

IN THE STATE COURT OF HENRY COUNTY
STATE OF GEORGIA

FILED IN OFFICE
STATE COURT
HENRY COUNTY, GA

AUG 05 2024

[Signature]
LYNNIE M. POLICARO FOR
CLERK OF STATE COURT, HENRY COUNTY, GA

STATE OF GEORGIA)	Case No. 2024-ST-SR-002081-RBJ
Plaintiff,)	Warrant No. 2023-761WM
)	Booking No. 2024-00000811
v.)	Case # 24SL468
)	
MICHAEL B. JAMES)	
Alleged Accused.)	

**NOTICE TO DISMISS FOR COURT'S LACK OF IN PERSONAM
AND/OR SUBJECT MATTER JURISDICTION**

COMES NOW, Law Abiding Citizen Mr. Michael B. James the alleged accused, by Special Appearance, for the limited purpose of challenging the court's in personam and subject matter jurisdiction over the alleged accused; and to inform the court and place the court on NOTICE that the movant's several city officials and employees have repeatedly violated accused's Due Process Rights, Constitutional Liberties, Constitutional Rights and Civil Rights such that the allegations against him are insufficient as there is not a valid charging instrument before the court to invoke it's authority to hear or adjudicate the case, and that the matter must be dismissed ministerially (with prejudice). See *Hagans v. Lavine*, 415 U.S. 528, 533 (1974).

Received
8-5-24
[Signature]

I.

JURISDICTION AND VENUE

1. Michael B. James, hereby objects, takes exception to, and contends that this court lacks the requisite *in personam* and/or subject matter jurisdiction. Mr. James contends that the matter is void *ab initio* and that all subsequent proceedings flowing from the moving parties' initial defective charging instrument are fatally defective and fails to establish and convey *in personam* and/or subject matter jurisdiction unto this court. Mr. James challenged jurisdiction/authority with the moving parties, officer C. Thomas #5714, Henry County Solicitor's Office, and any other moving parties, filed on April 29, 2024. All moving parties failed to prove jurisdiction/authority on the record, acquiescing with no written rebuttal or answer, which is tacit admission and waiver of Mr. James' challenge of jurisdiction/authority. See *McNutt v. GMAC*, 298 US 178 (1936) the origins of this Doctrine of law may be found in *Maxfield's Lessee v. Levy*, 4 U.S. 308.

II.

BACKGROUND

2. This case involves false allegations of "criminal trespass" allegedly made on July 11, 2023, involving the alleged accused and his employer, Cargo Solutions Express Inc., a commercial transportation carrier headquartered in Fontana, California who operates, also, a trucking facility domiciled in McDonough, Ga.
3. Where Mr. James, the alleged accused, worked three plus years as a Professional O.T.R. commercial semi tractor-trailer truck driver. Mr. James arrived at the McDonough, Ga. facility in the late afternoon on July 9, 2023, waiting overnight in order to be first in line for repairs to his truck #1476 until the next morning. Mr. James waited patiently on July 10, 2023 for maintenance repairs to be completed, but due the unavailability of parts Cargo Solutions provided and paid for Uber

transportation, returning Mr. James home to Chattanooga, Tennessee until repairs to his assigned truck were completed.

4. Once home, accused immediately got in his personal car and drove back up to McDonough, Ga in order to retrieve his personal effects that he forgot he left behind in his assigned truck # 1476. The court should note that the facility domiciled in McDonough, Ga is accessible to truck drivers and office employees on a round-the-clock basis 365 days per year. It is NOT unusual for employees to conduct their business at the terminal any time of day or night.
5. Mr. James punched in the secured access code to enter the video surveilled property, pulling his car up to the truck maintenance shop. He then checked two (2) entrance doors, which were normally unlocked. He then walked around the building and saw a roll-up dock door opened approximately 3'ft which he used to access his assigned truck # 1476 in order to retrieve his personal effects which were in various plastic bags. Mr. James then left his place of employment late that same evening, July 10, 2023.
6. Mr. James was arrested on a magistrates warrant issued upon the oath of officer Chris Thomas, who made the allegation of "Criminal Trespass" based entirely upon his opinion, for which he was not witness nor had no personal first-hand knowledge:

A person commits the offense of criminal trespass when he or she knowingly and without authority **[r]emains upon** the land or premises of another person or within the vehicle, railroad car, aircraft, or watercraft of another person **after receiving notice** from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant to depart.
O.C.G.A. § 16-7-21(b)(3)

7. The solicitor now alleges, almost a full year later, that Mr. James “loitered or prowled” upon the property. Investigators with the solicitor’s office have blatantly refused to interview Mr. James or to provide him with a copy of the amended charging instrument and duly sworn affidavit in support of the new charge. Notice of this new alleged charge is insufficiently given in a letter styled “**Notice of serious arraignment court date**” mailed to the accused on July 8, 2024, by the Henry County, Ga state court. No further specifics or details were provided with the document to adequately inform the accused of the nature and cause of the accusations against him, by which he might otherwise defend himself, the same being done in violation of the 6th amendment to the U.S. Constitution as made applicable to the states via the 14th amendment.
8. Said letter merely states, “CT. 1: LOITERING OR PROWLING,” and contains **no** sworn statement given under oath and taken under pain, penalty of perjury; contains no supporting affidavit of complaint, no statutory reference or citation to law, nor does it contain any fact narrative purporting to contain the four (4) essential elements of the crime of loitering or prowling.
9. Accused hereby gives notice and respectfully insists on the immediate ministerial dismissal (with prejudice) of the solicitors charge(s).
10. On April 29, 2024, I, Michael B. James, filed an **Affidavit Notice/Demand for Jurisdiction/Authority** with the Henry County clerk of court; serving the same on officer Chris Thomas # 5714, via hand-delivery, at his place of employment at the Henry County Police Department/North Precinct, 3000 Hwy. 42 North, Stockbridge, Ga.; the same being deposited into the hands of Lt. Webster, who acknowledged receipt, stated that she would forward the same to officer Thomas and his commanding officer. Service of the same document was personally hand-delivered to the Solicitor office by Mr. James as well.

11. Mr. James, in Good-Faith, gave officer C. Thomas, and/or any other moving parties, a total of seven (7) days from the 29th day of April 2024 in which to prove jurisdiction/authority on the record, in regards to the alleged accused.
12. The solicitor and the moving parties **acquiesced** by failing to answer or to file a written rebuttal in response, which Mr. James deemed to be a waiver of the prosecution, and a tacit admission of their lack of ability to prove jurisdiction/authority on the record, once challenged by the accused. See *McNutt v. GMAC*, 298 US 178 (1936) the origins of this Doctrine of law may be found in *Maxfield's Lessee v. Levy*, 4 U.S. 308.
13. The affidavit of complaint/warrant, preferring a misdemeanor criminal-trespass charge against accused is facially defective, being self-contradictory, in that one of the three essential elements necessary to establish and sustain a charge of criminal trespass pursuant to O.C.G.A. § 16-7-21(b)(3) is that of “remaining” about the property after receiving notice to depart; however, the supporting affidavit of complaint clearly states on its face that the accused was “driven home to his house in Chattanooga, Tennessee.”

III.

STATEMENT OF FACTS OF THE CASE

14. Once taken into custody, Mr. James made repeated demands to be taken before a magistrate and was repeatedly denied access to the magistrate or to be informed when he would receive a “evidentiary hearing” or initial appearance before a magistrate.

15. The clerk of court refused (and still refuses) to provide a copy of the case file to the accused.
16. Mr. James made an assertion of his speedy trial rights pursuant to the 6th amendment of the U.S. Constitution which has gone unheeded through no fault of his own. Mr. James asserts and contends that any prosecutorial delay due to a backlog in the court's docket is self-imposed due to the customs and practices of the solicitors office in allowing police officers to prefer charges directly with the magistrates absent thorough and complete investigations or meaningful preliminary review by the solicitor's office.
17. The solicitor has also blatantly refused to provide the accused with copies of the entire case file or a list of witnesses against him other than that of C. Thomas' biased opinion affidavit of complaint, where he is NOT a witness. The arrest of an accused triggers the prosecution, speedy-trial rights, compulsory process, and the rights to discovery and confrontation of witnesses.
18. Officer Thomas and the moving parties have failed to respond to the accused's demand that they prove standing, jurisdiction, and authority for the allegation(s).
19. Mr. James has been denied due process, constitutional liberties, civil rights, and both constitutional as well as statutory protections while the Sword of Damocles hangs precariously over his head from a thread. As such, Mr. James' employment has been unlawfully disrupted due to the vindictive and maliciously obtained arrest warrant and false initial charges of "criminal trespass" and newly upgraded false allegations of "loitering or prowling." Such allegations, left unresolved after over a year, has prevented Mr. James from seeking gainful employment elsewhere due to the stain of the arrest and false accusation against him. Prospective employers would be unwilling to hire an individual with such charges still

pending, and Mr. James cannot place his good name and reputation at risk within the industry where he could be black-balled by criminal background investigations conducted contemporaneous to his application for employment. Furthermore, due to the prolonged and inordinate amount of time the prosecution has taken prejudicing Mr. James' U.S. Constitutional right to a speedy trial, Mr. James' financial resources have dwindled and he may soon face homelessness. Due to the continuing undue peril faced by Mr. James, his mental health and wellbeing as an innocent law-abiding citizen has been adversely affected over the extreme stress and anxiety over the unfounded charges and refusal of the solicitor and investigators to properly investigate the matter or to allow Mr. James to provide a statement of reasons or alibi before seeking his arrest or bringing these false charges to trial. See *Betterman v. Montana*, 578 U.S. 437 (2016)

IV. ANALYSIS

20. The Georgia Constitution recognizes Michael B. James as one of its citizens.

All citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship. Ga. Const. art. I, § I, ¶ 7 (emphasis added)

21. The Georgia constitution guarantees and assures that the protection of government “shall be impartial and complete,” wherein each citizen is afforded the equal protection of its laws:

Protection to person and property is the paramount duty of government and **shall be impartial and complete**. No person shall be denied the equal protection of the laws. Ga. Const. art. I, § I, ¶ 2 (emphasis added)

22. The Georgia constitution also secures citizens against the “unreasonable” seizure of their person:

The **right** of the people to be **secure in their persons**, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue except upon probable cause supported by oath or affirmation particularly describing the place or places to be searched and the persons or things to be seized. Ga. Const. art. I § I, ¶ 13 (emphasis added)

23. Citizens of Georgia are further guaranteed that

No person shall be deprived of life, liberty, or property except by due process of law. Ga. Const. art. I, § I, ¶ 1

24. Officer Thomas, acting as an agent of government, held an affirmative legal duty, and compulsory obligation, to protect the accused’s rights and liberty interests at equal par with the rights and possessory property interests of Cargo Solutions Express Inc.

25. Based on a one-sided ex-parte investigation into the facts, officer Thomas unilaterally drew conclusions of law and deliberately and intentionally denied the accused an opportunity to assist in an fair, impartial, thorough and complete investigation; thereby, depriving Michael B. James of any meaningful opportunity to supply the state with a statement or alibi prior to his arrest, imprisonment and subsequent deprivation of liberty. Ofcr Thomas demonstrated a willful and wanton disregard for the rights of the accused, showed a blatant disregard for his duty of care, and failed to exercise the due diligence of a reasonably prudent officer, in violation of Ga. Const. art. I, § I, ¶¶ 1, 2, 7 & 13.; and O.C.G.A § 16-5-42.

26. In failing to conduct a thorough and complete investigation into the facts and allegations, officer Thomas demonstrated a clear prejudicial bias in favor of one party (Cargo Solutions Express) to the detriment of the other (Mr. James), in

repudiation of his constitutional due process rights and equal protection guarantees afforded under Ga. Const. Art. I, § I, ¶¶ 1, 2, 6, 7, 13, 22, 34.

27. By deliberately and intentionally electing Not to contact Michael James in order to properly investigate the alleged report of trespass, Ofcr. Thomas disregarded the duties of his office, demonstrated an extreme abuse of discretion, and willfully and wantonly failed to afford Michael James the equal protection of laws guaranteed by Ga. Const. art. I, § I, ¶¶ 1, 2, 7, 13, 35.

Unlawful practice of law, lack of standing

28. Ga. Const. art. I, § II, ¶ 12 stipulates that “No person shall be deprived of the **right to prosecute** or defend, either in person or by an attorney, that person’s **own cause** in any of the courts of this state.” As such, the Georgia constitution thus recognizes the right of a party to prosecute their own cause — or to refrain from doing so. Cargo Solutions Express Inc., and its principals, declined to prefer charges with the magistrate court themselves or through their attorney of record, thus repudiating any alleged complaint filed by the officer who does not have standing to act on their behalf.

29. On July 12, 2023, at 10 a.m., C. Thomas # 5714, acting under of color of law in **BAD FAITH**, color of employment, color of authority, and color of legal process, appeared before associate magistrate judge Shalanda Williams to lodge an affidavit of complaint; and did unlawfully prefer “criminal trespassing” charges against the accused for, and on behalf of, an artificial corporate entity; and did thus make application, advocate, and petition for the issuance of an arrest warrant to secure the bodily arrest, imprisonment, and deprivation of rights of Michael B. James, the same being done while acting in a representative capacity for and on behalf of Cargo Solutions Express Inc., an artificial entity, in violation of Ga.

Const. art. I, § I, ¶¶ 1, 2, 7 & 13; O.C.G.A §§ 15-19-50; 15-19-51(a)(1); 18 U.S. Code § 241.

30. Officer C. Thomas is not believed to be a member of the Georgia State Bar, nor to have been in possession of a state law license which would permit him to engage in the practice of law.
31. According to 1983 *Op. Att'y Gen.* No. U83-73, “Only a member of the Georgia State Bar may represent another in a proceeding in magistrate court, but a corporation may appear pro se in such a proceeding by and through its non-attorney [sic] officer or employee.”
32. Cargo Solutions Express Inc. could not, by law, delegate the responsibility of lodging a complaint of trespass with the magistrate court to any non-attorney other than an officer or employee of the company.
33. Ofcr. Thomas is not believed to be an officer or employee of the company, nor is he believed to be an attorney licensed to practice law in this state.
34. It is therefore both logical and reasonable for this honorable court to infer and conclude that, Cargo Solutions Express declined and elected not to exercise their right to prosecute their “own cause” regarding any allegation of criminal trespass, loitering, or prowling against Mr. James, on July 11, 2023.

V.

ARGUMENT

No victim, eye-witness swearing

35. The accused, Mr. James, is being denied due process and his previously hired attorney, Jordan Van Matre, made an entry of appearance asserting his paid for

client's United States Constitutional right to a speedy trial to the Henry County, Georgia solicitor's office. Once they received the non-witness unsworn complaint on February 5, 2024. The time has lapsed for the solicitor office, had until March 20, 2024 to Not violate the alleged accused, United States Constitutional right to a speedy trial, which the solicitor office already did and by law was suppose to Dismiss this false void complaint and case immediately on March 21, 2024

36. The accused is being denied due process and has been continually thwarted on all sides in obtaining the state's evidence with regard to allegations made or the identities of adverse witnesses against him, save that of officer Chris Thomas.
37. Officer C. Thomas was not a material eye-witness to any alleged criminal trespass, loitering, or prowling nor did he contact Mr. James in order to conduct a thorough and complete investigation, whereby a statement or alibi could otherwise be made prior to the officers decision to seek an arrest warrant based entirely upon speculation, hearsay, and/or opinion.
38. Ga. const. art. I § 1, ¶ 2 guarantees "Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws." As such, the liberty interests of Mr. James was owed the equal protection of the law, afforded by the "impartial and complete" investigation required of officer C. Thomas # 5714 and the Henry County, Ga solicitor office investigator's.
39. For lack of a complete and impartial investigation, officer C. Thomas, with malice of heart willfully and wantonly disregarded the right consideration of Michael B. James. Officer C. Thomas did knowingly and intentionally seek a warrant for the arrest, imprisonment and prosecution of the accused, based entirely upon hearsay,

speculation, his own biased personal opinion, and conclusions of law, absent himself being a witness and having NO direct first-hand knowledge of the facts.

40. A criminal or civil summons, would have more than sufficed to bring the accused before the court in a more reasonable and less intrusive manner without offending the Georgia Constitution or injuring the accused in this liberty, in violation of Ga. const. art. I § I, ¶ 13; O.C.G.A §§ 16-5-42 False Imprisonment Under Color of Legal Process; § 51-7-1 False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation; § 51-7-2 Malice defined; § 51-7-3 Lack of Probable Cause Defined; Question for Jury; § 51-7-21 Effect of Good Faith on Liability for Imprisonment Under Warrant; § 51-7-40 Right of Action for Malicious Prosecution.

41. The solicitor's office and its investigator's also held an affirmative duty to conduct a fair, impartial, thorough and complete investigation by allowing the accused a meaningful opportunity to dispel any notion of wrongdoing prior to the commencement or continuation of a criminal prosecution - this too did not happen. In fact, investigators within the solicitors office have blatantly refused to meet with Mr. James upon Mr. James' several requests that they do so, in direct violation of O.C.G.A. § 16-11-36(b).

42. The **unsworn** "Affidavit" of officer c. thomas does NOT specifically name any owner, rightful occupant, employee, or principal agent of Cargo Solutions Express, Inc. purporting to be a material fact witness, nor does the unsworn "Affidavit" describe with particularity who purportedly provided "notice" to Michael James commanding him to leave, when said "notice" was provided, how said "notice" was purportedly provided, or whether it was even sufficient, as required by O.C.G.A. § 16-7-21(b)(3). As such, the unsworn "affidavit" does not demonstrate or provide a sufficient showing of evidence that officer Thomas possessed a

rational basis to believe that Michael James had actually engaged in “criminal trespass” as opposed to something else, as alleged to the magistrate.

43. By failing to diligently inquire into the matter as part of a thorough, complete, and impartial investigation, both officer Thomas, the Magistrate, and the Solicitor’s office has knowingly and willfully made false or misleading statements to the court, which they did not seek to verify, thereby perpetrating actual or constructive fraud(s) upon the court, thereby further injuring the accused in his rights and liberties.

44. When officer Thomas appeared before associate magistrate judge Williams to swear upon the “affidavit,” he either knew, or had reason to know, that a thorough, impartial, and complete investigation of the relevant facts and circumstances had *not* been conducted on his part; therefore, he could *not* truthfully aver to a “best...knowledge and belief” of the “facts” asserted in his false void “affidavit.”

45. To secure the rights of an alleged accused, Georgia law currently requires law enforcement officers to file arrest warrants applications with the magistrate. It is then the duty of the magistrate to remain neutral, detached, fair, and impartial in deciding whether to accept or reject the application. Magistrates and their associates are prohibited from drafting the affidavit as it is seen here in the Michael James case. Magistrate Shalanda Williams appears to have unlawfully drafted officer C. Thomas’ “affidavit of complaint” and then adjudicated the merits and sufficiency thereof. Judicial cooperation in the application drafting process undermines public trust and confidence in the impartiality of the judiciary, leading reasonable minds to conclude judicial bias and partiality in favor of one party seeking the warrant in an *ex parte* proceeding without an opportunity for the other party to challenge the finding of probable cause prior to arrest, a violation of O.C.G.A§ 51-7-21; Ga. Code. Jud. Cond. 1.1, 1.2, 2.6, 2.9.

No sworn officer jurat

46. Associate magistrate judge Shalanda Williams did knowingly and intentionally in **BAD FAITH** abused her “Oath of Office” and discretion and did err in issuing the warrant in absence of sufficient evidence to establish “probable cause,” resulting in the unreasonable seizure, false arrest, imprisonment and deprivation of rights of Law Abiding Citizen Mr. Michael B. James, under color of legal process, color of law, color of office, color of authority, and color of employment in violation of Ga. Const. art. I, §1, ¶¶ 1, 2, 7 & 13; O.C.G.A. § 16-5-42; 18 U.S. Code § 241.
47. While purportedly administered under oath, the affidavit contains no sworn jurat unequivocally stating that the contents of the affidavit were given under pain and penalty of perjury— such language is designed to prick and quicken the conscience of affiants, reminding them of the harsh consequences for false statements or other misleading representations to the court.

Anomalies

48. The face of the state warrant and mittimus contain numerous irregularities:
- a. Alleges no first-hand knowledge of facts nor the identity of anyone who purports to.
 - b. Contains hearsay of hearsay, purportedly proffered by one or more unknown and otherwise unidentified third-party individual(s).
 - c. Curiously contains digital signature fields of different dimensional sizes and background colors appearing over the top of the word “Copy.”
 - d. Appears to be a crudely constructed cut-and-paste job hastily thrown together after-the-fact following repeated demands for production by the alleged accused.

- e. Does not properly identify the name and title of endorsing parties in clear type to distinguish between the signature of the judge and prosecutor.

Dereliction of duty, oppression

- 49. Officer Thomas did, with malice, wantonly and recklessly disregard the duty of his “Oath of Office”, a public trust, and did officially and vexatiously oppress Michael B. James by depriving Mr. James of his liberty, when officer Thomas did knowingly and intentionally and with blatant disregard for the rights of the accused, failed to conduct a fair, impartial, thorough and complete investigation; denying Mr. James any opportunity to make a statement or provide an alibi; and then proceeded to file criminal charges against the person of Mr. James, when he (Thomas) could have easily readily contacted the accused via cellphone when he (Thomas) and was not himself the principal offended party-in-interest, lacked being a personal eye-witness and had no personal first-hand knowledge of the alleged “facts”, the same being required by Georgia Constitution. art. I, § 1, ¶ 2.

- 50. Through omission and dereliction to perform a duty imposed by law, officer Thomas did knowingly and intentionally make and advance a material misrepresentation of the “facts” to the court, absent being himself a witness nor having personal first-hand knowledge, thereby perpetrating an actual or constructive fraud upon the court which resulted in the false arrest, false imprisonment, malicious prosecution, and official oppression of Michael B. James, the same being done under color of law, color of authority, color of employment, and color of legal process, in violation of O.C.G.A. § 16-5-42, § 51-6-2.

- 51. Since the actual party-in-interest fact witness(es) remain conspicuously absent from the “affidavit” of complaint, it is reasonable to conclude that Cargo Solutions declined to prosecute their “own cause”; thereby leaving officer Thomas without

sufficient standing to assert a right or file a complaint on behalf of Cargo Solutions Inc. absent his possessing a Georgia law license. O.C.G. A § 15-19-51(6)

52. Unless officer Thomas possessed a Georgia law license; he lacked the formal education and experience necessary to provide legal advice, to make conclusions of law, or to act in a representative capacity on behalf of any third-party to assert a right or file a complaint in any court or to appear before any magistrate or tribunal of Georgia. O.C.G. A § 15-19-51(6)

53. Associate magistrate judge Shalanda Williams, acting as magistrate and lacking sufficient evidence to establish “probable cause” where NO signed jurat had been made under pain and penalty of perjury, did then knowingly and negligently issue a WARRANT for the arrest of Mr. Michael B. James, the same being done under color of legal process, color of authority, and color of employment in violation of O.C.G.A. § 16-5-42 and Georgia Constitution. art. I, § 1, ¶ 2.

Illegal jailing

54. Once arrested by the Fort Oglethorpe, Ga. city Police, Mr. James was transported to the Catoosa County, Ga. jail where he was unlawfully booked, processed, fingerprinted, photographed, strip searched, and housed with the convicted population in a four-man cell (unit 103a), against his consent and without jailers being in actual physical possession of a written Order or Warrant of the Court and prior to any initial appearance, evidentiary hearing, or conviction of the accused by a competent court of law, the same being done in violation of Ga. Const. art. I, §I, ¶ 13 & U.S. Const. amend. V & VI as applicable to the states via U. S. Const. amend. XIV.

55. Mr. James was extradited to the Henry County, Ga Jail after being housed with the convicted population of Catoosa County, Ga jail for approximately 46 hours.

56. Once in Henry County, Mr. James made additional repeated demands to be taken immediately before the issuing magistrate, which demands went unheeded and ignored by jailers, in violation of Ga. Const. art. I, § 1, ¶ 2; O.C.G.A. § 16-5-42.
57. Michael James was then coerced into posting his own cash bail, via credit card, after being repeatedly denied timely and meaningful access to the issuing magistrate, court of inquiry, judicial review, or an evidentiary hearing. Under duress and threat of continued unlawful incarceration, Mr. James was required to post a predetermined cash bail in the amount of SEVEN-HUNDRED NINETY DOLLARS (\$790) together with non-negotiable non-refundable third-party “processing fee” in the amount of NINETY DOLLARS (\$90), the same being required absent any inquiry into Mr. James’ clean criminal history record, fitness for release on his own recognizance, or a determination of his financial ability to pay; the same being paid under protest and duress on January 28th, 2024.
58. The “charging instrument” contains NO properly named accusers or persons with sufficient standing to prefer charges, fails to establish probable cause, and contains no sworn jurat made under pain, penalty of perjury necessary to invoke the court’s authority to hear or adjudicate the case. As such, the court MUST dismiss the case ministerially, (with prejudice) due to voidness.
59. Officer Thomas denied equal protection to and failed to protect the accused by failing to conduct an impartial, thorough and complete investigation into the alleged “criminal trespass” as required by Georgia Constitution. art. I, § 1, ¶ 2.
60. Magistrate Williams appears to have drafted the charging affidavit to her liking, which Mr. James contends is “out of her scope” and a “criminal act” indicating prejudice and bias towards the accused in violation of ethical rules, her oath of

office, and in violation of Mr. James' Due Process Rights, Constitutional Liberties, Constitutional Guarantees of Georgia and the United States Constitution.

61. The affidavit of complaint by Henry County, Ga police officer Chris Thomas #5714, is fatally insufficient in that:

- a. Officer Thomas was Not a material fact or eye-witness to the alleged offense(s).
- b. Officer Thomas had no first-hand knowledge upon which to swear out a complaint.
- c. No written evidence or document has been entered showing date, time, who, when and where the alleged accused had been previously terminated.
- d. No notice of separation was filed with the Georgia Department of Labor nor has Cargo Solutions Express Inc. ever issued or mailed the same to the alleged accused as required by O.C.G.A. § 34-8-190(c).

62. Attorney Jordan Van Matre, Ga. bar # 867176, in a May 7, 2024 motion to withdraw as counsel, attempts to mislead the court with regard to his former client. Michael James filed a written "Notice of Termination" with the clerk of court on April 24, 2024 terminating the non-communicative and lackadaisical "services" of Attorney Van Matre for material breach of contract, repudiation of contract, ineffective assistance of counsel, and breach of a fiduciary duty violating his moral, ethical, and professional duties to protect his paid for Client's rights, protect exculpatory evidence, affirmative defenses, and all other interests. Said notice was hand-delivered to Attorney Van Matre later that same morning. In his May 7, 2024 Motion to withdraw, attorney Van Matre falsely asserts to the court that, "The Henry County Magistrate court retains jurisdiction of this matter." Attorney Van Matre's retaliatory prejudicial misrepresentations to magistrate Williams and his friend in the solicitor's office, was aimed to unlawfully impose stipulations A thru H on Mr. James bond conditions, suggesting in retaliation certain falsehoods and the unlawful prosecution of Mr. James. Michael B. James has at all times asserted that the Henry County courts of Georgia have lacked both

in personam and/or subject matter jurisdiction. Since Attorney Van Matre's misleading representations and conspiratorial services led to a conflict of interest and had already been terminated by Mr. James 13 days beforehand, Van Matre's Motion to withdraw was filed with the magistrate clerk of court in an effort to shield himself from the liability of allowing his paid for Client, Mr. James, to be picked up, falsely arrested, and imprisoned off the false void unsworn warrant by rogue officer c. thomas # 5714. Mr. Michael B. James, a law abiding citizen, objects to, disclaims, and withdraws any statement, stipulation, concession, waiver, or plea entered or tendered to the court by Attorney Jordan Van Matre acting on my behalf absent my knowledge and consent. See *Strickland v Maryland*, 466 U.S. 668 (1984).

63. The arrest warrant should be declared void *ab initio* as it was not predicated upon any statements from the actual party-in-interest, was not sworn under pain and penalty of perjury by an eye-witness to any material fact, rogue officer Chris Thomas # 5714 was NOT an eye-witness nor did he have first hand knowledge of any material facts.

64. In *Betterton v Montana*, 578 U.S. 437, the United States Supreme Court held and observed as follows:

This Court's precedent aligns with the text and history of the Speedy Trial Clause. Detaining the accused pretrial, we have said, disadvantages him, and the imposition is "especially unfortunate" as to those "ultimately found to be innocent." *Barker*, 407 U. S., at 532–533. And in *Marion*, 404 U. S., at 320, addressing "the major evils protected against by the speedy trial guarantee," we observed: "Arrest is a public act that may seriously interfere with the defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and his friends." We acknowledged in *Marion* that even pre-arrest—a stage at which the right to a speedy trial does not arise—the passage of time "may impair memories, cause evidence to be lost, deprive the defendant of witnesses, and otherwise interfere with his ability to defend himself." *Id.*, at 321. Nevertheless, we determined, "this possibility of

prejudice at trial is not itself sufficient reason to wrench the Sixth Amendment from its proper [arrest or charge triggered] context.”

65. Michael B. James, hereby asserts and gives **NOTICE**, that pursuant to Ga. Const. Art. I § 1, ¶ 12 the moving party, officer C. Thomas, has failed to establish standing or to assert that he was seeking to prosecute his “own cause” and not that of another; consequently, the matter should be dismissed (with prejudice) for lack of standing and for failure to answer or rebut Mr. James’ challenge to jurisdiction/authority on the record filed on April 29, 2024. See *McNutt v. GMAC*, 298 U.S. 178.

VI.

MEMORANDUM OF POINTS OF LAW

66. It is a principle of law that, once challenged, the person asserting jurisdiction/authority must prove that jurisdiction/authority to EXIST as a matter of law. See: *Griffin v. Matthews*, 310 F. Supp. 341, 423, F2d
67. “The district court found that there was no diversity of citizenship as between the plaintiff and the defendants, that the court was without jurisdiction, and that the complaint must be dismissed”. 272 *McNutt v. G.M.*, 56 S. Ct. 789, 80 L.Ed. 1135
68. “Under § 5 of the Act of March 3, 1875, Jud.Code, § 37, 28 U.S.C. 80, a plaintiff in the District Court must plead the essential jurisdictional facts and must carry throughout the litigation the burden of showing that he is properly in court; if his allegations of jurisdictional facts are challenged by his adversary in any appropriate manner, he must support them by competent proof, and, even where they are not so challenged, the court may insist that the jurisdictional facts be established by a preponderance of evidence, or the case be dismissed.” Pp. 298

U.S. 182, 298 U.S. 189. *Basso v. U.P.L.*, 495 F.2d 906 “since the courts of the United States are courts of limited jurisdiction, there is a presumption against its existence. *City of Lawton, Okla. v. Chapman*, 257 F.2d 601 (10 th Cir. 1958). Thus, the party invoking the court’s jurisdiction bears the burden of proof. *Becker v. Angle*, 165 F.2d 140 (10 th cir. 1947)”

69. “The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings” *Hagans v. Lavine*, 415 U.S. 528, 533 (1974).

70. In *Betterman v. Montana*, 578 U.S. 437 (2016) the United States Supreme Court stated that, “The sole remedy for a violation of the speedy trial right—dismissal of the charges, see *Strunk v. United States*, 412 U. S. 434, 440 (1973); *Barker*, 407 U. S., at 522—fits the preconviction focus of the Clause.”

THUS AND THEREFORE, premises considered, this court lacks the requisite *in personam* and/or subject matter jurisdiction to further hear or adjudicate the void case. Moreover, the moving parties have egregiously violated numerous Constitutional protections, procedural safeguards, and statutory requirements of the law since the initial instigation of the biased *ex-parte* investigation through and until this present moment, thereby prejudicing the alleged accused in repudiation of Georgia statutory law, Georgia Constitutional law, and United States Constitutional law. As such, Mr. James is entitled to, and respectfully insists upon, an immediate ministerial dismissal (with prejudice) of this false void case together with an Order of expunction, completely purging and decimating any and all records related to this case, the false arrest of Mr. James, his record of imprisonment in the Catoosa County, Ga and Henry County, Ga sheriff jails (not simply a public records restriction). Absent such Orders of the court, Mr. James will be further irreparably damaged, injured, slandered, and libeled in his good name and reputation from the resulting taint and stain of any record whatsoever pertaining to this

ill-founded malicious prosecution, if permitted to remain in any local, state, or federal law enforcement or judicial database. Prior to these salacious and unfounded charges, Mr. James had no previous criminal records or prior history in any state.

Respectfully Submitted By,



Mr. Michael B. James

2201 Park Dr.

Chattanooga, Tennessee 37421


(423) 394-1470

Kawi7@protonmail.com

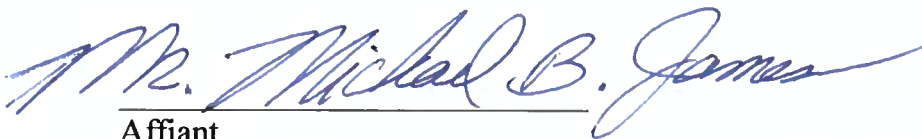
STATE OF TENNESSEE
COUNTY OF HAMILTON

VERIFICATION

BEFORE ME, the undersigned **NOTARY PUBLIC**, in and for said county and state, do hereby verify and affirm that Mr. **MICHAEL B. JAMES** (“Affiant”), a domiciliary of Tennessee, whose municipal mailing address is 2201 Park Dr, Chattanooga, Tennessee, being personally known or properly identified by me, and who, after being first duly sworn, did swear, aver, and affirm the foregoing **NOTICE TO DISMISS FOR COURT’S LACK OF IN PERSONAM AND/OR SUBJECT MATTER JURISDICTION**, the same being duly subscribed to, executed, and passed before my eye and under my hand, this 5th day of **August, 2024**.


(Notary Public)





Affiant

Mr. Michael B. James

2201 Park Dr.

Chattanooga, Tennessee 37421

(423) 394-1470

Kawi7@protonmail.com

CERTIFICATE OF SERVICE

I, Mr. Michael B. James, hereby certify that a true and exact copy of this legal document titled **NOTICE TO DISMISS FOR COURT'S LACK OF IN PERSONAM AND/OR SUBJECT MATTER JURISDICTION** was filed with the Clerk of the Court of Henry County, Georgia and hand delivered to all parties, via hand delivery, at the listed below at their known addresses on this 5th day of **August, 2024**.



Mr. Michael B. James
2201 Park Dr.
Chattanooga, Tennessee 37421
(423) 394-1470
Kawi7@protonmail.com

CC COPIES via Hand Delivery to:

Clerk of the Court
One Judicial Center
Suite # 120
McDonough, Georgia 30253

Officer Chris Thomas # 5714
Henry County Police Department/North Precinct
3000 Hwy 42 North,
Stockbridge, Georgia 30253

Office of the Solicitor of Henry County
One Judicial Center
Suite # 350
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