



rights by finding him guilty of the traffic violation on January 12, 2009, despite his motion to dismiss and without discovery. Finally, he maintains his right to free access to an appeal was blocked by the City Court of Alma's decision to impose an appeal bond of twice the amount of the fine and further blocked by the \$140 filing fee charged by the Circuit Court."

The magistrate after acknowledging the foregoing, fails to give any reason or objection to the contrary. Wherefore his lack of objection and silence is Acquiescence/Agreement. The magistrate has consented to all of the above.

C. After the aforementioned, the magistrate then erroneously cites courts and their decisions, codes and other information that he has already consented that plaintiff is not subject to.

1. Magistrate cites...

"[S]tate courts as entities are not vulnerable to a § 1983 suit because they are protected by immunity under the eleventh amendment." *Mildfelt v. Circuit Court of Jackson County, Mo.*, 827 F.2d 343, 345 (8th Cir. 1987). See also *Foster v. Walsh*, 864 F.2d 416, 418 (6th Cir. 1988) (municipal court is not a person within the meaning of § 1983 and civil rights action may not be maintained against it); *Sampson v. City of Xenia*, 108 F. Supp. 2d 821 (S.D. Ohio 1999) (same)."

Plaintiff stated earlier that he is a natural citizen of Arkansas and not subject to any government operating in a commercial capacity or any maritime contract, and this was agreed to by the magistrate by his acquiescence. Wherefore the 11<sup>th</sup> amendment does not prohibit plaintiff from suing the DEFENDANTS. Furthermore, in DEFENDANTS commercial capacity as a commercial entity, it is not immune to suit as any other commercial entity (i.e. WALMART, McDONALDS and etc...) unless plaintiff had contracted that right away. Plaintiff has not. Plaintiff is not subject to these courts in their commercial capacity or their decisions concerning contracts. See UCC 1-308

2. Magistrate cites...

"In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court held that a claim for damages for "allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid" is not cognizable until "the

conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus." Heck, 512 U.S. 486-87."

Plaintiff as stated earlier plaintiff is not subject to any government operating in a commercial capacity or any maritime contract, and this was agreed to by the magistrate by his own acquiescence. Wherefore these decisions do not prohibit plaintiff from suing the DEFENDANTS. Furthermore, in their commercial capacity as commercial entities, they are not immune to suit as any other commercial entity (i.e. WALMART, McDONALDS and etc...) unless plaintiff had contracted that right away. Plaintiff has not. Plaintiff is not subject to these courts in their commercial capacity or their decisions concerning contracts. See UCC 1-308.

3. Magistrate cites...

"In Blanton v. City of North Las Vegas, 489 U.S. 538 (1989), the Supreme Court adhered to its prior precedent that "there is a category of petty crimes or offenses which is not subject to the Sixth Amendment jury trial provision." Id. (citation omitted)."

And...

"See e.g., Lewis v. United States, 518 U.S. 322, 325 (1996) ("It is well-established that the Sixth Amendment, like the common law, reserves th[e] jury trial right for prosecutions of serious offenses, and that there is a category of petty crimes or offenses which is not subject to the Sixth Amendment jury trial provision.").

Plaintiff as stated earlier plaintiff is not subject to any government operating in a commercial capacity or any maritime contract, and this was agreed to by the magistrate by his own acquiescence. Wherefore these decisions do not prohibit plaintiff from suing the DEFENDANTS. Furthermore, in their commercial capacity as commercial entities, they are not immune to suit as any other commercial entity (i.e. WALMART, McDONALDS and etc...) unless plaintiff had contracted that right away. Plaintiff has not. Plaintiff is not subject to these courts in their commercial capacity or their decisions concerning contracts. See UCC 1-308.

4. Magistrate states and cites...

"Fourth, to the extent Wilson contends he has been deprived of his right to jury trial and his right to appeal because the Arkansas state courts assess a filing fee for appeals, this claim fails. There is no right to a jury trial in city courts in Arkansas. See e.g., *Edwards v. City of Conway*, 300 Ark. 135, 777 S. W. 2d 583 (1989). However, the right of trial by jury remains inviolate when an appeal to the circuit court is pursued where the case is tried de novo. See e.g., *Weaver v. State*, 296 Ark. 152, 752 S. W. 2d 750 (1988). A filing fee of \$140 is assessed for initiating a cause of action in circuit court, including appeals. ARK. CODE ANN. § 21-6-403(b)(l) (Supp. 2007). No fee shall be charged if the court allows a person to proceed in forma pauperis.

ARK. CODE ANN. § 21-6-403(c). The imposition of filing fees and/or costs associated with filing lawsuits or appeals have never per se been held unconstitutional. See e.g., *United States v. Kras*, 409 U.S. 434, 450 (1973) (The Court has never recognized an "unlimited rule that an indigent at all times and in all cases has the right to relief without the payment of fees."). Filing fees are typically struck down only where they present an insurmountable barrier to the protection of fundamental rights. See e.g., *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996) (Mississippi could not condition an appeal from the termination of parental rights on the payment of a \$2,532.36 record fee). Absent an insurmountable barrier the "correct principle is that reasonable costs may be imposed on persons who want to sue." *Lumbert v. Illinois Dept. of Corrections*, 827 F.2d 257, 259 (7th Cir. 1987). The Arkansas statutory filing fee provision at issue here does not deny indigent persons access to the circuit courts. The statute incorporates a means by which the filing fee may be waived for indigent persons. The fact that Wilson may have been denied indigent status does not make this procedure unconstitutional."

11. **Plaintiff as stated earlier plaintiff is not subject to any government operating in a commercial capacity or any maritime contract, and this was agreed to by the magistrate by his own acquiescence. Further, because plaintiff is not subject to the DEFENDANTS, he is also not subject to their company policy/contract the UCC or the ARKANSAS CODE. Wherefore these decisions and codes are erroneous and not applicable to this case and do not prohibit plaintiff from suing the DEFENDANTS. Plaintiff claims that his right to free access to the court was protected by Constitution Of The State Of Arkansas Of 1874.**

Article 2. Declaration of Rights.

§ 13. Redress of wrongs.

Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without purchase; completely, and without denial; promptly and without delay; conformably to the laws. Plaintiff has not contracted away any of his rights and explicitly reserves them all..

Furthermore, in their commercial capacity as commercial entities, they are not immune to suit as any other commercial entity (i.e. WALMART, McDONALDS and etc...) unless plaintiff had contracted that right away. Plaintiff has not. Plaintiff is not subject to these courts in their commercial capacity or their decisions concerning contracts. See UCC 1-308.

5. Magistrate states and cites...

"Fifth, Wilson's claims against the State of Arkansas are subject to dismissal. The claims are barred by the Eleventh Amendment. Will v. Michigan Dept. of State Police, 491 U.S. 58 (1989). "The Eleventh Amendment bars suits against a State by citizens of that same State in federal court." Williams v. Missouri, 973 F.2d 599, 599 -600 (8th Cir. 1992) (citing Papasan v. Attain, 478 U.S. 265, 276 (1986)). ""This bar exists whether the relief sought is legal or equitable."" Id. (quoting Papasan, 478 U.S. at 276). "Congress did not abrogate constitutional sovereign immunity when enacting the law that was to become section 1983." Burk v. Beene, 948 F.2d 489, 493 (8th Cir. 1992)(citing Quern v. Jordan, 440 U.S. 332, 342 (1979))."

Plaintiff stated earlier that he is a natural citizen of Arkansas and not a ("citizens of the United States and of the State wherein they reside" see 14<sup>th</sup> admendment), and was agreed to by magistrate by acquiescence . Wherefore the 11<sup>th</sup> admendment does not prohibit plaintiff from suing the DEFENDANTS. Furthermore, in DEFENDANTS commercial capacity as a commercial entity, it is not immune to suit as any other commercial entity (i.e. WALMART, McDONALDS and etc...) unless plaintiff had contracted that right away. Plaintiff has not. Plaintiff is not subject to these courts in their commercial capacity or their decisions concerning contracts. See UCC 1-308

CONCLUSION

The magistrate's recommendation to dismiss has now been more than sufficiently rebutted. His conclusion to dismiss is erroneous and his cites are irrelevant and immaterial because there is no contractual agreement infringing

the Plaintiff's rights or binding the Plaintiff to the DEFENDANTS. The magistrate's recommendation to the court is in effect a recommendation for the court to violate...

- A. USC TITLE 18 > PART I > CHAPTER 13 > § 242 Deprivation of rights under color of law
- B. USC TITLE 18 > PART I > CHAPTER 13 > § 241 Conspiracy against rights

And further the magistrate's recommendation would cause the court to name itself as one of the coconspirators in league with the pirates/DEFENDANTS.

WHEREFORE, Plaintiff prays for the foregoing relief as the Court deems just.

Respectfully submitted,

Signed:

Vaughn Damon Wilson, sui juris  
Without prejudice UCC 1-308  
7225 Chastain Road  
Mulberry, Arkansas 72947

Phone: 479 414 3220

NOTARY PUBLIC

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me, a Notary Public, the above signed

\_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_

Notary Public

MY COMMISSION EXPIRES:

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