IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
APR 05 2017
David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION NO. 16-mc-2688
	)	
JOHN B. TROWBRIDGE,	)	
	)	
Respondent.	)	

MOTION TO DISMISS BY REASON OF *CORAM NON JUDICE*

Article VI, Clause 3 of the U.S. Constitution expressly prohibits the requirement of a religious test as a qualification to any office or public trust under the United States.

Keith P. Ellison represents that Keith P. Ellison holds an office under the United States (United States District Judge), but the oath or affirmation taken by Keith P. Ellison at 28 U.S.C. § 453 requires a religious test, "So help me God," as a qualification thereto.[1]

Whereas, it is indisputable that the religious test required of Keith P. Ellison in the 28 U.S.C. § 453 oath of office disqualifies Keith P. Ellison from holding any office under the United States, it nevertheless is unreasonable to believe that there is not some sort of legal justification for Keith P. Ellison to hold the office of United States District Judge.

CONGRESS CREATE A SPECIAL "UNITED STATES" FOR THE COURTS

At the U.S. Constitution March 4, 1789, "United States" is a proper noun the definition of the words of which is found in any contemporary dictionary and whose popular and ordinary meaning is understood by everyone: the collective of the several commonwealths united by and under authority of the U.S. Constitution and admitted into the Union.

[1] Said religious test also constitutes a violation of the principle of separation of church and state.

The above, however, is no longer true for the courts.

Every civil or criminal proceeding in every United States District Court—such as the instant proceeding in the United States District Court for the Southern District of Texas, Houston Division—is administered in accordance with the provisions of 28 U.S.C. Chapter 176, which provides its own exclusive definition of "United States"; to wit:

> § 3002. Definitions
> As used in this chapter:
> . . . (15) "United States" means—
> (A) a Federal corporation;
> (B) an agency, department, commission, board, or other entity of [a Federal corporation] the United States; or
> (C) an instrumentality of [a Federal corporation] the United States.

When Congress expressly define by legislative act a particular word—or in this case a group of words, i.e., "United States"—it becomes a statutory term and its popular and ordinary definition and meaning, as found in the dictionary, is stripped away and thereafter means only what the restricted definition provides, and no one has any discretion to construe the new statutory term to mean anything other than what the new definition provides.

Wherefore, every use of the statutory term "United States" in every civil or criminal proceeding in every United States District Court means "a Federal corporation," *supra.*

KEITH P. ELLISON A JUDGE OF A FEDERAL CORPORATION

The words and meaning of the U.S. Constitution are immutable. From *Home Building & Loan Association v. Blaisdell*, 290 U.S. 398, 448-449 (1934), Mr. Justice Sutherland, dissenting:

> A provision of the Constitution, it is hardly necessary to say, does not admit of two distinctly opposite interpretations. It does not mean one thing at one time and an entirely different thing at another time. . . .
>
> [290 U.S. 450] Chief Justice Taney, in *Dred Scott v. Sandford,* 19 How. 393, 426, said that, while the Constitution remains unaltered, it must be construed now as it was understood at the time of its adoption; that it is not only the same in words, but the same in meaning, and as long as it continues to exist in its present form, it speaks not only in the same words, but with the same meaning and intent with

> which it spoke when it came from the hands of its framers, and was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judicial character of this court, and make it the mere reflex of the popular opinion or passion of the day.
>
> And in *South Carolina v. United States,* 199 U.S. 437, 448-449, in an opinion by Mr. Justice Brewer, this court quoted these words with approval, and said:
>
>> The Constitution is a written instrument. As such, its meaning does not alter. That which it met when adopted, it means now. . . . Those things which are within its grants of power, as those grants were understood when made, are still within them, and those things not within them remain still excluded.

Wherefore, it is indisputable that Keith P. Ellison (a) is ineligible to hold an office under that certain United States that accords with the meaning of the proper noun "United States" in the U.S. Constitution, for failure to take an oath or affirmation that conforms to the express-prohibition provision of Article VI, Clause 3 of that instrument, and (b) holds no judgeship of an Article III constitutional court of limited jurisdiction.

The 28 U.S.C. § 453 oath of office taken by Keith P. Ellison, however, does not disqualify Keith P. Ellison from holding an office under that certain United States that accords with the meaning of the statutory term "United States" of 28 U.S.C. Chapter 176, § 3002(15), i.e., a Federal corporation.

Whereas, the District of Columbia is a Federal corporation—inc. February 21, 1871,[2] under authority of Art. I, § 8, cl. 17 of the U.S. Constitution—and the only Federal corporation possessed of agencies, departments, commissions, boards, instrumentalities, and other entities, as enumerated at 28 U.S.C. Chapter 176, § 3002(15), it is reasonable to conclude that the ultimate

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[2] "An Act to provide a Government for the District of Columbia," ch. 62, 16 Stat. 419, February 21, 1871; later legislated in "An Act Providing a Permanent Form of Government for the District of Columbia," ch. 180, sec. 1, 20 Stat. 102, June 11, 1878, to remain and continue as a municipal corporation (brought forward from the Act of 1871, as provided in the Act of March 2, 1877, amended and approved March 9, 1878, *Revised Statutes of the United States Relating to the District of Columbia . . . 1873–'74* (in force as of December 1, 1873), sec. 2, p. 2); as amended by the Act of June 28, 1935, 49 Stat. 430, ch. 332, sec. 1 (Title 1, Section 102, District of Columbia Code (1940)).

object of the meaning of the 28 U.S.C. Chapter 176, § 3002(15) definition of "United States" is the District of Columbia.

Wherefore, Keith P. Ellison holds an office under the 28 U.S.C. Chapter 176, § 3002(15) United States, "a Federal corporation," and is a judge of an Article I District of Columbia municipal court of general jurisdiction.

JURISDICTION

The U.S. Constitution at Article I, Section 8, Clause 9 thereof confers upon Congress the power to constitute tribunals inferior to the Supreme Court, such as Article III constitutional courts of limited jurisdiction, in judicial districts like the Southern District of Texas.

The jurisdiction of Article III courts is co-extensive with the legislative powers of Congress, *Chisholm v Georgia*, 2 U.S. 419, 435, (1793), *Osborn v. Bank of United States*, 9 Wheat., 738, 808 (1824), and is limited to personal and subject-matter jurisdiction, U.S. Const., Art. I, § 8, cl. 1–16, in their respective geographic area.

The power to take territorial jurisdiction and direct the disposition of property located or command the conduct of an American residing in a geographic area occupied by the body politic of a particular member of the Union, is the exclusive domain of that member of the Union itself; to wit:

> [W]ithin any state of this Union the preservation of the peace and the protection of person and property are the functions of the state government. . . . 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 goverment [*sic*]. *Caha v. U.S.*, 152 U.S. 211, 215 (1894).
>
> The several States of the Union are not, it is true, in every respect independent, many of the right [*sic*] and powers which originally belonged to them being now vested in the government created by the Constitution. But, except as restrained and limited by that instrument, they possess and exercise the authority of independent States, and the principles of public law to which we have referred are

> applicable to them. One of these principles is that every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory. . . . *Pennoyer v. Neff*, 95 U.S. 714, 722 (1878).
>
> [95 U.S. 714, 723] [T]he exercise of this jurisdiction [over those domiciled within its limits] in no manner interferes with the supreme control over the property by the State within which it is situated. Penn v. Lord Baltimore, 1 Ves. 444; Massie v. Watts, 6 Cranch 148; Watkins v. Holman, 16 Pet. 25; Corbett v. Nutt, 10 Wall. 464.

Keith P. Ellison in the instant order to show cause (Document 2) represents that he is authorized to exercise territorial jurisdiction over person and property in one of the members of the Union, Texas, but no judge of any Article III court of limited jurisdiction has authority to take territorial jurisdiction over person or property anywhere in the Union.

Keith P. Ellison is a judge who is authorized to hear and determine civil and criminal causes in an Article I District of Columbia municipal court of general jurisdiction but impersonating a judge of an Article III constitutional court of limited jurisdiction and usurping exercise of territorial, personal, and subject matter jurisdiction outside his territory, the District of Columbia, in the judicial district known as the Southern District of Texas.

CORAM NON JUDICE

The condition before us, i.e., a judge of a municipal court of general jurisdiction impersonating a judge of a constitutional court of limited jurisdiction, is *coram non judice*; to wit:

> *coram non judice* . . . [Latin "not before a judge"] 1. Outside the presence of a judge. 2. Before a judge or court that is not the proper one or that cannot take legal cognizance of the matter. *Black's Law Dictionary*, Seventh Edition, Bryan A. Garner, Editor in Chief (St. Paul, Minn.: West Group, 1999), p. 338.

Actions brought and determined in a judicial district reserved for an Article III court of limited jurisdiction, such as the Southern District of Texas, before a judge with no authority to take territorial jurisdiction over person or property in such judicial district, such as District of Columbia municipal judge Keith P. Ellison, are void *ab initio*.

CONCLUSION

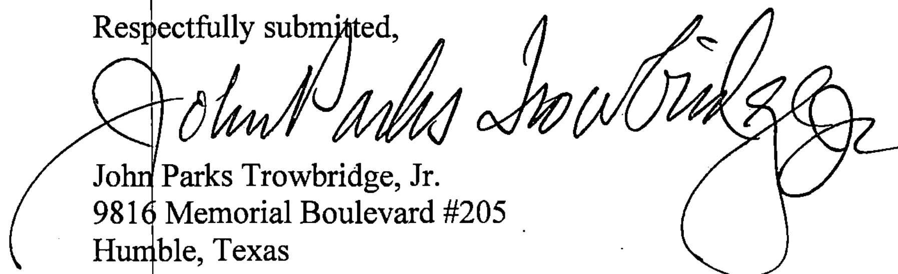
One solution for petitioner is to present a constitutional authority that gives Congress territorial legislative power over the Union, thereby giving Keith P. Ellison the capacity to take territorial jurisdiction and enter an order against person and property in Harris County, Texas.

Another solution would be for petitioner to demonstrate that for purposes of this civil proceeding, "United States" does not mean "a Federal corporation," 28 U.S.C. Chapter 176, § 3002(15).

Absent fulfillment of one of the above two solutions, Keith P. Ellison has no jurisdiction, we are *coram non judice*, and this proceeding is void and must be dismissed.

Date: April 4, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2017, I served a complete copy of MOTION TO DISMISS BY REASON OF *CORAM NON JUDICE* by FedEx overnight courier on the following parties:

LEWIS A. BOOTH
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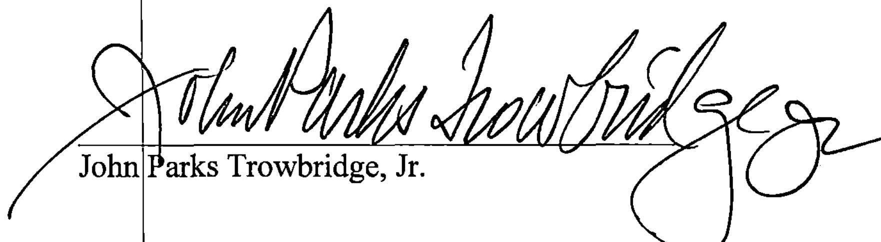

John Parks Trowbridge, Jr.