

IN THE 39TH CIRCUIT COURT OF LAWRENCE COUNTY, MISSOURI

STATE OF MISSOURI)	
Plaintiff)	
)	
vs.)	Case No. <u>XXXXXXXXXXXX</u>
)	
XXXXXX X. XXXXXX (false name) ¹)	
Defendant)	
Charlie Steward (true name))	

**SUPPLEMENTAL POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO DISMISS**

HISTORY

The STATE'S actors, in their Information are alleging that the use of my name - *by me* - Charlie Steward, constitutes felony forgery with the intent to defraud in violation of RSMO 570.090.

The merits of the issue are not argued. My name, Charlie Steward, appears on the bill of sale for the car that I lawfully purchased from James Xxxxxx. My name, Charlie Steward, appears on a form in which Tom Xxxxxx used to verify the VIN number (1G6DM57T7700129806) for my car, a 2007 Gray Cadillac, which at that time, had approximately 133,000 miles on the odometer.

The bill of sale for my car bears the names: Charlie Steward or Linda X. Xxxxx, as the purchasers/owners. Linda Xxxxx is my mother.

The bill of sale, along with the VIN form, along with \$781.01 was given to the Missouri Department of Motor Vehicles in Aurora, Missouri specifying that a new Missouri title be issued solely to my mother, Linda X. Xxxxx. (See attached receipt)² (Note that my name, Charlie

Steward, is not even on the receipt.)

To date, the new title has not been delivered to my mother, nor her money returned.

Instead, felony forgery with the intent to defraud charge(s) were filed against the named defendant and erroneously applied to me, simply because my lawful and legal name - Charlie Steward - is on the bill of sale for my car and the VIN form for my car.

INTRODUCTION

In the following statements, I cite your case laws and some of your statutes for the sole purpose of asking you to hold the STATE'S agents accountable to them. My testimony, that I obey only the Laws of God has been twisted into something it is not and has even been used against me.

I do not live my life in disregard to your statutes as if that somehow ridiculously means that I can do anything I want to without concern for the consequences.

However, as a follower of Jesus Christ, my King, I must place His Laws and His Statutes above all others. The true record is that I have not violated the Laws of my God and King and I have not violated the statutes that the citizens of Missouri have enacted for themselves.

When the choice of obeying God or obeying man is forced on me, I must respond as the followers of Christ have always done: "We must obey God rather than men." If the STATE'S agents have determined that using a name that I feel God has asked me to use - *is a crime* - then, no matter the consequence, I will obey my God and follow His Son, Jesus the Christ.

The points and authorities in support of this motion are four-pronged, in that;

- A. It is an undisputed fact that the STATE'S agents have never proven a statutory relationship between the named defendant and Charlie Steward - though it has been demanded for more than a year.

B. Even if there was a relationship and the record corrected, notwithstanding, it is impossible for a man to forge his own name. Even if there was a relationship and the record was corrected, notwithstanding, multiple affirmative defenses apply.

C. The men acting as agents for the STATE have failed to present any evidence whatsoever to support any "purpose to defraud" pressed upon the record.

D. The warrant, the information, and all subsequent filings are fatally defective in that they fail to list the true name of the accused. [RSMO 545.230] (MEMORANDUM OF LAW, number 1)

1. The agents and actors for the STATE OF MISSOURI have had more than 2 years to produce the evidence of the legal existence of the named defendant, as required [City of St. Louis v. Capital Vending Co. (A.), 374 S.W.2d 519, applied in civil and criminal proceedings]. Agents acting for the STATE OF MISSOURI have been given lawful, timely and documented notice of the denial of the legal existence of the person of the defendant, and the denial of the legal relationship between myself, Charlie Steward, and to any entity so situated within the STATE OF MISSOURI as the defendant, and to date has refused, neglected or ignored this fundamental element to support continued action upon and affecting my body.

2. [MISSOURI supreme court rules (55.13)] provides that when challenged, the moving party must prove the legal existence of a party to be sued, or that the party is acting in representative capacity. I have challenged the legal existence of the defendant, its capacity to be sued, the legal relationship between myself and the defendant, and challenged the presumption that I have acted in a representative capacity for the person of the defendant, all in the form of a negative averment also made a part of the record in this matter. Agents and actors for the STATE OF

MISSOURI have chosen to ignore the lawful challenge as required by law. (See attached MEMORANDUM OF LAW, number 3)

3. [MISSOURI Rule 55.13] states that when challenged, the opposing party must prove the legal existence of the party being prosecuted. This rule states that the challenge is done by negative averment. A properly filed, accepted and placed on the record, negative averment has been ignored. On December 16, 2016 a hearing was held and the docket entry states it was a hearing on jurisdiction. The attached exhibit of the certified and authentic transcript⁵, on pages 11-13, the STATE'S only witness in this matter was asked if he could provide any type of valid MISSOURI identification, or otherwise, that would associate me, the author of this motion, with the named defendant, and he answered, "No." The STATE'S witness agrees with the STATE'S prosecution that there is no evidence to support the STATE'S purported claim.

4. In BENJAMIN J. WOLF, Respondent, v. UNITED RAILWAYS COMPANY OF ST. LOUIS, Appellant. St. Louis Court of Appeals, January 24, 1911, said judge ruled that negative averments apply in civil and in criminal cases. The court stated the purpose of the negative averment [155 MISSOURI APPEAL REPORTS, page 126]

"PLEADING: Function of General Denial. An answer in the form of a general denial operates to put plaintiff on proof of every material fact essential to his right of recovery."

[ibid., ppg. 131-133] Negative averment applies in civil and criminal cases.

INTRODUCTION TO THE HISTORY AND CASE LAW REGARDING NAMES

5. I do not abandon or leave the safety of my denial of the legal existence of the defendant, the

denial of my legal relationship to the defendant, or my lack of agency to act in any representative capacity for the defendant. Predicated upon that statement, the fact remains that even if the actors and agents for the STATE OF MISSOURI corrected the record in regards to the person and name of the defendant, without abandoning any claim of denial of capacity to be sued, legal relationship with defendant et. al., I could present these affirmative defenses that support my motion to dismiss.

RSMO 562.031. Ignorance and mistake. —

2. A person is not relieved of criminal liability for conduct because he or she believes his or her conduct does not constitute an offense unless his or her belief is reasonable and:

(2) He or she acts in reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

(a) A statute; [RSMO 1.010] (See attached MEMORANDUM OF LAW, number 3.)

(b) An opinion or order of an appellate court; or [myriads of case law defining common law names] (See MEMORANDUM OF LAW, numbers 5-16)

(c) An official interpretation of the statute, regulation or order defining the offense made by a public official or agency legally authorized to interpret such statute, regulation or order.

3. The burden of injecting the issue of reasonable belief that conduct does not constitute an offense under subdivisions (1) and (2) of subsection 2 of this section is on the defendant.

6. See attached MEMORANDUM OF LAW and BRIEF ON NAMES IN SUPPORT OF

MOTION TO DISMISS which provides the judicial rulings and the overwhelming evidence concerning the subject of names that renders the actions of the certain agents and actors alleging to act for the STATE OF MISSOURI moot.

7. The STATE'S agents and actors have misapplied or twisted existing laws in order to secure a prosecution concerning an already settled issue on MISSOURI concerning existing law and settled cases on the subject of names.

8. In the preliminary hearing for this issue, I attempted to raise the issue that the STATE OF MISSOURI recognizes common law names. Arguments against this indictment at the associate court level were met with an unsubstantiated and erroneous argumentative response from prosecutor Joseph Wantuck in which he stated, "He (Charlie Steward) is presenting court cases with an inch of dust on them." The very first statute of the Revised Statutes of Missouri states that the statutes for Missouri are based on the common law of England dating to the 4th year of the reign of king James (1607). The very first statute for MISSOURI invalidates the claim that subsequent cases should not be considered because of their age.

9. According to its own courts.mo.gov website, the STATE OF MISSOURI does recognize common law names. The application of the present law and resolved controversies and accumulative case law on the subject further renders prosecution impotent. It is an affirmative defense to rely upon the authoritative decisions of the previously handed down decisions on MISSOURI, by laches. The myriad of notices and memorandums I present within and attached to the record in this matter have met the burden of [RSMo 55.08] numerous times, unchallenged. (See attached MEMORANDUM OF LAW, number 4).

a. Actors and agents for the STATE OF MISSOURI have lost the ability to make a claim by way of laches. Custom and usage has been longstanding regarding common law names. MISSOURI has based its law concerning names on the common law since its inception. The time to make a claim to the contrary has long passed.

10. Attached is a webpage taken from the courts of MISSOURI website stating that the state of MISSOURI recognizes common law name change. (See attached in MEMORANDUM OF LAW, number 5).

11. From the courts of MISSOURI website

[https://www.courts.mo.gov/hosted/probono/name_change.htm], page titled, Name Change, point two, Common law name change *is* recognized and refers to: [*Neal v. Neal*, 941 S.W.2d 501 (Mo. banc 1997)] for explanation. (See attached MEMORANDUM OF LAW, number 6).

12. The following quotes are taken from [Neal],

"In reversing the judgment, the court of appeals provided historical background of the common law right to change of name, regardless of marital status. The court noted that the common law and statutory methods of changing names coexist for the reason that no constitutional or statutory mandate has invalidated the common law."

["*Matter of Natale*, 527 S.W.2d 402 (Mo. App. 1975)], controls disposition of the issue. In *Natale*, the Missouri Court of Appeals, Eastern District, provided a thorough summary of the common law and statutory rights to change of name." (See attached MEMORANDUM OF LAW, number 7).

13. The following quotes are taken from [Natale],

"The thrust of petitioner's first argument is that she has the right at common law to change her name, regardless of her marital status. Section 1.010 (RSMo 1969, V.A. M.S.) adopts, as the common law of Missouri, the laws of England in existence prior to the fourth year of the reign of James the First which are of a general nature and which have not been invalidated, expressly or impliedly, by the United States Constitution, Missouri Constitution or Missouri Statute. A survey of the common law of England is, therefore, useful."

"The law of England adopted by Section 1.010, *supra*, recognized the right to change name by the nonfraudulent use of another. The right was never limited to males; indeed, it was through this common law method that a woman changed her surname to that of her husband after marriage."

"As Section 1.010, *supra*, does not purport to prohibit married females from exercising their common law rights, married women in Missouri are free to adopt another name by the common law method if this right has not been invalidated by constitutional or statutory mandate."

"This court is unaware of any constitutional or statutory provision which abrogates the English common law right to change names through usage."

"No holding in Missouri directly confirms the common law right to change names through usage, but the courts have indicated that a person's name is the designation given to the individual by himself or herself and others and that an individual may change his or

her name."

"In view of petitioner's common law right to change her name, the requested name change is proper."

14. In further explanation of names, in the citations from [Neal] and [Natale] is the reference to [400 S.W. 2d119 STATE of Missouri, Respondent v Harvey F. EUGE, Appellant No. 51030, Supreme Court of Missouri, Division 1, March 14, 1966].

15. In this decision, the supreme court judges of MISSOURI makes it clear that it is impossible for a man to forge his own name - no matter the circumstance.

HISTORY OF EUGE

16. Harvey F. Euge (*name given at birth*) opened a checking account using the name "Dayton Mitchell Horn". He opened the account with \$40. The next morning, he went to the bank and attempted to withdraw \$45 from the account. He was subsequently charged with writing a bogus check because it was discovered that his "*real name*" (as stated in the indictment) was Harvey Euge, not Dayton Mitchell Horn.

17. In Euge, the judges quoted the Charging Portion of Euge's grand jury indictment:

"...the said HARVEY F. EUGE at the time unlawfully, feloniously, and with intent to cheat and defraud did obtain the aforesaid money and property from BANK of ST. LOUIS INCORPORATED, a corporation, and the defendant knew at the time he tendered the said check that the name of DAYTON MITCHELL HORN was in fact the name of a fictitious person and that the aforesaid check was bogus; contrary to Section

561.450, Missouri Revised Statutes, in such case made and provided, and against the peace and dignity of the State."

18. In the lower court, Euge was found guilty.

19. On appeal [400 S.W.2d119 (1966), Supreme Court of Missouri, Division 1], the judges said,

"In the case before us, defendant opened an account under the name Dayton Mitchell Horn by depositing \$40 cash in the Bank of St. Louis. He subsequently drew a check in the amount of \$45 on said account and signed it with the name Dayton Mitchell Horn.

Defendant had authority to sign the name Dayton Mitchell Horn to the check."

20. The judges stated that Euge/Horn attempted to withdraw more money than what was in the account. The crime was theft by attempting to withdraw more money from the account than what was in the account - **not the use of his name.**

21. The judges **ALL CONCURRED** that Euge "**had authority to sign the name Dayton Mitchell Horn.**" The judges concluded the crime was in the **attempted theft** - not the usage of his common law name.

"Defendant had authority to sign the name Dayton Mitchell Horn to the check."

22. In a court filing entitled: "STATE'S OBJECTION TO DEFENDANT'S REQUEST TO BE ADDRESSED BY FALSE NAME" - the prosecutor, Joseph Wantuck demanded that the court refrain from calling me by my name - Charlie Steward. This is an egregious violation of RSMO 545.230 and amounts to official oppression when viewed in light of all the charges affecting my body.

RMSO 545.230 Indictment by wrong name. — If a defendant be indicted by the wrong name, unless he declare his true name before pleading, he shall be proceeded against by the name in the indictment. If he allege that another name is his true name, it must be entered in the minutes of the court; and after such entry, the trial and all other proceedings on the indictment shall be had against him by that name, referring also to the name by which he is indicted, in the same manner, in all respects, and with the same consequences as if he had been indicted by his true name.

23. Beginning on December 10, 2015, with my initial arrest, the record shows that I have told every agent I have encountered from the state, at every single opportunity that my name is Charlie Steward. I have vehemently denied that my name is the name of the defendant. Since then, I have been threatened. I have been jailed repeatedly because I will not acquiesce to the name of the defendant. Every single court appearance I have stated clearly and without wavering, that my name - *my only name* - is Charlie Steward. Charlie Steward is not an alias. It is not fictitious. It is my name.

24. RSMO 545.230 states that a defendant need only to "allege" that his name is not the name of the defendant and from that point forward, the state is required to include both names on all proceedings. Not only has the STATE'S actors failed to obey their own statute, but their actors have been defiant and oppressive against me in this regard. On this act of misconduct alone, the proceedings should be discharged.

25. Further discussion of Euge is applicable to my points because the STATE'S actions, in Mr. Wantuck's motion, clearly indicates that he does not understand the law on names - particularly

in regards to his erroneous claim of "unclean hands."

(1) State v Euge renders his argument moot. In Euge, the defendant appeared to take the name "Dayton Mitchell Horn" for the sole purpose of committing a fraud upon the Bank of St. Louis apparently because the bank had previously closed his accounts under the name Euge. Euge/Horn was overturned on appeal and the appeals court found that Euge had the authority to use the name Horn - even though he had attempted to steal money from the bank using that name. Euge is the epitome of a "man with unclean hands." Yet, the judges ALL concurred that the crime was NOT in the use of a name that was not his given at birth, but in the attempted theft of funds from the bank.

(2) In the "BRIEF ON NAMES IN SUPPORT OF MOTION TO DISMISS" there are more cases cited where judges ruled that men were falsely arrested simply because of using their own name. [593 F.2d 46, 55 A.I.R.Fed. 507, UNITED STATES of America-Appellee v. Forrest Richard COX, Defendant-Appellant, No. 78-5251, United States Court of Appeals, Sixth Circuit] is clear and further explanation of the fraudulent use of a name is defined.

26. A bill of sale bearing a man's Christian name for a car he lawfully purchased and owns is not the fraudulent use of a name and is not forgery.

27. Common law name change is accomplished by usage and habit. The foundational case law is [Smith v. United States Casualty Co. 197 NY 420, 90 NE 947 - 1910]. This court and a subsequent - more than 150 decisions since, including the Missouri supreme court - has affirmed that a man's name is the name by which he is known in the community and that a man has a right

to change his name without resort to court proceedings. (See attached MEMORANDUM OF LAW, number 8, 9, 10, 11, 12, 13 et. al.).

28. The following are quotes from [**Smith v US Casualty**]:

"There are but few decisions directly in point, although there are many dicta by eminent judges recognizing as an established rule that a man may change his name, Christian, surname, or both, without resort to legal proceedings."

"A man's given name is the designation by which he is distinctively known in the community. Custom gives him the family name of his father and such praenomina as his parents choose to put before it, and appropriate circumstances may require Sr. or Jr. as a further constituent part, but all this is only a general rule from which the individual may depart if he chooses. The legislature in 1852 provided a mode of changing the name, but that act was in affirmance and aid of the common law, to make a definite point of time at which a change shall take effect. Without the aid of that act, a man may change his name or names, first or last, and when his neighbors and the community have acquiesced and recognized him by his new designation, that becomes his name."

"The elementary writers are uniform in laying down the rule that at common law a man may change his name at will.

"Mr. Throckmorton, in his article on Names in the Cyclopedia of Law and Procedure, says: "It is a custom for persons to bear the surname of their parents, but it is not obligatory. **A man may lawfully change his name without resort to legal proceedings, and for all purposes the name thus assumed will constitute his legal name just as**

much as if he had borne it from birth." (29 Cyc. 271.)"

"At common law a man may lawfully change his name, or by general usage or habit acquire another name than that originally borne by him, and this without the intervention of either the sovereign, the courts, or Parliament; and the common law, unless changed by statute, of course obtains in the United States."

"One may legally name himself, or change his name, or acquire a name by reputation, general usage, and habit." (2 Fiero Sp. Pro. [2d ed.] 847.)

29. No matter what claims the STATE'S agents may bring, they have no way of knowing what is inside a man's heart. Only God knows the intents of a man's heart. Though not required by any court as to the reasons for my name change, I have made my intentions known as evidenced by the affidavits from my own parents stating that my name is Charlie Steward.

30. The history of name change pre-dates the common laws of England by thousands of years, with the earliest recorded name change being that of Abram to Abraham (Genesis 17). Many more are recorded in the Holy Scriptures: Jacob became Israel; Levi became Matthew; Cephas became Peter; Saul became Paul, to name a few.

31. Jesus Christ referred to salvation as a process called, "Being born again." John 3:3-7 (King James Version)

[3] Jesus answered and said unto him, Verily, verily, I say unto thee, Except a man be born again, he cannot see the kingdom of God.

[4] Nicodemus saith unto him, How can a man be born when he is old? can he enter the

second time into his mother's womb, and be born?

[5] Jesus answered, Verily, verily, I say unto thee, Except a man be born of water and of the Spirit, he cannot enter into the kingdom of God.

[6] That which is born of the flesh is flesh; and that which is born of the Spirit is spirit.

[7] Marvel not that I said unto thee, Ye must be born again.

32. The Holy Scriptures contain the record that when some of Christ's followers accepted Him, they chose to adopt a new name. I believe the reason for the new name was because of their understanding of being "born again". The authority to change one's name for Biblical reasons is nearly as old as the Bible itself. This is the reason why my name is Charlie Steward and the STATE'S actors continued persecution in this matter is a criminal violation of their first amendment prohibition against the free exercise of religion. Throughout the many sworn pages entered by the STATE'S actors in actions affecting my body, their own words state that my testimony is that I base my life's decisions on the Holy Bible.

33. In order for the state to meet the requisite burden of proof for felony forgery charges, the element of "intent to defraud" must be present and proven. In the above titled case, the alleged "victim" was paid \$781.01 for a car title - which - to this day - title has never been provided - nor has the \$781.01 been returned - nor has even the slightest response from the Department of Revenue been provided as to their justification for not providing a new title, or for not returning the money accepted by the STATE'S agents in exchange for a new title. This is possibly the first time in the history of mankind that an accusation of forgery with the intent to defraud was brought against someone for ENRICHING the alleged victim and then himself becoming a victim of fraud.

CONCLUSION

Attached is a "BRIEF ON NAMES IN SUPPORT OF MOTION TO DISMISS." This brief contains more court decisions discussing the history and usage of names, affirming that a man's legal, lawful name is the name by which he is known in the community, and that a man has every right to change his name - at will - without regard to any court proceeding.

In the actors for the STATE'S Information document, they claim that there is no "statutory evidence" as to the existence of the name Charlie Steward, and that constitutes fraud. This is both egregious and officially oppressive. The state is viciously attacking my sincerely held religious conviction to take on a name that I believe my Heavenly Father has led me to acquire. The STATE'S agents have acted under color of law to arrest, unlawfully incarcerate, rob me and my mother, wife and children of our private property. They have acted under color of law to torture me for the purpose of trying to cause me to deny my lawful, legal name - Charlie Steward - and use a name that is only recognized and/or registered by the state.

The actions of the STATE'S agents, from the arresting officer, Xxxxx Xxxxxx, to the prosecutor's in the Lawrence County Prosecutor's office, have brought these actions against me because they despise my deeply held religious beliefs. In America, in 2018, a man should not be persecuted because of his deeply held religious beliefs.

For these reasons along with the "BRIEF ON NAMES IN SUPPORT OF MOTION TO DISMISS" the court should discharge with prejudice the above entitled case.

These **SUPPLEMENTAL POINTS AND AUTHORITIES** have been hand delivered to the following people at the following addresses:

Steven W. Kahre [Cf. Clerk of Court] Lawrence Cty Judicial Center, Mt Vernon, Mo
Don Trotter [Cf. Prosecutor] Lawrence Cty Judicial Center, Mt Vernon, Mo
Jack Aaron Louis Goodman

On this 19th day of February in the Year of our LORD and Savior Jesus, the Christ, 2018, I, Charlie Steward, being a mature man of sound mind, hereby declare under penalty of perjury that the foregoing was prepared by me, Charlie Steward and it is true and correct to the best of my knowledge and belief. I am willing to testify to the facts as I have stated them.

Charlie Steward