

1 Paul Andrew Mitchell, B.A., M.S., *Sui Juris*
2 c/o USMCFP #44202-086
3 P.O. Box 4000
4 Springfield 65801-4000
5 Missouri, USA
6

7 *In Propria Persona* (initially)
8 *In Forma Pauperis* (USDC/DWY)
9

10
11 United States District Court
12
13 Western District of Missouri
14
15 Southern Division / Springfield
16

17 UNITED STATES OF AMERICA,)
18)
19 Plaintiff,)
20 v.)
21)
22 JOSEPH RUBEN HILL *et al.*,)
23)
24 Defendants.)
25)

26 -----)

27)
28 United States)
29 *ex relatione*)
30 Paul Andrew Mitchell,)

31)
32 Civil Cross-Plaintiff,)

33)
34 v.)
35)

36 Nancy Dell Freudenthal,)
37 Stephan Harris,)
38 L. Robert Murray, and)
39 Does 1 thru 100,)
40)

41 Civil Cross-Defendants.)
42)
43 -----)

Case No. 14-3460-CV-S-MDH-P

NOTICE OF MOTION AND
MOTION FOR INTERLOCUTORY JUDGMENTS:
28 U.S.C. 2201.

1 Comes now the United States *ex rel.* Paul Andrew Mitchell, B.A., M.S.,
2 to move this honorable Court for Interlocutory Judgments on the ten
3 (10) Main Points enumerated below, and for a routine standing ORDER
4 requiring the Clerk of Court to serve scanned electronic copies of
5 this MOTION upon all named Civil Cross-Defendants in due consideration
6 of Relator's current plight as an indigent political prisoner --
7 falsely arrested and falsely incarcerated since 1/28/2014.

8 **TEN MAIN POINTS FOR DECLARATORY RELIEF**

- 9 (1) as appended to the U.S. Senate's ratification of the ICCPR
10 (International Covenant on Civil and Political Rights), the "not
11 self-executing" Declaration is unconstitutional for violating the
12 Petition Clause in the First Amendment and the Bicameralism
13 Clause at Article I, Section 7, Clause 2;
14
- 15 (2) without approval by the U.S. House of Representatives in
16 compliance with 1 U.S.C. 101, the "not self-executing"
17 Declaration is not binding upon American courts as a matter of
18 supreme Law expressed in the Supremacy Clause;
19
- 20 (3) Federal statutes *e.g.* 28 U.S.C. 1331, 1362 and 2241(c)(3) *in pari*
21 *materia* with the Arising Under Clause and the Supremacy Clause,
22 suffice for purposes of enacting "domestic" legislation
23 implementing the ICCPR *a priori*;
24
- 25 (4) the absence of an Act of Congress expressly declaring the ICCPR
26 "not self-executing" activates a mandatory inference that
27 whatever was omitted or excluded was intended to be omitted or
28 excluded by Act of Congress (*cf.* "*inclusio unius est exclusio*
29 *alterius*" in Black's Law Dictionary, Sixth Edition);
30
- 31 (5) Relator is entitled to a declaratory judgment stating that the
32 United States is in violation of its several obligations under
33 the ICCPR;
34
- 35 (6) recourse to the plain language of the ICCPR, and to its drafting
36 history, demonstrates that it is, in fact, a self-executing
37 agreement that, upon ratification, became the Law of the Land and
38 thus must be enforced by American courts of competent
39 jurisdiction (see *Igartua v. United States*, 626 F.3d 592, 624-628
40 (1st Cir. 2010));
41
- 42 (7) the plain language of the ICCPR also counsels that individual
43 rights were created, and the United States agreed to provide a
44 forum and remedies for vindication, and equal protection, of
45 those rights to State Citizens (Citizens of one of the United
46 States of America), and also to federal citizens, when either
47 class of American People do claim violations of those rights;
48

- 1 (8) injunctive relief is also proper and available for purposes of
2 enjoining indefinite delays in providing, and developing,
3 effective remedies for violations of fundamental rights,
4 notwithstanding that those violations were committed by persons
5 acting in some official capacity;
6
7 (9) Congress is obligated to enact legislation expressly barring
8 private rights of action to enforce the ICCPR, if the intent of
9 Congress is limited to governing the relationship between two
10 sovereign States Party to the ICCPR; and,
11
12 (10) without a proper constitutional Amendment duly ratified pursuant
13 to Article V, the ICCPR can neither expand, nor increase the
14 number of, enumerated powers previously conferred upon the United
15 States by the Constitution for the United States of America (cf.
16 Executive Order 13132, Aug. 4, 1999 re: Federalism).
17

18 **SUMMARY MEMORANDUM OF LAW**
19

20 Relator is pleased to provide this honorable Court with key
21 excerpts from Executive Order 13107 of Dec. 10, 1998, 63 Fed. Reg.
22 68991, which directly addresses implementation of human rights
23 treaties:

24 It shall be the policy and practice of the Government of the
25 United States ... fully to respect and implement its obligations
26 under the international human rights treaties to which it is a
27 party, including the ICCPR
28

29 All Executive departments and agencies ... shall maintain a
30 current awareness of United States international human rights
31 obligations that are relevant to their functions and shall
32 perform such functions so as to respect and implement those
33 obligations fully
34

35 The term 'treaty obligations' shall mean treaty obligations as
36 approved by the Senate pursuant to Article II, section 2, clause
37 2 of the United States Constitution
38

39 To the maximum extent practicable and subject to the availability
40 of appropriations, agencies shall carry out the provisions of
41 this order.
42

43 The principal functions of the Interagency Working Group shall
44 include ... coordinating and directing an annual review of United
45 States reservations, declarations, and understandings ... and
46 matters as to which there have been nontrivial complaints or
47 allegations of inconsistency with or breach of international
48 human rights obligations, in order to determine whether there
49 should be consideration of any modification of relevant
50 reservations, declarations, and understandings to human rights
51 treaties, or United States practices or laws.
52

1 Relator is also pleased to provide this honorable Court with a
2 key definition from Executive Order 13132 of Aug. 4, 1999, 64 Fed.
3 Reg. 43255, for clearly and precisely stating the correct legal
4 meaning of the phrase "United States of America" as follows:

5 Section 1. Definitions. For purposes of this order: ... (b)
6 'State' and 'States' refer to the States of the United States of
7 America, individually and collectively, and where relevant, to
8 State governments, including units of local government and other
9 political subdivisions established by the States.

10

11 Relator hereinafter argues that the latter Definition controls
12 the meaning of "United States of America" and "UNITED STATES OF
13 AMERICA" as the latter terms have already occurred in the instant
14 cases.

15 Relator also provides this honorable Court with the following
16 relevant case law, particularly decisions which have already examined
17 the ICCPR's "not self-executing" Declaration:

18 Igartua v. United States, 654 F.3d 99 (1st Cir. 2011)
19 Judges Torruella, Lipez and Thompson dissenting

20

21 Igartua v. United States, 626 F.3d 592 at 624-628 (1st Cir. 2010)
22 Judge Torruella dissenting in part

23

24 Hurtado v. U.S. Attorney General, 401 Fed. Appx. 453 (2010)

25

26 Medellin v. Texas, 552 U.S. 491 (2008), Breyer dissenting

27

28 Roach v. Quarterman, 220 Fed. Appx. 270 (5th Cir. 2007)

29

30 Sosa v. Alvarez-Machain, 542 U.S. 692 (2004), footnote 2

31

32 Beazley v. Johnson, 242 F.3d 248 (5th Cir. 2001)

33

34 United States v. Stuart, 489 U.S. 353, 375 (1989)
35 Justice Scalia concurring

36

37 Robertson v. General Electric Co., 32 F.2d 495 (4th Cir. 1929)

38

39 138 Cong. Rec. S4783-84 (statement of presiding officer of
40 resolution of ratification)

41

1 Relator also wishes to edify this honorable Court with the
2 results of recent research identifying the several Federal statutes
3 where the famous trio "constitution, laws, or treaties" occurs, and
4 which continue to have legal force and effect:

5	25 U.S.C.	415	Leases of restricted lands
6		416a	Lease provisions
7	28 U.S.C.	1257	State courts; certiorari
8		1258	Supreme Court of Puerto Rico; certiorari
9		1260	Supreme Court of the Virgin Islands; certiorari
10		1331	Federal question
11		1441	Removal of civil actions
12		1505	Indian claims
13		2241	Power to grant writ
14		2254	State custody; remedies in Federal courts
15	48 U.S.C.	1424-3	Appellate jurisdiction of District Court
16		1613a	Appellate jurisdiction of District Court
17		1823	Appellate jurisdiction of District Court
18		1824	Relations between courts of United States and
19			courts of the Northern Mariana Islands
20			

21 A similar list of statutes can be found by locating similar phrases
22 which replace "laws" with the word "statutes" [cites omitted].

23 **INCORPORATION OF ATTACHMENTS**

24 Relator now attaches his "NOTICE OF INTENT to Justice Scalia
25 (S.Ct.)" dated 10/13/2014, his "Addendum to NOTICE OF INTENT to
26 Scalia, J." dated 10/14/2014, and his "Rebuttal to Linda Sanders,
27 Warden" dated 10/15/2014, and incorporates same by reference as if set
28 forth fully here.

29 **REMEDIES REQUESTED**

30 All premises having been duly considered, the United States *ex rel.*
31 Paul Andrew Mitchell, B.A., M.S., respectfully requests his honorable
32 United States District Court to issue ten (10) interlocutory judgments
33 declaring as a matter of law each of the Ten Main Points itemized
34 above, thus creating specific remedies that will remain binding upon
35 all Proper Parties for the duration of the instant case(s) and for
36 purposes including but not limited to clarifying their respective
37 legal relations.

38

39 Thank you very much for your continuing professional consideration.

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PROOF OF SERVICE

I, Paul Andrew Mitchell, B.A., M.S., hereby verify under penalty of perjury, under the laws of the United States of America pursuant to 28 U.S.C. 1746(1), that I caused the following document(s) to be mailed, with sufficient postage affixed, from the Mail Room at the U.S. Medical Center for Federal Prisoners in Springfield, Missouri, USA:

**NOTICE OF MOTION AND MOTION FOR
INTERLOCUTORY JUDGMENTS: 28 U.S.C. 2201
with Attachments**

to the following addressee(s):

Office of Clerk of Court annotated "LEGAL MAIL", "Special Mail"
United States District Court and "All Rights Reserved (cf. UCC 1-308)"
400 East 9th Street, Room 1510
Kansas City 64106
Missouri, USA

Dated: 11/4/2014

Signed: /s/ Paul Mitchell

Printed: Paul Andrew Mitchell, B.A., M.S.
 Relator *In Propria Persona* (initially)
 and *In Forma Pauperis* (USDC/DWY)