

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA  
(Fictitious Plaintiff)

VS.

CASE# 10-00320-16-CR-W-DGK

Frank M. Alvarez  
(Real Party in Interest)

In RE: To Governments Response To Defendant Frank Michael Alvarez's  
Motion to Dismiss Case for Absent Proof of Federal Jurisdiction

Comes now, Frank M. Alvarez, the flesh and blood, living soul of majority age and sound mind, competent to state the matters set forth herein do affirm that the foregoing is true, correct and complete not misleading with <sup>14</sup> hand knowledge of the facts here with Title 28 U.S.C 1746 (1) "without the United States" under penalty of perjury, sworn to within the United States of America.

Defendant in error would like to point out deliberate deceit and error in governments response to motion to dismiss case for Absent Proof of Federal Jurisdiction.

ON page one of governments response they state, "These contentions are without merit under the applicable law and the facts of this case,".

Defendant has only spoken of United States Constitution, Federal Statutory Titles, Public Law applications, Federal Rules of criminal Procedures, Federal Rules of Civil Procedures, and Supreme court Rulings.

(1)

The question is which of these are without merit under the applicable Law and which of these do not speak of the facts of this case?

Can you deny the Act of March 3<sup>rd</sup> 1911, 61<sup>st</sup> Congress Session 3, chapter 231 p.g. 1087 and Public Law # 475?

Here the United States district courts were reorganized by this Act and the nature of these courts is revealed in the Act section 9 which states, "The district courts as courts of Admiralty and as courts of equity". Under 28 U.S.C. section 1331 the Jurisdiction of this United States District court is given as such, "The District Court shall have original Jurisdiction of all Civil actions arising under the Constitution, Laws, or Treaties of the United States". These courts and their Jurisdiction are codified under Title 28 which is the Civil section of the United States Code. Again, Title 28 U.S.C. chapter 5 sections 81-131 makes it clear and factual that this is Territorial Law. Public Law 94-381 confirms that these courts are admiralty courts under Article I therefore the Federal Government in this case is without any constitutional Authority. Moakini v. US. 303 US 201

This case must be dismissed with prejudice against this Defendant in error based upon the perjury found in the Governments response, "It is axiomatic that this court is an Article III Federal district court!"

Defendant in error has requested that the government show certified documentation that this court is an Article III court and the Facts essential to support their alleged Jurisdiction must appear somewhere in the record.

(2)

Defendant in error again asserts that Jurisdiction has never been established by the government. Therefore dismissal with prejudice should be granted based upon Superior Court Rulings and facts of Law that prove what article this Court was created under. These lawful authorities have major relevance to the issue of whether this Court has subject matter Jurisdiction.

The government has stated in error that, "Defendants misplaced reliance on the Federal Rules of Civil Procedure is not applicable in this case," on the contrary according to Rule 12 of the Federal Rules of Criminal Procedure it states "The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure", to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these Rules. So therefore Rule 17 of the Federal Rules of Civil Procedure is applicable in this case for there has been no real party in interest to bring any complaint of injury or property damage of this alleged defendant in error.

The government also states, "The U.C.C has no bearing on criminal subject matter Jurisdiction", but on the contrary In 1871 Congress incorporated the U.S. Government as a for profit commercial enterprise in the legislative Act of February 21, 1871, Forty-First Congress, Session III, chapter 62, p. 419 and chartered a Federal company entitled "United States" i.e. "United States: [1871], A.K.A "US Inc", a "commercial Agency", a "Federal Corporation" (28 USC § 3002 (15) (A), originally designated as "Washington D.C.", located in the "District of Columbia", Now defined: Uniform Commercial code (U.C.C) § 9-307 (h).

Lastly, The Power for the Federal Government to enforce Federal Criminal law only exist within the states on land purchased by the U.S. Federal government where Notice requirements are met to meet due process requirements.

Listen to the words of the Supreme Court; In View of 40 USC 255, "no jurisdiction exists in United States to enforce federal criminal laws, ..., unless and until a consent to accept jurisdiction over such lands is filed in behalf of the United States as provided in said Act?..." and fact that state has authorized government to take jurisdiction is immaterial. Adams v. United States (1943) 319 US 312, 87 L Ed. 1421, 63 S.Ct. 1122 (Quoted from U.S. statute 40 USC 255, Interpretive Note #14, citing the US Supreme Court).

Special provision is made in the constitution for the cession of Jurisdiction from the state over places where the Federal government shall establish forts or other military works. And it is only in these places, or in territories of the United States, where it can exercise a general jurisdiction  
[New Orleans v. United States, 35 U.S. (10 Pet.) 662 (1836)]

The United States never held any municipal sovereignty, jurisdiction, or right of soil in Alabama or any of the new states which were formed... The United States has no Constitutional capacity to exercise municipal jurisdiction, sovereignty or eminent domain, within the limits of a state or elsewhere, except in the cases in which it is expressly granted....  
[Pollard v. Hagan, 44 U.S.C 213, 221, 223]

Title 18 U.S.C § 7 specifies that the territorial jurisdiction of the United States extends only outside the boundaries of lands belonging to any of the 50 states, and Title 40 U.S.C § 255 specifies the legal conditions that must be fulfilled for the United States government to have exclusive or shared jurisdiction within the area of lands belonging to the States of the Union.

Therefore, the accused would demand of this court as an "independent" and "non-biased" THIRD PARTY, to order the DOJ and Prosecutor to produce the documentation as required by the statute to establish the required exclusive Federal jurisdiction that has been merely assumed in this matter, consisting of:

1) Documentation showing ownership of each and every geographical location mentioned in the instant indictment wherein the alleged criminal activity took place.

2) Documentation from the legislature of the Republic of Missouri and any of the other 49 states surrendering jurisdiction to the Federal government over the same geographical locations as in #1.

3) Documentation pursuant to Title 40 U.S.C § 255, wherein the United States accepted jurisdiction to the same geographical locations as specified in #1, OR, documentation showing concurrent jurisdiction with the Republic Missouri and any of the other 49 states over the geographical locations in #1;

OR, absent the production of such required documentation showing lawful Federal jurisdiction over these geographical locations; dismiss with prejudice, immediately.

## Certificate of Service

I Frank. M. Alvarez the living, breathing, flesh and blood, natural born free citizen Sui Juris at law comes with this INURE: TO Governments Response To Defendant Frank Michael Alvarez's motion to Dismiss case for absent Proof of Federal Jurisdiction being placed before this Clerk of Court of the United States District Court For the Western District of Missouri Western Division on this day of 13<sup>th</sup> and month of June in the year of 2011.

Judge Greg Kays.  
400 E. 9th St  
K.C. Mo. 64106

Chief Judge  
400 E. 9th St  
K.C. Mo. 64106

Bruce Rhoades  
U.S. Attorney's Office  
400 E. 9th St  
K.C. Mo. 64106

Respectfully, without explicit reservations of all my rights without prejudice

~~Frank Alvarez~~  
Frank Alvarez