

My Petition for Declaratory Judgment

By: Barbara Martin

In 1995 I filed my Positive I.D. with the Fort Bend County Clerk's Office and obtained a Passport without a social security number or a zip code.

On February 10, 1995 I filed my Petition for Declaratory Judgment as to my true status of Citizenship, in the District (State) Court of Fort Bend County, Texas, 240th Judicial District, pursuant to the Uniform Declaratory Judgments Act, Civil Practice and Remedies Code, (VTCA) Title 2, Chapter 37.

After being served with proper citations, the Texas Attorney General claimed "Sovereign Immunity" in his original answer to my suit, and he was in default because he did not file his answer within the time allotted by the Texas Rules of Civil Procedure.

The Fort Bend County Attorney also claimed "Sovereign Immunity" in his original answer.

On August 13, 1996, the United States Attorney erroneously removed my case from State Court to Federal Court by filing a Notice of Removal in Federal District Court. August 13th was the last day for him to file his original answer in State court, but he filed his Notice of Removal the next day, making him in default according to the Texas Rules of Civil Procedure. He never filed an original answer. He also set a date for a "Conference/ Hearing" with the Federal Court.

The United States Attorney then filed a "Motion to Dismiss for Failure to State a Claim" in which he also accused me of being a "tax protester", 8 days after he filed the Notice of Removal in Federal Court. However, he was in default, because according to the Texas Rules of Civil Procedure, he had to file within 5 days.

I promptly filed a Motion for Default Judgment against the Texas Attorney General and the United States Attorney. I also filed a Motion for Sanctions against the Federal Attorney for violation of Federal Rule of Civil Procedure 11 (b) which states "By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;"

I had anticipated he would probably do something of that nature, and I had already obtained under the Freedom of Information Act, 30 years of IRS documentation that I did not owe any taxes.

On December 19, 1997, at the Hearing/Conference, Federal District Judge, Lynn N. Hughes acknowledged I was sovereign, and the Respondents were bureaucrats, said he wished there were One hundred million more just like me, but then he dismissed my case for "Failure to State a Claim",

because, he said he couldn't see where I had been injured. He couldn't see where there was a "genuine controversy".

On January 10, 1997, I filed a Notice of Appeal to the Fifth Circuit Court of Appeals. The Respondents all promptly filed a "Motion to Dismiss for Failure to State a Claim", which was granted.

On October 22, 1997, I filed a "Petition for a Writ of Certiorari" in the United States Supreme Court. The Supreme Court notified me on December 30, 1997 that my "Petition for a Writ of Certiorari" was placed on their docket December 29, 1997. They also sent me 2 forms to send to the Respondents informing them they must submit their Brief in Opposition by January 28, 1998.

On January 24, 1998, I received a copy of the notice of "Waiver" filed with the U.S. Supreme Court, by the Solicitor General of the U.S. which states "The Government waives its right to file a response to the petition in this case, unless requested to do so by the court. I also received copies of "Waivers" filed by the Texas Attorney General and the Ft. Bend County Attorney on January 26, 1998.

The Supreme Court Rule 15 (2) states "Counsel are admonished that they have an obligation to the Court to point out in the Brief in Opposition, **and not later, any perceived misstatement** in the petition. Any objection to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court's attention in the Brief in Opposition".

Supreme Court Rule 15 (5) states "The Clerk will distribute the petition to the Court for its consideration upon receiving an express **waiver** of the right to file in opposition, or if no waiver or Brief in Opposition is filed, upon the expiration of the time allowed for filing. If a Brief in Opposition is timely filed, the Clerk **will distribute the Petition**, Brief in Opposition, and any Reply Brief to the Court for its consideration no less than 10 days after the Brief in Opposition is filed".

Supreme Court Rule 16 (1) states "After considering the documents distributed under Rule 15, the Court will enter an appropriate order. The order may be a summary disposition on the merits." (2) "Whenever the Court grants a petition for a Writ of Certiorari, the Clerk will prepare, sign, and enter an order to that effect and will notify forthwith counsel of record and the court whose judgment is to be reviewed. The case then will be scheduled for briefing and oral argument".

My De Jure Citizenship emanates from my heritage, because I a member of the "Posterity" of the "One People" of the Declaration of Independence (1776) and the Preamble to the "Unanimous Declaration of Independence of the Republic of Texas, by the DELEGATES OF THE PEOPLE OF TEXAS, which states: "TO THE PUBLIC." "The undersigned, Plenipotentiaries from the Republic of Texas to the United States of America, respectfully present to the American People the unanimous Declaration of Independence, made by the People of Texas in General Convention, the 2nd day of March, 1836; and also, the Constitution framed by the same body."

My Citizenship does NOT emanate from, by, through, or under the 14th Amendment. The 14th Amendment did NOT give me anything, nor do I want or need anything from it. Remember, Maxim of Law, "The created is **never** greater than the Creator."

Citation

60 U.S. 393, Dred Scott v. Sandford, (U.S.Mo. 1856)

citizenship of the State, some qualification for office, or the exercise of the elective franchise, citizens of all other States, coming thither to reside, and not possessing those qualifications, cannot enjoy those privileges, not because they are not to be deemed entitled to the privileges of citizens of the State in which they reside, but because they, in common with the native-born citizens of that State, must have the qualifications prescribed by law for the enjoyment of such privileges, under its Constitution and laws. It rests with the States themselves so to frame their Constitutions and laws as not to attach a particular privilege or immunity to mere naked citizenship. If one of the States will not deny to any of its own citizens a particular privilege or immunity, if it confer it on all of them by reason of mere naked citizenship, then it may be claimed by every citizen of each State by force of the Constitution; and it must be borne in mind, that the difficulties which attend the allowance of the claims of colored persons to be citizens of the United States are not avoided by saying that, though each State may make them its citizens, they are not thereby made citizens of the United States, because the privileges of general citizenship are secured to the citizens of each State. The language of the Constitution is, 'The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' If each State may make such persons its citizens, they became, as such, entitled to the benefits of this article, if there be a native-born citizenship of the United States distinct from a native-born citizenship of the several States.

There is one view of this article entitled to consideration in this connection. It is manifestly copied from the fourth of the Articles of Confederation, with only slight changes of phraseology, which render its meaning more precise, and dropping the clause which excluded paupers, vagabonds, and fugitives from justice, probably because these cases, could be dealt with under the police powers of the States, and a special provision therefor was not necessary. It has been suggested, that in adopting it into the Constitution, the words 'free inhabitants' were changed for the word 'citizens.' An examination of the forms of expression commonly used in the State papers of that day, and an attention to the substance of this article of the Confederation, will show that the words 'free inhabitants,' as then used, were synonymous with citizens. When the Articles of Confederation were adopted, we were in the midst of the war of the Revolution, and there were very few persons then embraced in the words 'free inhabitants,' who were not born on our soil. It was not a time when many, save the

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Southern District of Texas

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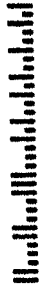
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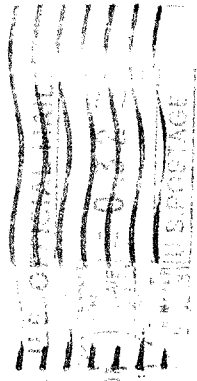
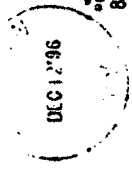
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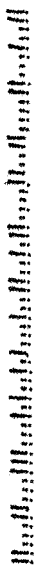
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Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 22, 1998

Mr. William Suter, Clerk
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Via Airborne Express

Re: No. 97-1065; *Barbara Martin v. United States of America, et al.*

Dear Mr. Suter:

Mr. Matthew Lyle Rienstra, the Assistant Attorney General who represented the Office of the Governor of the State of Texas and the Texas Department of Public Safety in the U.S. Court of Appeals, Fifth Circuit, has left this Division. I am enclosing a Waiver signed by Mr. Dewey Helmcamp, an Assistant Attorney General who is a member of the U.S. Supreme Court, in the above referenced case. In addition to Mr. Helmcamp, please send copies of all correspondence and/or notices to me at the same address.

Thank you very much for your courtesy in this matter.

Very truly yours,

GEORGE NOELKE
Assistant Attorney General
Administrative Law Division
(512) 475-4300
(512) 320-0167 FAX

encl.

cc: Barbara Martin, Pro Se
Mark Richmond, Appellate Staff, Civil Div.
Randall W. Morse, Fort Bend County
Ron Pigott, Department of Public Safety
Pete Wessdorf, Office of the Governor

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Inter-agency Mail
Inter-agency Mail

WAIVER

SUPREME COURT OF THE UNITED STATES

Supreme Court Case No. 97-1065

Barbara Martin v. United States, et al
(Petitioner) (Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

Please enter my appearance as Counsel of Record for all respondents.

There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

Office of the Fort Bend County Clerk, Fort Bend County, Texas

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed since your admission):

Signature

R W Morse
Date: 01/23/98

(Type or print) Name Randall W. Morse
 Mr. Ms. Mrs. Miss

Firm Fort Bend County Attorney's Office

Address 301 Jackson, Suite 621

City & State Richmond, Texas

Zip 77469

Phone (281) 341-4555

A COPY OF THIS FORM MUST BE SENT TO PETITIONER'S COUNSEL OR TO PETITIONER IF PRO SE. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE IS REQUIRED.
SEE REVERSE FOR INFORMATION CONCERNING THE STATUS OF A CASE ON THE DOCKET.

CC:

CLER-0080-11-87

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IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1997

MARTIN, BARBARA
Petitioner

vs.

No. 97-1065

USA, ET AL.

WAIVER

The Government hereby waives its right to file a response to the petition in this case, unless requested to do so by the court.

SETH P. WAXMAN
SOLICITOR GENERAL

January 20, 1998

See Attached List

January 20, 1998

Attachment List for Case No. 97-1065

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