

THE UNITED STATES, INC.
JOSE de JESUS RIVERA, ESQ.

c Robert Wilson, 35 th Place, Mesa, Arizona state (NO ZIP CODE!)	pro per.
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District Court of the United States
for the state of Arizona

Case No. CR-000698-PHX-ROS

Judge Roslyn O. Silver

* Entry of Dilatory Plea to Quash
* Defective Indictment in the
* nature and style of a Pre-Plea
* MOTION TO DISMISS

Comes now, for purpose of visitation, the alleged Accused, Robert Wilson Stewart, sui juris, hereafter referred to as “Alleged Accused”, attending specially and not generally, in propria persona and not Pro Se, pursuant to Federal Criminal Rules 12 (b) (1) (2), 47 and L.R. 1.10, to enter a dilatory plea to quash the defective indictment and to challenge venue and personam jurisdiction. This instant dilatory plea is in the nature and style of a pre-plea motion to dismiss the above captioned purported instant action due to fatal defects and omissions in the colorable indictment and charging instruments as are apparent on the face of the record. This motion is tendered in good faith, is not intended

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for purpose of delay, will not prejudice the alleged plaintiff and is made for good cause shown by the following memorandum of facts in support, affidavit of verification and two

exhibits.

Sincerely interposed,

Teste Meipso)

Memorandum of Facts in Support

1. The defective indictment fails to allege that the Alleged Accused is an artificial “person” or a “whoever” as defined by 18 USC § 921 (a) (1).
2. The defective indictment fails to allege that the purported offense took place in a federal “State” as the term is defined by 18 USC § 921 (2) and further defined in Rule 54 (c) of the Federal Rules of Criminal Procedure.
3. The defective indictment fails to allege that the Alleged Accused possessed any “weapon” as the term is used but undefined at 18 USC § 921 (a) (3) (A) and also used but undefined elsewhere in Title 18, Chapter 44 of the United States Code.
4. The defective indictment fails to allege that any of the private arms purportedly seized were used or intended to be used or designed exclusively for use as “weapons” or instruments of unlawful combat.
5. The defective indictment fails to allege that the Alleged Accused was not in lawful

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possession of any purportedly seized “machineguns” prior to the effective date of 18 USC § 922 (o) as provided by 18 USC § 922 (o) (2) (B).

6. The defective indictment fails to allege that the Alleged Accused violated any duly enacted law or United States Statute at Large containing a valid enacting clause.

7. The defective indictment fails to allege that Congress has either exclusive, concurrent or plenary legislative jurisdiction over the organic state of Arizona, Maricopa county or the Alleged Accused's dwelling house and curtilage located therein.
8. The defective indictment fails to allege that the Alleged Accused is not the lawful private owner of any of the personal arms purportedly seized.
9. The defective indictment fails to allege who the legal owner of the purportedly seized arms actually is and further fails to name any damaged party or allege any identifiable corpus delicti.
10. The defective indictment fails to allege that any of the arms purportedly seized were contraband by virtue of any tax, excise, duty or impost being owed and unpaid, or by intent to ship such arms to some proscribed and belligerent nation.
11. The defective indictment fails to allege that the Alleged Accused's private possession of personal firearms resulted in a treaty violation which conferred any jurisdiction on the United States pursuant to Article I, Section 8, Clause 10 of the Constitution of these united States of America (1789).

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12. The defective indictment fails to allege that the Alleged Accused has no rights guaranteed and protected by Article IV, Section 2, Clause 1, and the Second, Ninth and Tenth Articles in amendment to the Constitution for these united States of America (1791).

Conclusions of Law

The colorable indictment fails to allege sufficient facts to establish either proper venue, or

personam jurisdiction over the Alleged Accused.

The plaintiff has failed to procure either an arrest Warrant or Summons pursuant to Fed.Crim.R.4 (a) (c). The Alleged Accused has not been served process or waived service of process pursuant to the above captioned purported instant action. The plaintiff has correctly declined to request issuance of any Warrant or Summons, based on the manifestly deficient indictment, pursuant to Fed.Crim.R.9 (a). The Alleged Accused has not been served with any arrest Warrant, Summons, Venire Facias Ad Respondendum or any other such original judicial process. The Alleged Accused has not waived his substantive right to service of regular process.

The Alleged Accused has not entered an issuable plea, made a general appearance or been arraigned before the district judge as required by Fed.Crim.R.5 (c) and Fed.Crim.R.10. The Alleged Accused has not waived his substantive right to a proper arraignment.

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The plaintiff has failed to state any grounds upon which relief can be granted or a valid conviction sustained, therefore the Alleged Accused “suggests” (but currently declines to plead), pursuant to Federal Civil Rule 12 (h) (3), that this court lacks subject matter jurisdiction.

The Alleged Accused has given the adverse party a “better writ” by herein listing all apparent defects and deficiencies appearing on the face of the colorable indictment and by the Alleged Accused’s prior seasonable request for a specific bill of particulars; therefore, the Alleged Accused is acting in good faith and is entitled to make all pertinent dilatory pleas to the jurisdiction.

Attached hereto are two Exhibits. “Defense Exhibit A” is a copy of UNITED STATES OF

AMERICA VS. GEORGE LYMAN WILSON ET AL., Case number 94-CR-140 from the UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF WISCONSIN, also commonly referred to as “the Braun Case.” Said case is offered as proof that Congress does not have plenary legislative jurisdiction over all lands belonging to the 50 sovereign and autonomous states of the American Union. “Defense Exhibit B” covers U.S. FEDERAL JURISDICTION (a treatise), The Two United States, and a government report for the study of Jurisdiction Over Federal Areas within the States.

Remedy Sought

The Alleged Accused prays this honorable court to Quash the Indictment or in the

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alternative dismiss with prejudice the above captioned action and discharge the Alleged Accused forthwith.

Sincerely interposed,

Teste Meipso)

Robert Wilson Stewart, pro per.
Tel. (480) 325-5624, Fax (480) 325-5625

Certificate of Service

I hereby certify that a true and exact copy of the foregoing dilatory plea to quash the indictment / Motion to Dismiss with Affidavit of Verification and attached two Exhibits has been sent via first class U.S. Mail, postage prepaid, on this 6th day of April 2001 A.D. to: JOSEPH C. WELTY, ESQ., United States Attorney’s Office, 230 North First Avenue, Room 4000, Phoenix,

AZ 85025.

Naomi Jean Stewart, sui juris
c/o 2812 North 34th Place
Mesa, Arizona state (No Zip)

cc: United States Attorney General
John Ashcroft, c/o (202) 307-2825,
via telephone FAX transmission

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