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October 11, 2005

A. Joe Fish, Chief Judge  
United States District Court  
Northern District of Texas, Dallas Division  
1100 Commerce Street, Room 1528  
Dallas, Texas 75242

USPS Certified Mail #70022410000573380398

RE: Notice Felony/Civil Rights Violation

Your Honor:

The purpose of this letter is four-fold; to make you aware and give actual notice of:

1. The unlawful imprisonment of my Person; and
2. The unlawful arrest, detention and imprisonment of citizens of Texas and other union states pursuant to orders of the United States District Court for the Northern District of Texas, Dallas Division (U.S.D.C. NDT); and
3. The failure of judges and officers of U.S.D.C. NDT to address the issue and provide remedy and relief – in order that I, as a Captain in the United States Army Reserve avoid conclusion of misprision of felony under 18 U.S.C. § 4; and
4. Your acknowledgment of the facts that: A. The Rules of Criminal Procedure are not authorized by Congress or the Supreme Court of the United States for use in the Continental United States by the United States District Court for the Northern District of Texas for prosecution of an offense committed in the Northern District of Texas; and if the Rules are adopted by said court the court is deprived of subject matter jurisdiction for want of a proceeding authorized by Rule 54(b), 18 U.S.C. § 3001; B. A summons or arrest warrant issuing from U.S.D.C. NDT may not be executed within the exterior boundaries of Texas on property not subject to the jurisdiction of the United States; and C. There is no authority in

Title 18 U.S.C. to impose a sentence of any nature on a person tried by jury when a verdict of guilt is returned thereby – except in death penalty cases under Chapter 228 – absent consent of the convicted to be sentenced under Chapter 227; or in the alternative, a memorandum of law in rebuttal supported by findings of fact, conclusion of law, basis, reason, rationale and your sworn affidavit within ten (10) court days of your receipt of this letter. Failure to respond is your admission that the facts in A, B and C are true and indisputable.

I personally notified Judge Buchmeyer via U.S.D.C. NDT Case No. 3:02CV0605-R, Docket entry #926 on September 14, 2005 and copied U.S. Attorney, Richard B. Roper, of multiple felonies. I directed the honorable judges of the Texas Supreme Court in my Petition For Reconsideration/Notice Felony, Case No. 05-0713, page 5 ¶ 4 to Docket entry #926 and to which I now direct your attention for the allegations of kidnaping and civil right violation. I have had no response to my request for investigation. I believe that it is imperative you give your immediate and full attention to this matter – alleging kidnaping and I raise now allegations of civil rights violations, in violation of 18 U.S.C. §§ 241, 242 and 1201 and all pertinent criminal statutes applicable to the actions of all persons acting in concert with each other and this court – for reason of the impact on you, your colleagues, the United States District Courts operating within the Continental United States and all persons, civil servants and private persons associated or contracting therewith; when it is discovered by the public and private sectors that citizens of the union states have been, are being and will continue to be, illegally and unlawfully arrested, detained and imprisoned absent probable cause in violation of 18 U.S.C. 4001.

I am presently the guest of Judge Buchmeyer at Seagoville Federal Detention Center pursuant to an order of coercive civil contempt. The full details of my detention are set forth in my Petition for Relief from Civil Contempt; Notice Felony, in the above referenced case, Docket entry #926. I request you inquire into why my Petition for Relief remains unanswered and when I might anticipate relief. I met you in your chambers August 23, 2002

regarding five men identically situated as myself, who Judge Buchmeyer had detained from April 17, 2002 until that date and ultimately until October 1, 2002 without responding to habeas corpus petitions which he had removed to his caseload from the random selection pool of your court. You asked me at the time “who are you?” and I simply responded “One of the People, a friend of the family and preparer of the habeas corpus petitions”. You were most gracious by sharing a case involving Judges McBride and Buchmeyer, with me as explanation of your inability to intervene and remove the writs from Judge Buchmeyer. While my present incarceration is labeled “civil” I have been “transferred” pursuant to criminal Rule 40, after arrest without a warrant by a 25 man S.W.A.T. team after a 6 hour “standoff”, my youngest daughter simply refusing U.S. Marshals entry to her home absent an arrest or search warrant. The only document ever produced is Judge Buchmeyer’s January 23, 2003 order of civil contempt, which *prima facie* is not enforceable outside this district, see Federal Rules of Civil Procedure Rule 4.1(b).2 for want of a finding of civil contempt of a decree or injunction issued to enforce the laws of the United States. Since my arrival on July 15, 2005, having been transferred pursuant to the order of Judge Buchmeyer, I have not been brought before any court, federal or state, from that date to the present, a period of three months. A review of my Petition for Relief will reveal that I am not subject to contempt orders issuing from this court, for reason I have not been summoned or subpoenaed as a party or non-party in any civil or criminal case. In any event, after being taken into custody in Clovis, California on July 7, 2005, and demanding an arrest warrant and to be taken before a judge, on July 13, 2005 David Gappa of the U.S. Attorney’s office in Fresno, California represented in open court:

“Your Honor, our position is that the Criminal Rules of Procedure don’t apply, that the marshals confirmed with the District Court judge in Dallas to make sure that that order was still valid, and they spoke, I was told four times with that judge, and that judge said, if this person is not coming out of the residence, let me know, I will issue or sign anything that you need to get that person out of the residence and get him into custody, because he’s wanted here under my order.”

Recorded by Angela Alvarez in the presence of Magistrate Judge Lawrence O’Neill and transcribed by Petrilla Reporting & Transcription, Page 18, Line 23 - Page 19, Line 6. Judge Buchmeyer’s enthusiasm for extending his reach beyond borders established by Congress, knows no bounds and is illustrative of the wanton kidnaping problem I now bring to your attention. Bottom line – the judicial officers of the court are acting without Congressional authority; and that’s a crime, and it must stop now.

While in custody, I have interviewed a number of inmates and reviewed their custody documents issuing from this court and am appalled at what I see – flagrant violations of Constitutional rights and the Rules of Criminal Procedure and I’ve prepared an overview of the problems I see occurring in your court, which as One of the People I now bring to your attention and for your accountability under 18 U.S.C. § 4, to wit:

“That **servant** who knows his **master’s** will and does not get ready or does not do what his master wants will be beaten with many blows. But the one who does not know and does things deserving punishment will be beaten with few blows. From everyone who has been given, much will be demanded; and for the one who has been entrusted with much, much more will be asked.” Luke 12: 47-48 (NIV)

**WE THE PEOPLE**<sup>1</sup> of the United States<sup>2</sup> . . . do ordain and establish this Constitution<sup>3</sup> for the United States of America.<sup>4</sup> **WE** gave the government limited powers,<sup>5</sup> mostly administrative<sup>6</sup> and a Place from which to exercise those powers – a box ten miles

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<sup>1</sup> Master - American citizens of the original 13 and 50 union states.

<sup>2</sup> Fifty states united.

<sup>3</sup> Trust indenture.

<sup>4</sup> Servant - corporate name (U.S.A.) Of government of the United States.

<sup>5</sup> Article I § 8.

<sup>6</sup> Twelve enumerated in Article I § 8.

square – and Places over which to exercise them<sup>7</sup> and authority to make laws for governing those Places.<sup>8</sup> **WE** gave the government power to establish administrative courts<sup>9</sup> to administer and interpret the laws in the Places and territories.<sup>10</sup> **WE** established the judicial branch and authorized the Supreme Court and the inferior courts.<sup>11</sup> Congress authorized the Supreme Court to make rules<sup>12</sup> for the inferior courts to follow in the conduct of civil<sup>13</sup> and criminal proceedings.<sup>14</sup>

United States District Courts in the Continental United States **may** be authorized to use the Federal Rules of Civil Procedure (F.R.Civ.P.)<sup>15</sup> in the adjudication of civil matters.<sup>16</sup> The United States District Courts in the Continental United States were **never** authorized by Congress or the Supreme Court to use the Federal Rules of Criminal Procedure (F.R.Cr.P.)<sup>17</sup> to conduct “criminal proceedings” for violations of the federal penal code when the alleged offense was committed **within** the exterior boundaries of a union state,<sup>18</sup> such as Texas. “The district courts of the United states shall have original jurisdiction, exclusive of the

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<sup>7</sup> Article I § 8, Cl. 17. The Federal Zone.

<sup>8</sup> Article I § 8, Cl. 18.

<sup>9</sup> Article I § 8, Cl. 9. Tribunals - United States District Courts.

<sup>10</sup> Article IV § 3.

<sup>11</sup> Article III, Courts of appeal and district courts of the United States. See Rule 18.

<sup>12</sup> Act of June 29, 1940, c. 445.

<sup>13</sup> Federal Civil Code, 28 U.S.C. Rules of Civil Procedure.

<sup>14</sup> Federal Criminal Code, 18 U.S.C. Rules of Criminal Procedure.

<sup>15</sup> Act of June 19, 1934 (48 Stat. 1064; 28 U.S.C. § 2072).

<sup>16</sup> Criminal cases triable are petty offenses and misdemeanors under the civil code, 1972 Amendment to the Advisory Committee Notes, Rule 1 F.R.Cr.P.

<sup>17</sup> Crimes and Criminal Procedures; Act of June 25, 1948 c. 645 § 1, 62 Stat. 683.

<sup>18</sup> 18 U.S.C. § 3001 referring to Rule 54(a), F.R.Cr.P.

courts of the States, of all offenses against the laws of the United States.”<sup>19</sup> The phrase “district courts of the United States” was held not to include district courts in the territories and insular possessions.<sup>20</sup> “District court” includes all district courts named in subdivision (a) of this rule,<sup>21</sup> i.e. District Court of Guam, District Court of the Northern Mariana Islands and the District Court of the Virgin Islands.<sup>22</sup> Courts of the United States are defined in Title 18 § 23 and carry the same definition as “district court” in the Rules.

The United States District Courts are Article I administrative courts designed by Congress to function on behalf of the Executive branch of government in those Places subject to the jurisdiction of the United States.<sup>23</sup> The Article I courts were originally designated in the territories and were transferred from the Department of War to the Department of Interior and the same day into the Department of Justice by Executive Order #6066 in the early 1930's. The Department of Justice brings all civil and criminal complaints in the name of the United States of America. Congress has limited the application of its acts i.e. Acts of Congress, such as Title 18 and Title 21, the federal penal code and Controlled Substances Act, respectively, to the District of Columbia, Puerto Rico, territory and insular possessions.<sup>24</sup> These two Titles are **only** applicable and enforceable in those Places. In fact, Title 21 mandates notice and opportunity to be heard **before** criminal proceedings may be initiated.<sup>25</sup>

The F.R.Cr.P are **not** authorized by Congress or the Supreme Court for use by the

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<sup>19</sup> 18 U.S.C. § 3231.

<sup>20</sup> Rule 54(c), F.R.Cr.P.

<sup>21</sup> Rule 54 Advisory Committee Notes 1944 Adoption.

<sup>22</sup> *Mookini v. United States*, 303 U.S. 201, 58 S.Ct. 543.

<sup>23</sup> Article I § 8, Cl. 17; 18 U.S.C. §§ 5 and 7, defining jurisdiction of the United States.

<sup>24</sup> Rule 54(c), F.R.Cr.P.

<sup>25</sup> 21 U.S.C. § 883. Due process requirement of all administrative agencies.

United States District Court for the Northern District of Texas, Dallas Division. It then follows that any Act of Congress which **may** be thought to be applicable in Texas which would rely on the F.R.Cr.P. for procedure to enforce the laws, may not be prosecuted as no competent court is available.

It appears the United States District Court, Northern District of Texas **is** using the F.R.Cr.P. **without Congressional authority** to conduct “criminal proceedings” in Texas. A “quick peek” into F.R.Cr.P. Rule 1<sup>26</sup> reveals that there are **no** “criminal proceedings” available to this court when the alleged violation of a law of the United States is committed on the sovereign soil Texas; soil hallowed by the blood of Texans from the time of the Alamo to present day Iraq in defense against enemies foreign. If the F.R.Cr.P. are being used to conduct criminal proceedings **without Congressional authorization**, this court is proceeding outside the law. You will find in the historical records of Texas, and I believe still true today, when persons operate outside the law, they are branded as “outlaws”. A number of stories have been written and movies produced which portray the outlaw as a hero, until caught and the real cost – loss of lives, liberty, property and family – of their illegal conduct is revealed and they are either the recipient of vigilante justice at the hands of an angry citizenry, or they sometimes make it to trial and a competent court dispenses justice.

In the event this court were to argue for and produce authority to use the F.R.Cr.P. to conduct “criminal proceedings” in Texas,<sup>27</sup> a closer look at the Rules which follow Rule 1 confirms that Congress was right; they just don’t fit for any offense committed in Texas, i.e. Rule 3<sup>28</sup> requires an officer of the United States to swear under oath that an offense against

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<sup>26</sup> Rule 54(b)(1)-(5), this Rule was transferred into Rule by the 2002 Amendments to the Rules, see 18 U.S.C. §3001. 54(b)(1) removed from State court; 54(b)(2) offenses committed on the high seas; (3) peace bonds; (4) petty offenses and misdemeanors; and (5) proceedings to which the rules do not apply.

<sup>27</sup> Demand is made for production of authority or this court is ordered to cease and desist immediately from accepting further complaints criminal in nature from the United States Attorney.

<sup>28</sup> Process issuing by magistrate requires seal, 28 U.S.C. § 638(c).

the laws of the United States has occurred **within** the jurisdiction of the United States;<sup>29</sup> and, Rule 4 authorized the court to issue a summons or arrest warrant which may only be served **within** the jurisdiction of the United States (that ain't Texas pardner);<sup>30</sup> and, Rule 5 authorizes a magistrate judge to ask for, and accept a plea, to the complaint **only** in the case a petty offense or misdemeanor is charged;<sup>31</sup> and Rule 6 allows a person held to answer the charges to challenge the array of the grand jury and individual jurors **before** they are seated, and for the person to appear as witness in his own behalf before said jury, and if indicted, the indictment must be returned in open court<sup>32</sup> – none of which is the practice followed by this court; and, arraignment is conducted pursuant to Rule 10; and Rule 11 determines, based on the plea (not guilty, guilty or nolo contendere), which of two courses to follow: Contractual (plea agreement) or Constitutional (trial). If Contractual is chosen by the defendant, Rule 11(2) et seq., is followed for administrative procedure and a written contract is negotiated and signed by both parties, the defendant and the government, and the process moves forward to Rule 32 for Judgment,<sup>33</sup> which provides for post-conviction procedure in Rules 33-38. A person entering a plea of guilty or nolo contendere is called a defendant “found guilty” for purpose of sentencing to probation, a fine, or imprisonment under the authorized sentences of Title 18, Chapter 227 §§ 3561, 3571 and 3581. The term “found guilty” is defined in 18 U.S.C. § 3673 as an acceptance by the court of a plea of “guilty” or “nolo contendere”.

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<sup>29</sup> See FN 23, Id.

<sup>30</sup> See FN 23, Id.

<sup>31</sup> 28 U.S.C. §§ 636-639.

<sup>32</sup> Since my arrival, this court has been redacting the foreperson's signature from the “indictments” and no evidence of signature of Clerk that any indictment is returned in open court. Plausible deniability in light of no Congressional authority?

<sup>33</sup> 18 U.S.C. § 3001, Rule 1. No United States District Court has venue. Rule 32(i)(4)(A)(i) and (ii). Absent objection by accused or attorney, sentence is handed down pursuant to Chapter 227 of Title 18, oral contact entered; silence is consent.

If the Constitutional option is chosen, the accused proceeds to a trial by a jury of his peers and Rules 12 - 17.1 are followed for procedure. Rule 18 determines venue (which court, Article III, Congress has authorized to try the offense);<sup>34</sup> and Rules 19 - 31 provide procedure during trial up to and including verdict. There are no post conviction rules or statutes governing authorized sentences after return of a verdict of guilt.<sup>35</sup> Congress has not authorized this court to impose punishment, as Verdict is found in Chapter 225 of Title 18, and a verdict of guilt is not defined or included in 18 U.S.C. § 3673. Only if accused person consents to be evaluated and considered for contractual purposes by the provisions of Chapter 227, and raises no objection at sentencing or prior thereto, is the court then authorized, by the person so consenting by failing to object, to sentence pursuant to Chapter 227 and incarcerate pursuant to Chapter 229 of Title 18.

Therefore, even if the F.R.Cr.P. now being usurped from Article III courts were properly followed, the Rules are routinely broken when applied to an offense committed in Texas. It has been held that the Rules are binding on judges conducting criminal trials in the United States; and they have the force and effect of law. It now appears that this court has been conducting proceedings which are depriving Texans and others of their civil rights, in violation of 18 U.S.C. §§ 241 and 242,<sup>36</sup> in the absence of Congressional sanction.

These problems have been raised by Motion/Petition to Dismiss by ten inmates thus far before the following judges of your court: Jerry Buchmeyer; Sidney Fitzwater; Ed Kinkeade, Barbara Lynn, Barefoot Sanders and Jorge Solis. To date, none have addressed the substance of the issues, want of subject matter jurisdiction.

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<sup>34</sup> Venue may only be established in an authorized court, see rule 54(a), and while venue may be waived; jurisdiction may not, Congress either gave it or did not.

<sup>35</sup> 18 U.S.C. § 3591, Chapter 228 being the exception. Note: 18 U.S.C. § 3673 does not contemplate Chapter 228 or 225.

<sup>36</sup> Conspiracy against rights; Deprivation of rights under color of law.

This morning I had breakfast with Bryan Ashlock, back from the Supreme Court for re-sentencing before you. I'm sure you remember Bryan; jury trial, guilty verdict, 21 U.S. C. drug case, 8/10 gram of methamphetamine introduced into evidence, you sentenced him to life plus 110 years and 19 years supervised release. He told me about the trial and I was particularly touched and impressed by your offering a prayer before trial, in open court. It is because of this open confession of your faith that I believe you have not been aware of the jurisdictional issues raised herein and those issues which go beyond Rule 1 to lack of authority in toto *ab initio* of the U.S.D.C.NDT in criminal proceedings for want of Rules. Now that the issues are in front of you it is your sworn duty to support the Constitution of the United States and your moral duty to defend your fellow man. If my analysis of the problem is in error and subject matter jurisdiction exist in this court, I apologize in advance for complaining. If any part is correct, I demand you take the necessary steps to cease and desist further criminal proceedings, refer the matter to the Attorney General of the United States for review and certify this issue as a question of national importance to the Supreme Court and Congress of the United States. I Lonnie G. Schmidt declare under penalty of perjury under the laws of the United States of America and the state of Texas, that the foregoing is true and correct to the best of my knowledge, information and belief.

Yours in His service,

Lonnie G. Schmidt, One of the People  
Senior Consultant

cc: John Cornyn, U.S. Senator; Kay Bailey-Hutchison, U.S. Senator; Eddie Bernice Johnson, U.S. Representative; Pete Sessions, U.S. Representative; Betty Nguyen, News Anchor, CNN; Don Malone, Dallas Morning News; David F. Levi, Chief Judge United States District Court, Eastern District of California; Lawrence J. O'Neill, United States Magistrate Judge, Eastern District of California, Fresno; Does 1 - 100