

**MOTION TO VACATE AS VOID – WRONG VENUE – STATE OF FLORIDA  
HAD NO STANDING, alternatively, Writ of Coram Nobis**

NOW COMES, Scott Huminski (<sup>2</sup>“Huminski”), and, moves as above. This controversy arose from alleged contempt in the civil matter *Huminski v. Town of Gilbert AZ*, 17-CA-421, 20<sup>th</sup> Circuit Court (“GILBERT”). The sovereign, State of Florida, injected itself as a party without filing a notice of appearance in the civil GILBERT case ambushing Huminski with the presence of a non-party at hearing. At a hearing dated 6/29/2017 (the “HEARING”) the State of Florida participated via their representative Assistant State’s Attorney Anthony Kunasek proffering no reason supporting his attendance as an alleged party in the lengthy HEARING. At HEARING described as a “criminal arraignment” in the transcript, the State participated absent the filing of an appearance, charging information, absent service and absent the existence of a criminal statute that would have conferred plaintiff/party status and standing upon the State.

The very next day on 6/30/2017 a case appeared in the Lee County Court docket captioned as *State v. Huminski* absent any known or legal method of case initiation under any rule, statute, procedure or authority. The only statute that exists in the GILBERT or *State v. Huminski* case record is F.S. 900.04 which simply defines a judge’s contempt powers. F.S. 900.04 does not define a misdemeanor nor felony and does not confer jurisdiction upon the State. Absent the filing of pleadings by the State of Florida in *State v. Huminski* and absent a statutory provision conferring plaintiff status upon the State in *State v. Huminski*. The alleged “criminal” matter is hopelessly *void ab initio* and a bold example of weaponized justice/lawfare.

Further, a court of inferior jurisdiction, County Court, has no jurisdiction or authority to hear Circuit Court contempt cases, that task is reserved for the presiding judge pursuant to F.S. 900.04 where the contempt allegedly occurred, i.e. Circuit Court. All contempt issues should have been heard in the allegedly offended court, Circuit Court. The State can not divest a Circuit Court from hearing it's own contempt matters via case hijacking absent a statute or charging information.

The filing of no pleadings/charging information by the State renders State v. Huminski void. Trial courts "lack jurisdiction" until proper pleadings are filed. Lovett v. Lovett, 112 So. 768, 776 (Fla. 1927) accord Lewis v. Lewis, 78 So.2d 711, 712. A trial court's lack of subject-matter jurisdiction makes its judgment void. NWT v. LHD (In re DNHW), 955 So.2d 1236, 1238 (Fla. 2d DCA 2007). A judgment of conviction that is entered against a defendant without service of a charging instrument is absent personal jurisdiction over the defendant and is regarded as a void judgment. Great Am. Ins. Co. v. Bevis, 652 So.2d 382, 383 (Fla. 2d DCA 1995). As there was no pleading for the State to serve and indeed the State served no commencement paper, the County Court lacked personal jurisdiction. The Circuit Court did serve a show cause order authored by the Circuit judge and had both subject-matter and personal jurisdiction over the contempt matter.

The Florida Supreme Court has explained that "jurisdiction to try an accused does not exist under article I, section 15 of the Florida Constitution unless there is an extant information, indictment, or presentment filed by the state." State v. Anderson, 537 So.2d 1373, 1374 (Fla.1989). Zero information, indictment or presentment was filed by the State to commence State v. Huminski. The State simply showed up at a civil hearing in GILBERT on 6/29/2017 and filed/served

nothing.

Handling of contempt is reserved for the Courts, not the sovereign, with F.S. 900.04 governing. This matter exemplifies the most fundamental violation of separation of powers conceivable. The executive branch, 20<sup>th</sup> Circuit State's Attorney, is forbidden from hijacking functions/duties of the judicial branch. F.S. 900.04, the only statute existing in the record for both the civil GILBERT and so-called "criminal" *State v. Huminski* cases, governs the conduct of the judicial branch concerning contempt. F.S. 900.04 does not anticipate or authorize State participation. The executive branch must not hijack duties reserved for the judicial branch under State separation of powers constitutional law. FL Const. Section 3. The 20<sup>th</sup> Circuit State's Attorney's authority and powers do not extend to matters whereby the Judicial Branch has exclusive jurisdiction and authority – civil case contempt. If alleged contempt occurred in a criminal case, it would only involve the Court and the contemnor. There are a few exceptions for domestic violence and family law protective orders which are not applicable here. The order allegedly violated protected the Lee County Sheriff's Office, Huminski's only local law enforcement agency, from any and all communications from Huminski including the report of crime. See something, **say nothing** is a new twist on law enforcement in Florida.

As well as being a non-party in GILBERT, the State of Florida was also not a valid party in *State v. Huminski* for lack of pleadings. A court drafted show cause order in a civil Circuit Court, GILBERT, matter does not suffice and Huminski was served with nothing by the State of Florida to commence *State v. Huminski*. Huminski was served with a judge authored show cause order in GILBERT prior to

the existence of *State v. Huminski*. No pleading authored by the State exists or was served in *State v. Huminski*.

A judgment entered without due service of process is void. See *Gelkop v. Gelkop*, 384 So.2d 195 (Fla. 3d DCA 1980); *McAlice v. Kirsch*, 368 So.2d 401 (Fla. 3d DCA 1979); *Grahn v. Dade Home Services, Inc.* 277 So.2d 544 (Fla. 3d DCA 1973). On motion, a court may, at any time, relieve a party from a void final judgment of conviction. See *Sams Food Store, Inc. v. Alvarez*, 443 So.2d 211 (Fla. 3d DCA 1983); *Tucker v. Dianne Electric, Inc.* 389 So.2d 683 (Fla. 5th DCA 1980); *McAlice*. See also *Ramagli Realty Co. v. Craver*, 121 So.2d 648 (Fla. 1960) (the passage of time cannot make valid that which has been void).

In cases where a conviction was void because the information filed in the court failed to allege that the defendant had committed a misdemeanor or felony. See, e.g., *Ex parte Reed*, 101 Fla. 800, 135 So. 302, 303 (1931) (concluding that judgment of conviction by circuit court was void where indictment failed to show that the defendant was charged with a felony). In the instant matter no misdemeanor statute exists in the Court record, the judgment of conviction is void along with the entirety of *State v. Huminski*. *Pope v. State*, 268 So.2d 173, 175 (Fla. 2d DCA 1972) (explaining that an allegation of a felony "is essential to the invocation of the jurisdiction of a felony court over the charge since the allegata of the accusatory writ are precisely the basis in the first instance upon which the court's jurisdiction over the subject matter thereof is predicated"). The same holds true concerning the non-existent misdemeanor in the instant matter. The State was not a lawful party in GILBERT or *State v. Huminski*. Without the State proffering of a violation of a misdemeanor or any crime, the matter is void. Indeed,

the State filed nothing in the County Court to initiate the “prosecution” of a misdemeanor. The Chief State’s Attorney instructed ASA Anthony Kunasek to attend a civil hearing in GILBERT in a case whereby the State was not a party and by unknown means converted the hearing into a criminal “arraignment” without filing or serving a shred of paper. Only the State, the judge or court personnel would know the specifics of how State v. Huminski was docketed and initiated, the record sheds no light on this issue and Huminski has no idea other than a hunch of illegal *behind-the-scenes* conduct at the Lee Court complex.

The record on appeal exists below that fully supports this motion, lack of State pleading and lack of State service of a commencement document (slight of hand or smoke and mirrors does not confer jurisdiction),

[https://edca.2dca.org/DcaDocs/2019/1914/2019-1914 Brief 530010 RC09.pdf](https://edca.2dca.org/DcaDocs/2019/1914/2019-1914%20Brief%20530010%20RC09.pdf)

[https://www.indybay.org/uploads/2024/11/25/record on appeal 2019-1914 comp64mb.pdf](https://www.indybay.org/uploads/2024/11/25/record%20on%20appeal%202019-1914%20comp64mb.pdf)

[https://web.archive.org/web/20201005171650/https://edca.2dca.org/DcaDocs/2019/1914/2019-1914 Brief 530010 RC09.pdf](https://web.archive.org/web/20201005171650/https://edca.2dca.org/DcaDocs/2019/1914/2019-1914%20Brief%20530010%20RC09.pdf)

GILBERT and the contempt allegations therein were removed to federal court, United States District Court (bankruptcy unit), on 6/26/2017. The arraignment hearing held in GILBERT on 6/29/2017 was in the absence of any and all jurisdiction because the matter and contempt allegations therein were removed to the federal court and remained there until August of 2017 upon remand. The State just could not wait for remand to begin its campaign of terror that lasted for years. All acts of the State while the matter was in federal court are *void ab initio*. The State failed to file a motion for remand in the federal court, the only legal filing that could be made after removal, however, the State was not a party in Gilbert, thus,

was not a party in the federal court proceedings.

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In The  
United States Bankruptcy Court  
For the Middle District of Florida



IN RE, )  
SCOTT ALAN HUMINSKI, ) CASE No.17-03658-9D7  
DEBTOR )  
 ) ADV. PROC. No.  
 )

**NOTICE OF REMOVAL TO U.S. BANKRUPTCY COURT**  
**and**  
**PROSECUTION OF VIOLATIONS OF THE 11 U.S. Code § 362 –**  
**AUTOMATIC STAY**

NOW COMES, Debtor, Scott Huminski (“Huminski”), notices of the removal of Huminski v. Town of Gilbert, et al., 17CA421, 20<sup>th</sup> Judicial Circuit, Lee County, Florida.

Huminski also seeks to prosecute three violations of the automatic stay by one of the

The federal docketing information correctly stating “Date Removed from State: 06/26/2017” is as follows:

**Adversary Proceeding #: 9:17-ap-00509-FMD**

Assigned to: Caryl E. Delano  
Lead BK Case: [17-03658](#)  
Lead BK Title: Scott Alan Huminski  
Lead BK Chapter: 7  
[Show Associated Cases](#)

Date Filed: 06/26/17  
Date Removed From State: 06/26/17

*Demand:*

Nature[s] of Suit: 01 Determination of removed claim or cause

***Plaintiff***

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**Scott Alan Huminski**

represented by **Scott Alan Huminski**

The State pursued and litigated a matter in State Court on 6/29/2017 in Gilbert and later in State v. Huminski that had been removed to Federal Court deliberately and maliciously violating the jurisdiction, authority, powers and dignity of the Federal Courts/judiciary in their lawless quest for a pound of flesh.

**Perpetual injunction against speech with the Lee County Sheriff's Office and the entire State of Florida for life.**

The papers issued as part of the judgment/sentence in the case mandated a perpetual prohibition against speech, a non-expiring gag order. Pages 1925-1926 of the Record on Appeal detail the specifics of the judgment of conviction which in pertinent part state,

Work to update case w/ Defendants information listed  
DEFENSE MOTION FOR MISFEAL - DENIED ' MOTION TO DISMISS - DENIED ' ANY FUTURE FILINGS ARE  
TO BE UNDER THE SIGNATURE OF ' A LICENSED ATTORNEY ' NO COMMUNICATION WITH THE PARTIES  
IN THE CIVIL OR CRIMINAL CASE  
Pre-sentence Investigation/Sentencing Full/Partial

“No communication with the parties in the civil or criminal case” in the judgment refers to the GILBERT civil Circuit Court case and State v. Huminski. For life. A bold non-expiring gag order prohibiting communication with the entire State government in Huminski’s State of residence. The gag order sweeps in a large number of **non**-parties to State v. Huminski by prohibiting communication with the GILBERT parties that reside in Arizona and the entire Lee County Sheriff’s Office, a defendant in GILBERT, and other non-parties. The gag order issued at judgment constitutes a bold violation of the First Amendment and prophylactically and prospectively bars core protected political expression with the entire State of Florida, for the remainder of Huminski’s life.

The County Court in State v. Huminski had absolutely no jurisdiction to



incorporate the civil defendants from a Circuit Court civil case in any form of relief. The contempt case was a matter between the offended judge/court and Huminski, the only alleged “victim” would be the Circuit Court under F.S. 900.04.

The Circuit Court is a court of superior jurisdiction concerning the County Court. Why the County Court mistakenly thought that it had jurisdiction over Circuit Court contempt is core to the problems set forth in this paper. The hearing of contempt is private to the allegedly offended court. See generally, South Dade Farms v. Peters , 88 So. 2D 891 (Florida Supreme Court 1956) ( approvingly citing "*There has been general recognition of the fact that the courts are clothed with this power, and must be authorized to exercise it without referring the issues of fact or law to another tribunal or to a jury in the same tribunal. ... Besette v. W.B. Conkey Co.*, 194 U.S. 324 337, 24 S.Ct. 665, 48 L.Ed. [997] 1005.") and Huminski v. State, 2d19-1247 (Fl 2nd DCA, 2019)(adding emphasis to the statutory language “against it” concerning F.S. § 38.22).

**WHEREFORE**, for the foregoing reasons the State prosecution of State v. Huminski, in its entirety, should be declared *void ab initio* (from its birth) for wrong venue, the absence of any and all jurisdiction and lack of standing of the Plaintiff. The State and a County Court hijacking contempt cases from the Circuit Courts and federal courts should be strongly denounced. The disrespect for the powers, jurisdiction, authority and dignity of the federal courts is deplorable and malicious.

Dated at Palm Coast, Florida this 00<sup>th</sup> day of January, 2025.

-/S/- Scott Huminski