixth Amendment right to a jury from the vicinage applies to the states through the Fourteenth Amendment, and is also guaranteed by the California Constitution.[2]
>
> The common incorporated it into the Bill of Rights, since the right was frequently abridged in the original colonies when defendants were transported back to England for trial. (Corpus Juris Secundum, Juries §§ 248, 268 to 269, 278)
>
> 1. United States Constitution, Amendment 6.
>
> 2. People v. Guzman, 45 Cal. 3d 915, 935, 248 Cal. Rptr. 467, 755 P.2d 917 (1988) (overruled on other grounds by, Price v. Superior Court, 25 Cal. 4th 1046, 108 Cal. Rptr. 2d 409, 25 P.3d 618 (2001)).

71) Defendant Shawna Cox and co-defendants will be prejudiced by a jury pool that is for the most part (at great distances) and a region of Oregon socially and politically foreign and adverse from rural farmers and ranchers in the vicinage, venue and locus delicti wherein all events are alleged to have occurred.

72) Further the political beliefs and philosophy between the metropolitan in the vicinage in and around the Court such the current venire is very unbalanced and weighted strongly against defendants who are mostly from rural farming and ranching occupations.

Based upon a New York Times analysis (and map) of the 2008 presidential election (http://elections.nytimes.com/2008/results/states/oregon.htm) the Grand Jury selection process, as described by the Jury Administrator, is such an unbalanced selection that it would render any INDICTMENT drawn from such a Grand invalid.

Now with the new evidence, regarding the county of residence for the prospective Petite Jurors the same preselection screened out the prospective farmer and rancher occupations to such a degree as to amount jury tampering.

This above referenced analysis and map speak volumes, and makes clear it the current venire is substantially biased jury pool flies in the face of justice. This is an obvious concern in the Sixth Amendment requiring a jury form the "district", as well as the cited statutes. (See the analysis attached as Exhibit ("1"))

73) This motion is made on the ground that the venire was not drawn from the vicinage as guaranteed by the Constitution for the united states of America, Amendment VI; and the Constitution of Oregon, Art. I, § 16.

74) This motion is based on this notice of motion and memorandum of points and authorities served and filed herewith, on such supplemental memoranda of points and authorities as may hereafter be filed with the court or stated orally at the conclusion of the hearing on the motion, on all the papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing of the motion should the matter be set for hearing.

75) Defendant files this motion to quash JURY POOL timely as the facts regarding the petite Jury (trial jury) as just distributed in the above captioned matter, last week August 22-25, 2016.

76) Additionally defendant supports this motion with an affidavit setting out the **county**[16] the number of person in current venire using the information sheets passed out to the defendants last week in pretrial jury screening.

V. Conclusion

77)

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[16] This action must be dismissed for lack of subject matter jurisdiction.

78) Because the Petite/Trial jury was the Jury Venire must be quashed and a new Jury summoned is NOT A FAIR CROSS SECTION OF drawn in the vicinage, venue, and county of the locus delicti wherein all acts were alleged and to avoid further irreparable injury to defendant Shawna Cox and all co-defendants the Court must grant this Quash.

79) Respectfully submitted this ____ day of August 2016.

_____
Shawna Cox, Pro Se
Co-Defendant-Appellant

I VERIFICATION

State of Oregon

} Solemnly Subscribed and Affirmed

County of Multnomah

Shawna Cox, being duly sworn, deposes, and says:

I am a accused defendant in error and the affiant in the above-entitled action. I have read the foregoing "MOTION and MEMORANDUM IN SUPPORT OF MOTION QUASH JURY VENIRE DRAWN FROM WRONG, DISTRICT-DIVISION and / or VICINAGE AND VENUE" and knows the contents thereof. The same is true of my own knowledge and, except as to matters therein stated on information and belief, and as to those matters, I believes it to be true also.

_____
Shawna Cox
Affiant
In Propria Persona, Sui Juris

Subscribed and sworn to before me this _____ day of September 2016.

Notary Seal	_____ Notary Public—Oregon _____ _____ My commission expires: _____

[i] **County of Harney.** "The boundary of Harney County is as follows: Beginning at the intersection of the south boundary of the state and the east line of range 28 east of the Willamette Meridian; thence northerly along such range line to the northeast corner of township 33 south, range 28 east; thence westerly along township lines to the southwest corner of township 32 south, range 24 east; thence northerly along the west line of range 24 east to the northwest corner of township 22 south, range 24

east; thence easterly to the northeast corner of such township; thence northerly along the east line of range 24 east to the township line between townships 18 and 19 south; thence easterly along such township line to the line between ranges 32 and 33 east; thence northerly along such range line to the line between townships 17 and 18 south; thence easterly along such township line to the line between ranges 36 and 37 east; thence southerly along such range line to the southeast corner of township 37 south, range 36 east; thence easterly along the township line to the line between ranges 38 and 39 east; thence southerly along the last-named range line to the south boundary of the state; thence westerly along the south boundary of the state to the place of beginning." (*O. R. S. § 201.130, OR ST § 201.130; West Law online*) (*See True and correct copy as printed from West Law on Line attached hereto and incorporated herein as* ***Exhibit C.***)

[ii] **OREGON ADMISSION ACTS ACT OF CONGRESS ADMITTING OREGON INTO UNION OREGON ADMISSION ACTS ACT OF CONGRESS ADMITTING OREGON INTO UNION (Approved February 14, 1859)**

Preamble. Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government which is republican in form, and in conformity with the Constitution of the United States, and have applied for admission into the Union on an equal footing with the other States: Therefore—

Section 1. Announcement of admission; boundaries of state; jurisdiction of river cases. That Oregon be, and she is hereby, received into the Union on an equal footing with the other States in all respects whatever, with the following boundaries: In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia River; thence easterly, to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake River; thence up the middle of the main channel of said river, to the mouth of the Owyhee River; thence due south, to the parallel of latitude forty-two degrees north; thence west, along said parallel, to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with States and Territories of which those rivers form a boundary in common with this State. [11 Stat. 383 (1859)]

Section 2. Jurisdiction over waters forming boundary of state; use of navigable waters as free highways. That the said State of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said State of Oregon, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same; and said rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well as to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor. [11 Stat. 383 (1859)]

Section 3. Representation in Congress. That until the next census and apportionment of representatives, the State of Oregon shall be entitled to one representative in the Congress of the United States. [11 Stat. 383 (1859)]

Section 4. Certain propositions offered to people of Oregon for acceptance or rejection. That the following propositions be, and the same are hereby, offered to the said people of Oregon for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Oregon, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third. That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof. Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the governor thereof within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: Provided, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: Provided, That the

foregoing propositions, hereinbefore offered, are on the condition that the people of Oregon shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that in no case shall non-resident proprietors be taxed higher than residents. Sixth. And that the said State shall never tax the lands or the property of the United States in said State: Provided, however, That in case any of the lands herein granted to the State of Oregon have heretofore been confirmed to the Territory of Oregon for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act. [11 Stat. 383 (1859)]

Section 5. Residue of Oregon Territory incorporated into Washington Territory. That until Congress shall otherwise direct, the residue of the Territory of Oregon shall be, and is hereby, incorporated into, and made a part of the Territory of Washington. [11 Stat. 383 (1859)]

OFFERED BY CONGRESS IN ADMISSION ACT [Approved June 3, 1859]

Whereas, the Congress of the United States did pass an act, entitled "An Act for the admission of Oregon into the Union," approved the fourteenth day of February, one thousand eight hundred and fifty-nine; which said act contains the following propositions for the free acceptance or rejection of the people of the State of Oregon, in the words following: "4. The following propositions be, and the same are hereby, offered to the said people of Oregon, for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Oregon, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third. That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof. Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the governor thereof within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: Provided, That no salt spring or land, the right whereof is vested in an individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the legislature shall direct: Provided, That the foregoing propositions, hereinbefore offered, are on the condition that the people of Oregon shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that in no case shall nonresident proprietors be taxed higher than residents. Sixth. And that the said State shall never tax the lands or the property of the United States in said State: Provided, however, That in case any of the lands herein granted to the State of Oregon have heretofore been confirmed to the Territory of Oregon for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act," Therefore,

Section 1. Be it enacted by the Legislative Assembly of the State of Oregon, That the six propositions offered to the people of Oregon in the above-recited portion of the act of Congress aforesaid, be, and each and all of them are hereby accepted; and for the purpose of complying with each and all of said propositions hereinbefore recited, the following ordinance is declared to be irrevocable without the consent of the United States, to wit:

Be it ordained by the Legislative Assembly of the State of Oregon, That the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers thereof, and that in no case shall non-resident proprietors be taxed higher than residents. And that the said State shall never tax the lands or property of the United States within said State. [1859 (First extra session) p. 29] (https://www.oregonlegislature.gov/bills_laws/Pages/OreConstAdmission.aspx)

(See True and correct copy as printed from West Law on Line attached hereto and incorporated herein as Exhibit D.)

ADDITIONAL UPDATE INFORMATION FROM WEST-LAW-ONLINE

OR CONST Art. XVI, § 1 § 1. Boundaries of state

The State of Oregon shall be bounded as provided by section 1 of the Act of Congress of February 1859, admitting the State of Oregon into the Union of the United States, until:

(1) Such boundaries are modified by appropriate interstate compact or compacts heretofore or hereafter approved by the Congress of the United States; or

(2) The Legislative Assembly by law extends the boundaries or jurisdiction of this state an additional distance seaward under authority of a law heretofore or hereafter enacted by the Congress of the United States.

Credits Amendment proposed by S.J.R. 4, 1957, adopted at election Nov. 4, 1958; amendment proposed by H.J.R. 24, 1967, adopted at election Nov. 5, 1968.

Notes of Decisions (3)

O. R. S. Const. Art. XVI, § 1, OR CONST Art. XVI, § 1

Current through Nov. 4, 2014, General Election. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

(O.R.S. § 273.251 Formerly cited as OR ST § 273.010) (See true and correct copy as printed from West Law on Line attached hereto and incorporated herein as Exhibit E.)

273.251. State lands classification

Currentness

Unless the context or a specially applicable definition requires otherwise, state lands are classified as follows:

(1) "Agricultural college lands." Lands granted to the state by the Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and maintenance of Oregon State University.

(2) "Farmlands." Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken to secure loans from the common school, agricultural college, university or other funds.

(3) "Indemnity lands." Lands selected to satisfy losses in sections 16 and 36, as provided by sections 851 and 852 of title 43, United States Code, as amended, or any other laws of the United States.

(4) "School lands":

(a) Sections 16 and 36 in each township granted to the state by the Act of February 14, 1859 (11 Stat. 383).

(b) Lands selected for internal improvements under the Act of September 4, 1841 (5 Stat. 455), and diverted for common schools with the consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat. 595).

(c) Lands selected for capitol building purposes under the Act of February 14, 1859 (11 Stat. 383).

(d) Lands included in the South Slough National Estuarine Research Reserve as described in ORS 273.553.

(5) "Swamp lands." Lands claimed by the state under the Act of September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by the Act of March 12, 1860 (12 Stat. 3).

(6) "Submerged lands." Lands defined as submerged by ORS 274.005.

(7) "Submersible lands." Lands defined as submersible by ORS 274.005.

(8) "University lands." Lands granted to the state under the Act of February 14, 1859 (11 Stat. 383), for the support and maintenance of the University of Oregon.

Credits: Formerly 273.010; Laws 1969, c. 594, § 19; Laws 1997, c. 321, § 1; Laws 2003, c. 14, § 132.

Grants by Congress of lands within a territory to settlers thereon, though bordering on navigable waters, convey no title below high-water mark, and leave the control of the use of the shores by the owners of uplands to the future state, subject only to the rights vested by the Constitution in the United States. Shively v. Bowlby, 1894, 14 S.Ct. 548, 152 U.S. 1, 38 L.Ed. 331. Water Law 2685

Construction with federal law

The 1850 Federal Swamp Land Act enabling certain states to reclaim the swamp lands within their limits and the 1860 Act making the 1850 Act applicable to Minnesota and Oregon were in pari materia and must be construed together. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

Swamp lands

The Act of Congress of March 12, 1860, "to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, to Oregon and Minnesota," was a grant in praesenti to the latter States of land that was in fact swamp land at the date of the act; and a party claiming such land under a patent from the State of

Oregon has a complete remedy at law against one claiming under a patent from the government; and a suit in equity by the former against the latter to compel the conveyance of the latter's title to the former will, for that reason, be denied. Miller v. Tobin, 1887, 16 Or. 540, 16 P. 161. Public Lands 61(1)

Act Cong. Sept. 28, 1850 (9 Stat. 519), provides that the swamp and overflowed lands of certain states "shall be, and the same are hereby, granted to the state." Act March 12, 1860, extends the aforesaid act to the state of Oregon, and declares (section 1, 43 U.S.C.A. § 988) that the grant hereby named shall not include any lands which the government of the United States may have disposed of in pursuance of any law heretofore enacted prior to the confirmation of title to be made under the authority of said act. Held, that this proviso limited the perfect grant of the indefeasible estate conferred by the first act. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 59

Act Cong. March 12, 1860, 43 U.S.C.A. § 988, extending to the state of Oregon the act of September 28, 1850, which provides that the swamp and overflowed lands of the said state "shall be and hereby are granted to the state," is a full and perfect grant of an indefeasible estate, without awaiting the patent, which the next section of said act requires to be issued to the state, and declaring that, on that patent, the fee simple of these lands shall vest in the state. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

The diversion of the proceeds of the sales of swamp and overflowed lands from the purposes expressed in the Federal Swamp Land Act to those of aiding in the construction of certain works of internal improvement, provided for by state statute, in no way operated to defeat the title of the state to the swamp and overflowed land. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

The issuance of a patent provided for in Federal Swamp Land Act of 1850, § 2, operated merely as a further assurance of title. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

Act Cong. Sept. 28, 1850 (9 Stat. 519) provides that the swamp and overflowed lands of certain states "shall be, and the same are hereby, granted to the state." Act March 12, 1860, extends the aforesaid act to the state of Oregon, and declares, by section 1, 43 U.S.C.A. § 988, that the grant hereby named shall not include any lands which the government of the United States may have disposed of in pursuance of any law heretofore enacted prior to the confirmation of title to be made under the authority of said act. Section 2, 43 U.S.C.A. § 988, provides that selections be made from surveyed lands within two years from the adjournment of the legislature at the next session after the passage of the act, and from lands thereafter to be surveyed within two years from said adjournment at the next session after notice by the secretary of the interior to the governor of the completion and confirmation of the surveys. Held, that said section 2 was directory, and the state lost no rights by not complying strictly therewith. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 60

The trust raised by Federal Swamp Land Act of 1850, which granted swamp and overflowed lands to state, was not fastened to the land and did not run with it, but was a mere personal trust which was exclusively within the control of the state Legislature. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

Upon enactment of the Federal Swamp Land Act of 1850 having the effect of conveying fee simple title to unsold swamp and overflowed land to the state, no subsequent act of Congress could diminish the estate, or clog it with new conditions, or except from the operation of the grant any swamp and overflowed lands not originally excepted. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

Under 1850 Federal Swamp Land Act, extended to Minnesota and Oregon by Act of Congress of 1860, granted title to the state in praesenti, and the title passed to the state at once, and Legislature had power to dispose thereof even without issuance of patent from federal government. Gaston v. Stott, 1873, 5 Or. 48, Unreported. Public Lands 58

Submersible lands

Under the common law and the act of Congress of Feb. 14, 1859, c. 33, 11 Stat. 383, admitting Oregon as a state, held, that the state acquired the "jus publicum," or dominion of sovereignty, of land between high and low water mark. Corvallis & E.R. Co. v. Benson, 1912, 61 Or. 359, 121 P. 418, error dismissed 35 S.Ct. 206, 235 U.S. 691, 59 L.Ed. 428. Water Law 2659

University lands

Act of October 28, 1868, which was an independent act to place a class of lands in market that had never been offered before, that is university lands, and which did not attempt to revise or amend General Laws, ch. 49, § 14, was not violative of Constitution art. 4, § 22, because a certain section of the later act conflicted with the previously enacted act on the same general subject. Fleischner v. Chadwick, 1874, 5 Or. 152, Unreported. Public Lands 51; Statutes 1449; O. R. S. § 273.251, OR ST § 273.251

Current with 2016 Reg. Sess. legislation eff. through 6/2/16. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication

(West Law On Line: 273.251. State lands classification, OR ST § 273.251) (See True and correct copy as printed from West Law on Line attached hereto and incorporated herein as Exhibit F.)

[iii] **Grant and Harney County Judicial District.** In pertinent part: "(1) The judicial districts, the counties constituting the judicial districts and number of circuit court judges for each judicial district are as follows: (x) The twenty-fourth judicial district consists of the counties of Grant and Harney and has one judge."

Shawna Cox

SHAWNA COX

Sept. 6, 2016

(DATE)