Oregon Supreme Court

Public Utilities Commission et al v. Ellen Rosenblum, Oregon Attorney General HA-16-11-20

Opening brief summary to help the Attorney General identify the constitutional challenges to statute for the vote of the Justices of the High Court pursuant to Rule 5.12 of the Oregon Rules of Appellate Procedure (ORAP) and Art. I Sec. 9 of the Oregon Constitution: (1) repeal ORS133.726 (Interception of Oral Communications without Order), (2) amend ORS 133.737 (Disclosure and use of intercepted communications) to 'Non-disclosure and non-use of intercepted communications' and 'Any' to 'No' in paragraphs 1-3. (3) repeal ORS164.345, ORS164.354 and ORS164.365 (Criminal Mischief), (4) require all law enforcement officers possess a Bachelor degree, (5) ensure police departments and other state payrolls pay the 12.4% OASDI tax to afford the many Oregon law enforcement officers unemployed by the previous substantive decision, the federal disability benefits 'as if they had contributed their entire (criminal) career' they need to get the Bachelor degree it takes to avoid commanding officer non-judicial punishment, and any other state disability-retirement beneficiaries who may have been shorted under 24USC§419(a)(4) and (6) try to prescribe hydrocortisone, eucalyptus, lavender or peppermint (HELP) to treat coronavirus and allergic rhinitis pursuant to the historical Tubercular Hospital at Fort Bayard under 24USC§19 and Rule 51 of the Oregon Rules of Civil Procedure (ORCP).

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Conspiracy Art. 81 Uniform Code of Military Justice 10USC§881

Construction favoring natural right to prevail ORS 174.030

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Criminal Mischief ORS164.345, ORS164.354 and ORS164.365

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Law enforcement personnel within the System 16USC§1a-6 (2013) and 54USC§102701

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Magistrate 42USC§1989

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1. Summon the Attorney General

Both the Supreme Court and Public Utilities Commission emailed me to solicit an opening brief pursuant to the Oregon Rules of Appellate Procedure (ORAP). A party filing a brief, petition for review, or petition invoking the court's original jurisdiction that challenges the constitutionality of an Oregon statute or an Oregon constitutional provision shall, at the time the brief or petition is filed, provide the Attorney General with a copy of the brief or petition. The cover of the brief or petition shall state that the brief or petition includes a challenge to the constitutionality of a statute or constitutional provision and shall identify the statute or constitutional provision being challenged under ORAP Rule 5.12 Whenever these rules authorize or require service of a copy of any document on the Attorney

General, the copy must be served at this address: Attorney General of the State of Oregon, Office of the Solicitor General, 400 Justice Building, 1162 Court Street, NE, Salem, Oregon 97301-4096.

Whereas emailing the federal and state attorney generals no longer provides refuge from torture, as they did before federal torture statute was tampered in 2009, and communications with the Oregon attorney general are in fact accused by two non-attorney witnesses, of exactly the same cyber-torture by unwarranted wiretapping and tracking the cell-phones of her petitioners, we are trying to redress in this brief, it is necessary to take reasonable precautions to delink the Attorney General's wiretappers from stalking under 18USC§2261A with non-toxic ink whereas retaliation and coercion are prohibited by Sec. 503 of the Americans with Disabilities Act 42USC§12203. First, although his phone number was lost in the Almeda fire wiretap, his email contact information specifically requires a warrant, and my court appointed public defender, who I have been emailing monthly and on a case by case basis, is humbly requested to represent this case, to fulfill half of the requirements of the Oregon Supreme Court docket statements, they publish these days. Second, he may either snail mail the Attorney General without further ado, because he is either confidant of his attorney client privilege or insensitive to the torture of self and/or others, or he may choose to demand that PUC plaintiff their defense attorney, the Attorney General, at their leisure, in regards to the requirement that a warrant be signed by a magistrate for the interception of any electronic communication under Rule 41 Fed. Crim. P, or if PUC is too afraid of losing their independence to their wiretapper, that their technical brief request the Supreme Court to summon the posse comitatus under 42USC§1989. Notice by personal service equivalent to notice by mail. Whenever notice by any mailing method is authorized or required by or pursuant to statute, notice given by personal service that meets the requirements for service of a summons is equivalent thereto ORS 174.170 [1969 c.292 §2]. The Attorney General has 30 days from the date of publication to respond to the summons pursuant to Rule 7 of the Oregon Rules of Civil Procedure.

2. Warrant Required to Intercept Telecommunications

Section 9 of the Oregon Constitution of 1859 accuses the law of: Unreasonable searches or seizures. No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the person or thing to be seized. This corroborates United States Constitution Amendment IV of 1791 that provides: The right of the people to be secure in their persons, houses, papers, and effect, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The fourth amendment was intended to protect the right to privacy; that is to say, the right of undisturbed enjoyment of one's property, the right to shut the doors to officers of the state. The second, and intimately related protection, is self protection; the right to resist unauthorized entry which has as its design the securing of information which may be used to effect a further deprivation of life or liberty or property *Frank v. Maryland*, 359 U.S. 360, 365 (1959). Four rationales have been said by the Supreme Court to underlie the exclusionary rule in search and seizure cases: providing the victim with an effective remedy; preventing the government from profiting by its own wrong; preserving the integrity of the court ; and deterring the police from similar future misconduct *Mapp v. Ohio*, 367 U.S. 643, 656 (1961) ; *Irvine v. California*, 347 U.S. 128, 135, 137 (1954) ; *Wolf v. Colorado*, 338 U.S. 25, 31, 40 (1949) ; *Henderson v. United States*, 237 F.2d 169, 175 (5th Cir. 1956).

In constitutional reality, the arbitrary citizen's arrests, searches and seizures by law enforcement personnel, "authorized" to carry firearms and make arrests, are limited only by tort under 16USC§1a-6 (2013) and 54USC§102701. However, the current Federal Rules of Criminal Procedure require a warrant to intercept communication must be signed by a magistrate judge or the perpetrating district attorney or law enforcement officer is unwarranted under Rule 41 of Fed. Crim. P. Oregon requires the district attorney to petition an appellate judge to sign the order for interception of communications under ORS 133.724. No person may install or use a pen register or trap and trace device under ORS 165.659 [1989 c.983 §16] without a search warrant issued by a judge. A search warrant may be issued only by a judge. A search warrant issued by a judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. A circuit court judge may authorize execution of a search warrant outside the judicial district in which the court is located, if the judge finds from the application that one or more of the objects of the search relate to an offense committed or triable within the judicial district in which the court is located. If the warrant authorizes the installation or tracking of a mobile tracking device, the officer may track the device in any county to which it is transported under ORS 133.545.

There is no denying that interception of oral communication without order under ORS133.726 is a common crime that must be repealed. Any person who willfully intercepts, attempts to intercept or procures any other person to intercept or attempt to intercept any wire or oral communication where such person is not a party to the communication and where none of the parties to the communication has given prior consent to the interception, is guilty of a Class A misdemeanor under ORS165.543. Although the U.S. Supreme Court has given vast liberties to the police to make unwarranted search and seizures of narcotic drugs, probably to avoid the ephedrine intoxication of their written judgment, they appear to currently suffer anyway, in an advanced state of unjust incarceration dominated by the secret police, the Director, Associate Director, Assistant to the Director, Assistant Directors, agents, and inspectors of the Federal Bureau of Investigation of the Department of Justice are empowered to make seizures under "warrant" for violation of the laws of the United States under 18USC§3107. Federal officers who participate in an unlawful (unwarranted) search and seizure are guilty of a misdemeanor under 18USC§2236 (1948) and *Smith v. United States*, 254 F.2d 751, 757 (D.C. Cir. 1958).

Oregon criminal mischief statute is duplicitous and should be repealed. Criminal mischief is codified in Chapter 164 of the Oregon Revised Code with arson, reckless burning and arson incidental to the manufacture of a controlled substance, third degree ORS164.345, second degree ORS164,354 and first degree ORS164.365. A person commits the crime of criminal mischief in the first degree who, with intent to damage property in excess of $1,000, in the second degree, who causes property damage in excess of $500, third degree who, with the 'intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right.' e.g unwarranted wiretap. In Oregon, 'criminal mischief' is a redundant arson statute that urgently needs to be repealed to decouple Oregon LEOs and wiretappers from that FBI Conspiracy in Art. 81 of the Uniform Code of Military Justice under 10USC§881 to Arson within the maritime and territorial jurisdiction under 18USC§81.

Criminal mischief statute has been federally associated with the corrupting influence of unwarranted electronic surveillance in *United States v. Curley*, 639 F.3d 50, 54 (2d Cir. 2011). Reason being the 'intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right', clause in criminal mischief statute, describes proper thought process regarding unwarranted surveillance, unauthorized practice of law in

general and criminal mischief statute abuse of protected persons to engage in hostilities in particular. What is arson to the criminal mischief cell phone "battery" charge the National Crime Report arson statistics have been unable to quantify since 2014? Although many, if not all states have criminal mischief statute, criminal mischief is not a common crime accounted for by National Crime Reports. Criminal mischief is accused of being an FBI/DEA conspiracy to "use (conscript) protected persons (informants) to engage in hostilities" in violation of the Rome Statute of the International Criminal Court *ultra vires* the statistical accountability of the National Crime Reports. While criminal mischief if currently associated with arson, it is not a real law, and is likely to exist only as the consequence of the secret police electronically tampering with the code, they have no right to enforce. To this day no FBI informant has gotten away without a death in their immediate family, nor uniformed law enforcement FBI collaborator, without a random rampage shooting or other deadly genocide, such as the Almeda fire, *Associated Press v. Federal Bureau of Investigation* (access denied) or Windows 8. Oregon arson statute ORS 164.315-164.365 is so disorganized and duplicitous that it best for Oregon arson investigators and judges to issue an up to $500 fine or six months in jail for negligent ignition of a fire or flammable debris under 36CFR261.5 and 16USC§551.

This is not the first time that Oregon police have been individually tried for interference with communications. For instance, the inconclusive 2001 action for deprivation of rights in the well written Oregon US District Court, with treacherous US 9th Cir. Court of Appeals in San Francisco, and undereducated unwarranted federal officers who unlawfully discharge firearms and arson with lethal effect. The case regarding the unwarranted Portland police wiretap of a marijuana grow supply company, was lost to the physical presence of an anonymous FBI informant, claiming her armed abductor of several years had already been killed, although the federal case was still wrongly open to collective family punishment, rather than consulting the District Attorney to collect benefits for her orphan of alleged rape – DEA Divorce. Coffee shop on the hard-speed Internet side of town. Unwarranted police officers tend to begin their investigation when one undereducated officer intercepts court or police records, they do not have substantial right to investigate, torture those family leads, then conspire to kill or falsely arrest that random victim/witness's finest legal adversary or associate respectively, of that enterprise on unrelated charges not necessarily pressed by the record disclosing victim-witness. By this time the investigating officer has contracted a murdering identity theft posse, comprised of equally undereducated police officers, collectively at least 24 feet tall, just beginning grad school, and eager to eliminate witnesses to their recidivist behavior from the general jurisdiction of their gentrification – cultural revolution against educated witnesses by elite, but undereducated, soldiers under color of law. The Attorney General is obligated to seize the unlawful investigators' wire or oral communication intercepting devices pursuant to 18USC§2513 and 24USC§419(a)(4).

3. Non-Disclosure and Non-Use of Intercepted Communications Amendment

The VA pays for 'Non-Disclosure Agreements (NDA)' with veterans who saw hostile fire in undeclared, unreported and historically unwritten conflicts. To defend First Amendment freedom of speech, in pursuit of written histories, without lethal whistleblower retaliation by the FBI, it must be said this form of NDA means the United States has not officially disclosed to the public the existence of the international military conflicts these veterans *ex-rel*. On the other hand, a decision resting upon non-infringement is generally much more secure than one on invalidity in *Harries v. Air King Products Co.* No. 210, Docket 21600 (1950). There is no denying ORS 133.737 'Disclosure and use of intercepted communications', needs to be amended to 'Non-disclosure and non-use of intercepted communications' and 'Any' to 'No' in sections 1-3. Any intercepted communication would be

privileged to appeal no. In the construction of a statute, a court shall pursue the intention of the legislature, if possible. To assist a court in its construction of a statute, a party may offer the legislative history of the statute. When a general provision and a particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent. A court may limit its consideration of legislative history to the information that the parties provide to the court. A court shall give the weight to the legislative history that the court considers to be appropriate. under ORS 174.020 [Amended by 2001 c.438 §1; 2017 c.17 §16].

Non-disclosure and non-use of intercepted communications ORS 133.737

(1) No investigative or law enforcement officer who, by any means authorized by ORS133.721 (Definitions for ORS 41.910 and 133.721 to 133.739) to 133.739 (Civil damages for willful interception, disclosure or use of communications), has obtained knowledge of the contents of any wire, electronic or oral communication under ORS 133.724 (Order for interception of communications), or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure or to the extent that such disclosure is otherwise authorized by law.

(2) No investigative or law enforcement officer who, by any means authorized by ORS 133.721 (Definitions for ORS 41.910 and 133.721 to 133.739) to 133.739 (Civil damages for willful interception, disclosure or use of communications), has obtained knowledge of the contents of any wire, electronic or oral communication under ORS133.724 (Order for interception of communications), or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of official duties.

(3) No person who has received by any means authorized by ORS 133.721 (Definitions for ORS 41.910 and 133.721 to 133.739) to 133.739 (Civil damages for willful interception, disclosure or use of communications), any information concerning a wire, electronic or oral communication under ORS 133.724 (Order for interception of communications), or evidence derived therefrom, intercepted in accordance with the provisions of ORS 133.721 (Definitions for ORS 41.910 and 133.721 to 133.739) to 33.739 (Civil damages for willful interception, disclosure or use of communications), may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the state or political subdivision thereof.

(4) No otherwise privileged communication intercepted in accordance with, or in violation of, the provisions of ORS 133.721 (Definitions for ORS 41.910 and 133.721 to 133.739) to 133.739 (Civil damages for willful interception, disclosure or use of communications), shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, electronic or oral communications in any manner authorized by ORS 133.724 (Order for interception of communications), intercepts wire, electronic or oral communications relating to crimes other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of the circuit court if the judge finds on subsequent application that

the contents were otherwise intercepted in accordance with the provisions of ORS 133.724 (Order for interception of communications). Such application shall be made as soon as practicable. [1979 c.716 §6; 1989 c.983 §12; 2003 c.14 §56].

4. Require All Law Enforcement Officers Possess a Bachelor Degree

According to the US Bureau of Justice Statistics 2008 Census of State and Local Law Enforcement Agencies, Oregon had 174 law enforcement agencies employing 6,695 sworn police officers, about 177 for each 100,000 residents. 100 per 100,000, or 1 per 1,000 is thought to be adequate. Oregon police officers make about $2,400 a month and then after five years get a raise to $5,500 a month. As state employees police officers pay a 6% PERS state retirement and it is a legal issue that they are not necessarily obligated to pay all or some of the 12.4% OASDI payroll. Oregon currently only require law enforcement to have a high school diploma or GED. Some agencies require an associate degree and two to four years of military service, but the bar on police officers is uniformly extraordinarily low, for a professional service. There is no doubt, the safest way to reform the criminal justice system, is to raise the bar to require that all law enforcement officers, both voluntary and mandatory, achieve a Bachelor degree to prevent recidivism in 100% of convictions. Education not work is the way to cure criminal recidivism. Several state studies have reported 25% of ex-cons with Associates degrees, 50% with Vocational Certificates and 66% of High School of Less are re-arrested for a felony within three years of being released from prison. 100% of persons who earned a Bachelor degree were not re-arrested (Gilligan '11). It is therefore surmised that it takes a Bachelor degree to be a regular court officer. Associates degrees can only be expected to be 75% recidivism-free, vocational certificates such as police academies 50% recidivism-free for and high school and GED only 33% recidivism-free.

Court officers must have the capacity to appeal no. Bachelors always seem have the ability stop burdening the Court with their guilt by association with the fraternal brotherhood of police, generally Conspiracy in Art. 81 of the Uniform Code of Military Justice under 10USC881 with disastrous FBI espionage, sabotage or subversive acts under 42USC§5197g. To stop burdening the Court with their recidivism all law enforcement officers (including mandatory) must be required to achieve a Bachelor degree. All those LEOs who have not achieved a Bachelor degree must be laid off. Their continuing employment as law enforcement officers is unwarrantable if they do not possess the security of a Bachelor degree. Although volunteers have varying levels of education, in general, their unemployment is briefer than the time it takes to complete their Bachelor degree and receive their alumni non-machine washable heart attack in the trash. To prevent the incessant undercover operations of laid off police officers, trying to make a comeback after being laid off for some excusable judicial misconduct, the permanent psychological disability, expected to last more than a year, for undereducated cops working on their Bachelor degree, is that retaliation and coercion are prohibited by Sec. 503 of the Americans with Disabilities Act under 42USC§12203.

States must negotiate to begin paying the 12.4% OASDI tax in exchange for disability benefits for this particularly large class of defunded undereducated police officers, when their unemployment runs out, if they do not find gainful employment, and shortchanged state disability and retirement beneficiaries 'as if they had contributed to disability insurance their entire state career'. The Attorney General is hoped to negotiate so state employees could file for social security with a high likelihood of success, to avoid Epsom salt bath to treat monoclonal antibody to the spine related methicillin resistant *Staphylococcus aureus* (MRSA) B&E of the local office address entry. The United States has the

largest and densest prison population in the world. It went down slightly under President Obama but Trump penal statistics have not been released.

Defunding the police on the rational basis of requiring Bachelor degree will create a more professional, more highly paid and contributing police force, less burdened by undereducated associates, to minimize false arrest and maximize warrants. Social security disability insurance is the best way for undereducated law enforcement officers to get an online Bachelor degree before they reconsider associating with the criminal justice system to pay back their student loans. Defunding the police must appreciate the utility of the Bachelor degree to prevent recidivism by law enforcement officers and disability insurance to prevent retaliation by unfairly desperate, unemployed law enforcement officers. State disability without a diagnosis is currently only $200 a month. The 12.4% OASDI payroll tax loophole for the rich and state payrolls who use it, must be closed. Getting law enforcement officers the disability insurance they need to achieve a Bachelor degree and compensate disabled and shortchanged beneficiaries requires State Old Age Assistance pursuant of Title I of the Social Security Act rule the 12.4% Title II Old Age Survivor Disability Insurance tax mandatory or wait until Congress repeals the adjustment to contribution base under Sec. 230 of the Social Security Act under 42USC§430.

This case requiring all law enforcement officers to possess a Bachelor degree presents an opportunity to do Medicaid finance for transgender drugs and surgery and extremely tall FBI Director Comey of Windows 8 infamy, justice by paying to conduct genetic and psychological testing of a significant number of tall Oregon soldiers and law enforcement officers, in their natural habitat in the armed service, regarding the incidence of 47,XYY in males over 6 feet tall, and pay for any surgery to remove precancerous deformed internal gonads in maybe 0.1-1% pursuant to Sec. 202(j) of the Social Security Act under 42USC§402(j). 47,XYY; 47,XXY and 47,XXX (Klinefelter syndrome) occurs in 1:900 live-births causing minimal gender abnormalities mostly in 47,XXY who consider themselves women but have external male genitals, the state should not subsidize to remove, nor the carcinogenic estrogen and Warfarin breast treatment. Individuals with Klinefelter syndrome are characterized by a tall, eunochoid habitus, and small testes. 47,XXX and 47,XYY individuals do not usually exhibit somatic gender abnormalities but 47, XYY individuals may be tall and are therefore often employed as soldiers and law enforcement officers, both voluntary and mandatory. General George Washington was tall, childless, loved to execute deserters and was the first President of the United States before he died. Medicaid and the military health system must pay for the detection and removal of any precancerous vestigal internal gonads of 47, XYY, 47XXY, 47, XXX and mostly 45, XO mutants, who generally do not present at birth with genital anomalies. Turner (45,XO) females are prescribed to have their deformed internal gonads removed by adolescence and may need hormones for normal pubertal development. 47,XYY men showed no consistent physical abnormality on general clinical examination and, in particular, there is little evidence of impaired sexual development, and many are fertile, although oligospermia and sterility can occur. Nearly all patients have an IQ of 50 or more, and about 25% have an IQ over 85, and one had an IQ of 138. However, there was an unusual number of these tall men in maximum security hospitals, whereby it was adduced that the behavioral disturbances of these men were primarily determined by their abnormal genotype. Patients with 47, XYY are taller than normal 46, XY males. 47, XXX females also tend to be tall. While 47,XYY tends to run at about 1 per 1,000 in the general population, in one study of a boys school, in the 90th percentile of height 47, XYY ran at about 1 out of 10, and in male prisoners over 183 cm in height 24% (Court Brown '68).

The High Court's decision to require all law enforcement have a Bachelor and lay off all undereducated soldiers is certain to be opposed. It is important that any mass layoffs of undereducated police officers is insured for disability to prevent them from getting employed in hostile undercover operations when their unemployment runs out, before they can possibly complete the Bachelor degree they need to be a court officer. A deputy sheriff trying to run for Sheriff, once prevailed upon the court to declare the statutes, that prohibit someone employed in the civil service from running for office, void because of unconstitutionality and to grant an injunction against their enforcement, because they violate Article I, §8 and §20 of the Oregon Constitution and Amendments I and XIV of the United States Constitution in *Minielly v. State of Oregon* 242 Or. 490 (1966). Indeed, the Portland Police Department is reported to have relaxed their requirement of an Associates degree to the state norm of high school diploma or GED and two to four years of military service. To minimize economic hardship the Oregon Attorney General must be prepared to advocate for online social security accounts for state employees to avoid local SSA office B&E, and agree to close the state employee loophole in the 12.4% OASDI tax for the Social Security Administration (SSA) to afford disability-retirement benefits 'as if state employees had contributed their entire career' pursuant to the repeal of Sec. 230 of the Social Security Act under 42USC§430. Customarily when a significant number of employees are selected for release in a force reduction employees must be given 60 written notice regarding their eligibility for re-employment under 5CFR§351.803 – Bachelor degree.

5. Ephedral Certiorari

HA doesn't currently retain any attorneys admitted to the Bar of the United States Supreme Court. This opening brief is therefore considered concluded by HA on its date of publication and service upon the Oregon Supreme Court and Public Utilities Commission by email. After spending three years at the university law school library, receiving a used copy of Hospitals & Asylums Title 24 of the United States Code insert in Title 23 Highways, HA met American Bar Association President Gray just before he oversaw publication of the Kennedy Commission report of June 23, 2004 that the United States has the largest, larger than China and densest, with the exception of some small Caribbean island states, penal population in the world. The prison population quintupled since 1980. Alas, HA's ubiquitous African-American male federal magistrate has retired. It is left to the >300 economists who petitioned President Barack Obama to legalize marijuana and reduce the deficit by abolishing secret police forces e.g. FBI and DEA, to expand upon the ways to safely reduce the US prison population uncounted since 2013 two unprecedented years of federal prison decline between 2014 and 2016, after *Blakely v. Washington* No. 02-1632 (2004) abolished mandatory minimum sentencing and *United States v. Booker J. & Fanfan* No. 04-104-105 (2005) tried and failed to overturn nonviolent federal drug convictions.

In defense of Oregon drug decriminalization HA hereby exhorts the Clerks and Justices of the US Supreme Court to search, seize, reconcile and bring up-to-date their backlog between docket, publications and proxy sites, since they were last reported to have 'denied certiorari to a death row defendant' on June 20, 2019. The Oregon High Court currently limits their record to a one page trial statement containing the case name, appellate of origin and attorneys for both parties, there is no room for any law or equity, except, as in this case, when a summary of constitutional challenges to statute is required under Rule 5.12 of ORAP. *Sanchez-Llamas v. Oregon* (2006) notes the execution of prisoners who have been specially designated immune by the International Court of Justice under the Convention on Privileges and Immunities of the United Nations of February 13, 1946 as occurred in *Lagrand*

Brothers v. USA Judgment No. 104 on June 27, 2001 and *Avena and other Mexican National v. USA* Judgment No. 128 on March 31, 2004.

Ephedrine is a form of speed manufactured from ephedra (Mormon tea) a plant found near the Great Basin National Park in Nevada and Utah on the trail to the Tubercular Hospital at Fort Bayard under 24USC§19. Ephedrine is the favored speed of truck drivers but acute intoxication, as though fondling an ephedrine contaminated legal brief regarding some sort of 'speed ticket', makes it impossible to write a judgment and if it causes insomnia because exposure is late in the day or at night, it takes a week or so for a working age adult to recover from senility and evidently might cause a retired traffic judge to diagnose himself with senile dementia as a permanent disability. No wonder the nearly 100 year old Queen of England does not employ judges over the age of 70. Ephedra is distinguished from methamphetamine only because it does not cause temporo-mandibular joint (TMJ) discomfort. Without judgment, paranoid search and seizure is rampant. The other speed of concern is dimethoxymethyl-amphetamine (DOM) causes a three day panic attack and six month recovery from severe mental illness with one exposure, if not immediately washed off with water at the first violently amped up delusional hallucination. Whereas ephedra and ephedrine are definitely not listed in the Controlled Substances Act (CSA) it seems best to treat ephedral abuse as a constitutional disability dementing all three branches of the federal and state governments pursuant to Sec. 510 (d)(2) of the Americans with Disabilities Act of 1990 under 42USC§12210(d)(2) and federally legalize marijuana by repealing marijuana from Schedule I(c)(17) of the CSA under 21USC§812(c).

Any federal suit is reminded to impeach Nancy Pelosi to prevent political persecution. The Permanent Select Committee on Intelligence must not be Speaker of the House. Pelosi must either bravely abolish the Permanent Select Committee on Intelligence or just be that senile old Permanent Select Committee on Intelligence Democrat from San Francisco waiting to be defeated by a Bernie Sanders Democrat, Republican or death. After reading her biography, HA must admit Pelosi is not the Speaker of the House who betrayed 10 million child welfare benefits 1996-2000. It is that the FBI dosed the suicide attackers, tampered with the elections, Windows 8, and news media, not that she voted against the Iraq war. Pelosi's bills are not economical and she may be impeached for counterfeiting the TCJA and CARES Relief Acts on ephedrine to ensure it is remembered that the economy did not recover until after the Recovery Acts were paid for and there were no new relief acts to excessively withdraw from the stock exchange unprotected by any sort of devaluation of the US dollar. The Permanent Select Committee on Intelligence must be abolished as a Conspiracy pursuant to Art. 81 of the Uniform Code of Military Justice under 10USC§881, Arson within the maritime and territorial jurisdiction under 18USC§81, Fourth Amendment to the United States Constitution, Rule 4, 4.1 and 41 Fed. Crim. P. and Windows 8.

It is damning that the “Bernie Treatment” arson conspiracy accusation against Nancy Pelosi was unauthorized to be deleted by the 'United States' from the first draft of *Inyo et al v. Yosemite National Park Thousand Fire Identify Theft Posse* HA-14-28-9-20 and that the following torture amendment was twice deleted from the Hydrocortisone, Eucalyptus, Lavender or Peppermint (HELP) Act HA-11-8-20. In 2009 President Barack Obama cryptically noted “the United States does not torture” but did not overrule the tyrannical majority led by Nancy Pelosi, at that time, in tyrannical violation of the split ticket vote whereby the President should be from the opposite party as the congressional majority. Now, Congress must amend federal torture statute to comply with Arts. 2, 4 and 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1987) by repealing the phrase “outside the United States (tampered in 2009)” from 18USC§2340A(a) and amend

Exclusive Remedies at §2340B so: The legal system shall ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, their dependents shall be entitled to compensation under Art. 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987).

All the component agencies of the Permanent Select Committee on Intelligence must be abolished. To defend judgment against the dual threats of tampered electronic documents and usually ephedrine contaminated paper documents it is federally necessary to demand the repeal of the Authority for Employment of the FBI and DEA Senior Executive Service under 5USC§3151-§3152. All of the Permanent Select Committee on Intelligence that survives undergraduate education is the World Fact Book, National Crime Reports, Quantico Bay Federal Police Academy, National Forensic Laboratory and seized food and drug destruction technology. There are so many undereducated and armed Customs and Border Protection agents, any genuine demand for federal police, incurred by abolishing the FBI and DEA, should be met by expansion US Marshalls who are authorized to carry firearms and make arrests by warrants that are actually signed by federal magistrate judges pursuant to Rule 4, 4.1 and 41 Fed. Crim. P. Voluntary and mandatory law enforcement officers require a Bachelor degree to prevent recidivism in 100 percent of legally cited abuses, and have any hope of professionally collaborating with the Court, whereas Associates degrees are only 75% recidivism-free, a vocational certificate like police academy 50% recidivism-free, and high school, GED or less 33% recidivism free (Gilligan '11).

Although this federal case was successful at legislating tolerable counterfeit currency statute under 31USC§5153 and exclusive privileges under 16USC§45d, and the Supreme Court case would obviously be angled to amend tampered torture statute, *Inyo et al v. Yosemite National Park Thousand Fire Identity Theft Posse* HA-14-28-9-20 was tampered with under 18USC§1512 and it would not benefit the United States to torture their most accurate accountant. It was certainly the Federal Bureau of Investigation who arsoned Oregon and California pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, of November 23, 1988; amended the Disaster Relief Act of 1974, Public Law 93-288 under 42USC§5197g. Where a statute is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to prevail under ORS 174.030. As the federal secret police officers, too undereducated to prevail in Court without the use of ephedrine, the FBI and DEA have a natural right to commanding officer non-judicial punishment under 24USC§419(a)(4) for Conspiracy in Art. 81 Uniform Code of Military Justice under 10USC§881, Arson within special maritime and territorial jurisdiction under 18USC§81, first degree Murder under 18USC§1111 and most of all torture under 18USC§2340A.

Does the U.S. Supreme Court deny they have a one year backlog between making and publishing decisions since they were last witnessed denying certiorari to death row inmates June 20, 2019? It is frustrating to read reports in the newspaper that the Supreme Court has made a decision and not be able to read the 50 page decision online. In my experience, the only thing that would impair my ability to do justice is ephedrine contaminated paper documents and tampered electronic records. All I can think to do to eliminate the publication backlog at the US Supreme Court is ask the justices if they have been exposed to ephedrine by mail. Likewise, were Congress members exposed to ephedrine when the Tax Cuts and Jobs Act of Dec. 22, 2017 and CARES Act of April 27, 2020 were passed to pay for two "speed tickets" HA was honored to dismiss under 24USC§419(a)(4)? Would it help the US Supreme Court if the Attorney General, to defend themselves against being particularly violently overthrown by

FBI and DEA wiretaps since torture statute was tampered in 2009, rather than Congress, amended the federal torture statute? Statutory terminology is not intended to preserve procedural distinctions between actions and suits under ORS 174.590. Torture statute must be made to comply with Arts. 2, 4 and 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1987) by repealing the phrase "outside the United States (tampered in 2009)" from 18USC§2340A(a) and furthermore, with all the Congressional approval, usually required to amend federal law, amend Exclusive Remedies at §2340B to relieve the State so any layperson would know: The legal system shall ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, their dependents shall be entitled to compensation under Art. 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987).?

HA has to attend to the U.S. Treasury, before Congress does something silly for Christmas, more expensive than prescribing peppermint candy-canes to cure coronavirus en masse despite the news media, FDA and WHO continue to deny the public that Hydrocortisone, eucalyptus, lavender or peppermint help to cure coronavirus and mold allergies. The chemotherapy update will have wait until December. HA must focus on adding up final fiscal year 2020 revenue and gross domestic product data. The United States Treasury must devaluate the dollar to pay the $1.5 trillion from Coronavirus Relief Acts, any possible further (OASDI Tax) Relief Acts, and any federal spending in excess of 3 percent of GDP, to prevent the post-TCJA federal Treasury from repeatedly excessively withdrawing from, and causing a depression in, the stock exchange. It is important important that the United States clearly states their intention to devaluate the US dollar to counterfeit the CARES Act and any future deficits in excess of 3 percent of GDP as is projected to carry on until at least after the TCJA expires in 2024 (or stricken down by new President); if the rich and state employees are taxed to pay COVID-19 disabled workers before compensating children growing up below the poverty line or never.

The United States Treasury must respect the extra UN labor involved in devaluating the US dollar because UN statistics are pegged to the US dollar. The UN shall have to accept official US real GDP estimates for the first time since 2017 and laboriously adjust the economic estimates of every other nation to valuably create an appreciably larger US dollar pegged global economy. Maybe there would be positive global economic growth backed by relatively cheaper US exports, despite the continuing COVID-19 contraction. Because the federal deficit is in excess of 3 percent of GDP and is expected to remain there for some time, the United States must begin to offset the cost of any federal deficit in excess of 3% of GDP by precisely devaluating the US dollar in a stately, regular and predictable annual basis until the deficit is less than 3% of GDP, while other nations might wildly or sporadically devaluate in annual baskets, or not be mentioned, pursuant to the Marshal Lerner Condition under 19USC§4421, 22USC§5301 *et seq*. and 2020 Revised estimates: effect of changes in rates of exchange and inflation Report of the Secretary-General A/74/585 11 Dec. 2019.

6. Probable Cures for Coronavirus

The coronavirus is the only cold with a cure. Coronavirus colds can be deadly if the lungs fill up with fluid or pneumococcal co-infection, similar to human influenza, but even more contagious. Coronavirus is however easily cured with hydrocortisone, eucalyptus lavender or peppermint (HELP) (Sapeika '63)(Kit-Ying '06). Certain essential oils used in aromatherapy can treat and cure allergy and asthma symptoms where conventional medicine has failed – essential oils of lavender, peppermint and

eucalyptus are particularly curative of allergic rhinitis (Sapeika '63). For Severe Acute Respiratory Syndrome (SARS), a coronavirus, the inpatient treatment with no fatalities was to ventilate the patient and medicate with the antibiotic levofloxacin (Levaquin), and corticosteroids methylprednisolone IV and then prednisone (Kit-Ying ’06). Cushing's disease side effects of corticosteroids can include osteoporosis and osteonecrosis, facial changes and weight gain, moodiness, acne, facial hair, upset stomach, glaucoma and cataracts, adrenal insufficiency, high blood sugar (hyperglycemia), high blood pressure (hypertension), increased risk of infection and swelling or water retention necessitating salt elimination and calcium supplementation diet and cortisol dependency (Bernatsky & Senécal '05: 38, 48-52, 86)(false association of a table of corticosteroid drugs with hydroxy-chloroquine). It is hoped that Congress will take the initiative to pass the Hydrocortisone, eucalyptus, lavender or peppermint (HELP) Act and the United Nations the included Convention on Pandemic Treatment (CPT).

Having established that corticosteroids are the standard medical treatment for coronavirus, to avoid Cushing's disease it is necessary to prescribe hydrocortisone, eucalyptus, lavender or peppermint to help cure coronavirus and allergic rhinitis. Eucalyptus cures coronavirus. This has been made obvious by reports that there is no coronavirus pandemic in Australia or New Zealand. The Food and Drug Administration (FDA) has approved Lysol, active ingredient eucalyptol, as an environmental cleanser for coronavirus in response to the COVID-19 pandemic. Eucalyptus detergent is also prescribed for mite infested fabrics. Hall's mentholyptus cough drops may be effective at curing coronavirus of the nose and chest, but they are out of style, and might take an hour to extract gold from a coronavirus irritated nose, Hall's cough drops might save a life by curing coronavirus. Several Baby Boomers recalled their grandmothers having essential oil of eucalyptus scented humidifiers that might get kids back to school. These days the most popular coronavirus treatment is essential oil of lavender spray, but this sometimes takes a little while, up to an hour, to completely clear badly infected nostrils. Lavender has also been put in Vitamin water, lattes, and chamomile tea with even more highly curative effect so that there is no nasal irritation by the end of such a drink. Essential oils of lavender and peppermint cure coronavirus and mold allergies, but may take about an hour to clear the nostrils, they can also be used repel many insects like ants. Peppermint candy takes about an hour to clear nostrils, it may be slow, but when every snot nosed child in the nation has had a candy cane at the same time, it might be our belief in Santa Claus that brings the COVID-19 pandemic to a conclusive end – peppermint cures coronavirus. A half gallon of peppermint ice cream will cure coronavirus. A strong peppermint tea is probably the safest, most convenient, and effective home remedy for coronavirus, make sure the mint is peppermint. The Court and Prisons are challenged to publicly try these remedies under the Oregon Rules of Civil Procedure.

This whole COVID-19 pandemic coincides with the premeditated failure to legally exempt corticosteroid inhalers from the 2020 goals of Montreal Protocol on Substances that Deplete the Ozone of 1987, first noted by HA around 2016. Hydrocortisone crème is highly curative of asthma, allergies, aspergillosis and allergic rhinitis when smeared on the chest or nose and can be purchased at the dollar store. Prescription (nebulized): Pulmicort Respules (budesonide). Prescription (systemic –inject and oral): Celstone (betamethasone), Decadron (dexamethasone), Medrol and Solu-Medrol (methylpresdnisolone), Prapred and Pediapred (prednisolone), Prednisone and Prelone Syrup (prednisone). Prescription (nasal): Flonase (fluticasone), Nasacort (triamcinolone), Nasalide (flunisolide), Nasonex (mometasone), Pulmicort and Rhinocort (budesonide), Qvar, Vancesnase DS, Vancenase pocket inhaler, Vanceril, and Vanceril DS (beclomethasone). Steroid Nasal Sprays. Common types of inhaled steroids include: beclomethasone (Qvar), budesonide (Pulmicort), budesonide/formoterol (Symbicort) – a combination of a steroid plus a long-acting bronchodilator drug,

ciclesonide (Alvesco), fluticasone (Flovent HFA), fluticasone propionate (Flovent Diskus), fluticasone furoate (Arnuity Ellipta), fluticasone propionate/salmeterol (Advair) — a combination of a steroid plus a long-acting bronchodilator, fluticasone furoate/umeclidinium/vilanterol (Trelegy Ellipta) — a combination of a steroid, an anticholinergic, and a long-acting bronchodilator drug, mometasone furoate (Asmanex), and mometasone/formoterol (Dulera) — a combination of a steroid plus a long-acting bronchodilator drug.

The COVID-19 pandemic is a grave economic disability. The determination of whether an impairment substantially limits a major life activity, e.g. work, shall be made without regard to the ameliorative effects of mitigating measures such as curative medicine pursuant to Sec. 3(4)(E)(i)(I) of the Americans with Disabilities Act (ADA) of 1990 under 42USC§12102(4)(E)(i)(I). On the other hand, COVID-19 disabled workers must be informed to treat themselves and their prospective workplaces with hydrocortisone, eucalyptus, lavender and peppermint (HELP) whereas the term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace in Title I Sec. 103(b) of the ADA under 42USC§12113(b). Trials of coronavirus medicine may be by jury or by the court, if issues arise upon the pleadings when a fact or conclusion of law is maintained by one party and controverted by the other, such as do hydrocortisone, eucalyptus, lavender or peppermint really help to cure coronavirus and allergic rhinitis pursuant to Rule 51 Oregon Rules of Civil Procedure.

7. Oregon Drug Decriminalization Measures 109 and 110

The ABA Kennedy Commission Report of June 23, 2004 admitted that the US had the most prisoners of any nation in the world and that measures would need to be taken to redress this problem. The next day, in *Blakely v. Washington* No. 02-1632 of June 24, 2004 the Court eliminated sentencing guidelines schemes. Sentences imposed under such guidelines in cases currently pending on direct appeal, or in cold habeas petitions, are in jeopardy. In both legislative and litigate practice Criminal sentences must be adjusted downward rather upward, mandatory minimum schemes eliminated and acquittals the norm for most crimes where there are significant mitigating factors. *USA v. Booker J. & Fanfan* No. 04-104-105 (2005) did not pass to provide for the wholesale acquittal of drug convictions. Oregon Measures 109 and 110 also helps compensate for *Employment Division v. Smith* 494 US 872 (1990) when the Oregon Supreme Court upheld unemployment compensation for two Native American Church goers who were fired from their employment at a substance abuse treatment center after testing positive to having consumed peyote and the U.S. Supreme Court remanded the decision upon the demand of the Oregon Department of Human Resources in favor of Oregon statutes prohibiting the use of peyote regardless of the freedom of religion clause of the I Amendment.

To defend their legalization of all drugs Oregon is implored to require that all Oregon law enforcement and corrections officers and federal law enforcement officers operating in Oregon also possess a Bachelor degree so all of their criminal activity might be warranted by a judge. As state ballot drug initiatives progress, local criminal justice ballot measures regress into such never before heard nonsense as a "jail district" levy. To achieve the true purpose of these laws, HA must define 'to safely reduce the penal population to less than the arbitrary international legal limit of 250 detainees per 100,000 residents', Oregon cannot sit on their laurels regarding decriminalizing all drugs. In 2013 the last year for which statistics are available Oregon detained 582 prisoners per 100,000 residents of all ages. The Attorney General must seriously require all law enforcement officers possess a Bachelor degree, if she is to ever stop torturing her petitioners since federal torture statute was tampered in 2009.

Nonetheless, the legalization of marijuana and decriminalization of all drugs in Oregon helps a lot to fulfill a high school, college and law school dream – to try to quit smoking cigarettes. It is a great honor to be a part-year witness as to whether or not treating psychotropic drugs fairly, actually reduce rates of hard drug addiction, incarceration, crime and ephedrine contaminated legal documents, as it has in Portugal since 2001, home country of the current Secretary General of the United Nations.

Measure 110 was passed on November 3, 2020 when Oregon voters elected to decriminalize all drugs, including heroin, cocaine, methamphetamine, LSD, oxycodone and other hard drugs, so possessing small amounts of these substances no longer carries the threat of jail or prison time. Those caught with small amounts of the drugs will be able to choose between a $100 fine or a "completed health assessment" through an addiction recovery center. Harder drugs like cocaine and heroin would *not* be legally sold or distributed; possession of higher quantities remain illegal, as do sales and distribution. The initiative also redirected savings, from less incarceration and law enforcement, as well as preexisting marijuana sales tax revenue to addiction treatment. The measure takes effect 30 days after Tuesday's election, but the punishment changes don't take effect until Feb. 1. Addiction recovery centers must be available by Oct. 1. One in 11 Oregonians is addicted to drugs, and nearly two people die every day from overdoses in the state, the Oregon Nurses Association, the Oregon Chapter American College of Physicians and the Oregon Academy of Family Physicians had said in support of the measure. About 3,700 fewer Oregonians per year will be convicted of felony or misdemeanor possession of controlled substances now that the measure has passed, according to estimates by the Oregon Criminal Justice Commission. While this approach is new in the United States, several countries, including Portugal, the Netherlands and Switzerland, have already decriminalized possession of small amounts of hard drugs, according to the United Nations. Portugal's 2000 decriminalization brought no surge in drug use. Drug deaths fell while the number of people treated for drug addiction in the country rose 20% from 2001 to 2008 and then stabilized.

Oregon voters also approved another ballot Measure 109 to legalize psilocybin, the main psychoactive compound found in magic mushrooms, in supervised therapeutic settings. trained facilitators at a "psilocybin service center" will help administer and then supervise the psychedelic trip. There's some research backing this approach, showing that just one or two doses of psilocybin can have lasting effects on conditions like depression, anxiety, PTSD, and addiction. The recently passed decriminalization measure puts more than $100 million a year toward treatment, which would at least quadruple the $25 million the state spent a year before. The question is how this money will be used: There's significant public funding for addiction treatment out there, but much of it goes to ineffective or downright fraudulent program. In 2001, Portugal decriminalized all drugs, and invested heavily in evidence-based treatment and harm reduction. So far, it seems to have worked well, with lifetime drug use slightly increasing but problematic use, addiction, and their negative consequences declining overall. In reality, only 1 in 5 people are in jail or prison right now for drug offenses, and the majority of those in state prisons, where most of America's incarcerated population is held, are in for violent offenses. What sets America's massive prison population apart isn't so much its drug war but punitive practices elsewhere, such as its relatively long prison sentences for even minor crimes.

8. Judge Straight Talk

In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be

adopted as will give effect to all under ORS174.010. Although a university law library may have held their collective works, it turns out that Judge Friendly and Chief Judge Learned Hand were 20th century appellate judges from the 2nd Circuit Court of Federal Appeals. Previous solicitation to consult Straight Talk pursuant to publication of a 'Judge Straight Talk' collective work to help bear the civil law of Judge Friendly and Judge Learned Hand into the digital age, requires validation, and to avoid any future ruling of infringement, would be better interpreted in the lower case, to mean that Public Utilities Commission (PUC) should judge Straight Talk's infringement on a wiretapped free government cell phone serviced by Tracfone. PUC did write to say that Safe-Link wireless has not had a free government cell phone contract in Oregon since 2017.

In retrospect, it is unfair both that Safe-Link has dropped Oregon and that competitor cell phone plans, Straight Talk and Verizon, might infringe on a free government cell phone, that is supposed to serviced by Safe-Link and their Tracfone pre-paid cards. The old, free government cell phone, died, like Judge Friendly, Chief Judge Learned Hand, and Associate Justice Ruth Bader Ginsburg, but not before demagnetizing a debit card to ensure Straight Talk is witnessed by PUC to have infringed on a wiretapped free government cell phone, that is supposed to have serviced been Tracfone, and PUC must investigate the prohibition of certain wiretapping patents by law. The old telephone number and pursuit of free government cell phone is invalid. The cell reception between a cheap pre-paid flip phone and more expensive smart phone plan is frequently infringed, so far harmlessly. One desired outcome of repealing the Interception of Oral Communication without Order under ORS ORS133.726 is that Safe-Link wireless would forgive PUC any prior unwarranted wiretapping transgressions by Oregon law enforcement and PUC would officially restore Tracfone free government cell phone service to Oregon beneficiaries.

Henry Jacob Friendly (July 3, 1903 – March 11, 1986) was an American lawyer and jurist best known for his tenure as a circuit judge on the United States Court of Appeals for the Second Circuit. Judge Friendly's own decisions, along with the work of a handful of other judges, are the gold standard in American appellate judging. Appellate judges have the peculiar burden of seeking to do three different things at the same time: first, to determine and respect "the law," this vast collection of constitutional provisions, statutes, precedents, canons, and other paraphernalia; second, to reform doctrine, if permissible and when appropriate, in light of new insights, experience, and social imperatives; and finally, to get the specific quarrel settled in a just and practical way. In *Cover v. Schwartz*, 2 Cir., 133 F.2d 541, the district court had held that the claim was neither valid, nor infringed, and we dismissed the appeal because the patentee did not question the holding of non-infringement. The appellate court said that the unchallenged holding that the defendant had not infringed made the case moot, and ended our jurisdiction. That decision of the Supreme Court was that "to hold a patent valid if it is not infringed is to decide a hypothetical case" pursuant to *Altvater v. Freeman* 319 U.S. 359, 363, 63 S.Ct. 1115, 1117, 87 L.Ed. 1450. The only patent issues important to consider are validity and infringement (Boudin '10). There has been a tendency among the lower federal courts in infringement suits to dispose of them where possible on the ground of "non-infringement" without going into the question of validity of the patent. Proceed upon the implied premise that the issue of infringement may be disposed of before that of validity, since it is only in the event of infringement that the issue of the validity can become "hypothetical," or "moot" and blow *Cover v. Schwartz* 2 Cir., 133 F.2d 541. A decision resting upon "non-infringement" is generally much more secure than one on invalidity *Harries v. Air King Products Co.* No. 210, Docket 21600 (1950) L. Hand, Chief.

From 1909 to 1924 Hand served as a judge in the United States District Court for the Southern District

of New York, and from 1924 to his death in 1961 he was a member and for the last ten year, Chief Judge of the United States Court of Appeals for the Second Circuit. In 1893, Hand's first year in Harvard law school, Professor Thayer published his famous essay on The Origin and Scope of the American Doctrine of Constitutional Law, ' propounding what came to be known as the "rule of the clear mistake." Although considered to be exclusively federal, the rule of the clear mistake obviously applies equally to repealing the one obviously unwarranted flaw in Oregon's search and seizure statute. Courts should not invalidate a legislative or executive act, Thayer argued, unless its unconstitutionality was "so clear that it is not open to rational question." Unfortunately, L. Hand upheld the prosecution of eleven leaders of the Communist Party of the United States (CPUSA) under the Smith Act on the ground that they conspired to advocate the use of force and violence to overthrow the government *United States v. Dennis*, 183 F.2d 201, 212 (2d Cir. 1950) affirmed 341 U.S. 494 (1951). He later wrote "Personally I should never have prosecuted those birds: 'the blood of martyrs is the seed of the church.' So far as all this will do anything, it will encourage the faithful and maybe help the Committee on Propaganda." Letter from Learned Hand to Felix Frankfurter, supra note 133, at 306; accord Letter from Learned Hand, Chief Judge, U.S. Court of Appeals for the Second Circuit, to Augustus Noble Hand, Judge, U.S. Court of Appeals for the Second Circuit (Aug. 8, 1950).

The only judgment regarding 2020 and its COVID-19 pandemic can be the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*The Gambia v. Myanmar*) Summary 2020/1 23 January 2020 held Myanmar's military and security forces responsible, inter alia, for killings, rape and other forms of sexual violence, torture, beatings, cruel treatment, and for the destruction of or denial of access to food, shelter and other essentials of life, all with the intent to destroy the Rohingya group, in whole or in part. To redress and prevent deprivation of relief benefits under 18USC§246 it needs to be emphasized that deprivation of rights under color of law can be deadly under 18USC§241. For instance, it could be construed that it constitutes a crime of genocide for any government or health professional to neglect to prescribe hydrocortisone, eucalyptus, lavender or peppermint to help cure coronavirus and allergic rhinitis and then under pretense of COVID-19 "pandemic" impose any sort of tortious quarantine, social distance, restriction on economic activity or gag order to reduce transmission of coronavirus by 95%. It is certainly a delicate dance for the tortious Oregon oral communication wiretapper to avoid infringing on cell phone service in a life threatening way, by for instance shutting down in an emergency situation, or by unlawfully disclosure of intercepted personally identifying information to any number of other undereducated and unwarranted state or federal police officers. Civil actions for deprivation of rights prosecute every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable under 42USC§1983.

Done,

Anthony J. Sanders
Hospitals & Asylums

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