Obligated by Oath

by Alfred Adask

This article will follow another of my "patriot rabbit trails" concerning oaths of office. However, before you can hop down that "bunny trail," you'll need a refresher course concerning a previous notion concerning the importance of entering documentary evidence —not just conversation to the judge—into your case file.

In Volume 9 No. 3, I published an article entitled "Is the Battle in the Court or in the Case?" In that article, I postulated that unless all evidence of the relevant facts and law are properly entered into the *case file*, that evidence may have no bearing on the court's decision.

For example, suppose you go to court to defend yourself over a traffic ticket. You explain to the judge about your "constitutional right to travel" and the fact that you could not possibly have run that stop sign. The prosecution is lame, disheveled and smells faintly of tobacco. You, on the other hand, are a clean, wholesome fair-haired boy. You are eloquent, passionate, patriotic and persuasive. When you stop speaking, the courtroom audience erupts into applause. (The prosecution received only muffled hisses and boos.).

Nevertheless, the judge rules against you.

Why?

I suspect the answer is found in the case file. I suspect that all the eloquent information and arguments that you provided *verbally* to the judge is just so much white noise. I suspect that in order to decide the *case*, the judge simply opened the actual *case file* (the collection of documents entered into evidence) and found—Voila!—the traffic ticket that was issued to you for running a stop sign. Because the judge finds *nothing else*—no other documents or evidence actually entered into the *physical case file* that tend to refute, deny or mitigate that ticket—the judge "administers" the case strictly according to the evidence actually *in the case file*. He sees nothing to refute the legiti-

macy of the ticket, and so he agrees the ticket is valid and you—Mister Eloquence—are guilty.

At first, this notion sounds nuts. If it were correct, it would mean that most cases are decided without automatic reference to some of America's most cherished assumptions (individual freedom) and foundation documents (Declaration of Independence, Constitution, etc.). Why? Because those documents are virtually never inserted into a case file.

The notion that the "case" consists of only the precise evidence entered *into* a particular "case file" is consistent with the idea of "case by case" determinations seen in courts of equity. In essence, each case decided in a court of equity is regarded as unique and without any automatic reference to any previous law, statute or constitution or precedent.

Thus, you might make a particular defense in equity that a judge liked at 9:00 AM in the morning, and if I made exactly the same defense at 10:00 AM, the same judge could rule against me. Your case would have no bearing on mine. Acceptance of "case by case" determinations implies that any evidence that is not *specifically included* in a particular *case file* does not legally "appear" within the "context" of that case.

For a more "advanced" illustration of this "Battle in the Case" hypothesis, let's suppose you're claiming your "constitutional rights" while defending yourself to a judge. What Constitution are you talking about? The Mexican Constitution? The Constitution of the People's Republic of Cuba? Like most Americans, you *assume* that "everyone knows" that when you say "constitutional" you're referring to the Federal Constitution adopted in 1789 and no "proof" is necessary. But I suspect your assumption is false. If that particular constitution does not appear *in the case file*, it does not exist in that individual case.

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If you're like most Americans, you probably assume your rights flow from the Constitution. Again, that assumption is at least dangerous and perhaps self-defeating since it implies you are a 14th Amendment resident-*subject* who receives his rights from Congress and government rather than a "Declaration of Independence" sovereign Citizen who receives "unalienable Rights" from *God*. (As originally intended, the Constitution didn't *provide* rights, it *guaranteed* that government would not trespass on the preexisting, God-given "unalienable Rights".)

In any case, I suspect that if you claim your "constitutional rights" and there's no evidence *within the case file* to support that claim, your claim is just so much hot air and irrelevant to the final decision.

Sure, the kindly ol' judge will let you do your song and dance in court and exhaust the emotional fire in your gut. But then, he'll look in the case file and make his decision based entirely on the documents therein. If your eloquent courtroom speech and the docu-

ments it referenced are not included in that case file, I suspect it will play no role in his decision.

In court (as in life) talk is cheap. You may have launched a brilliant verbal claim for some "constitutional right"—but unless you enter documentary evidence into your case file to support your claim, that claim is without foundation and the court will almost certainly rule against you.

Partial remedy?

I know that according to *Bouvier's Law Dictionary* (1856 A.D.), all rights flow from *title*. That is, if you can't show a "title" to whatever rights you claim, your claim of rights will be without foundation in law and will be relegated to a court of equity, and probably dismissed.

I suspect that—just as the "title" to your car entitles you to drive that particular car—"The unanimous Declaration of the thirteen united States of America" (aka, "Declaration of Independence") is the "title" by which we are entitled to claim the God-given "unalienable Rights" declared in 1776 and guaranteed by the body of the Constitution (1789 A.D.) and/or Bill of Rights (1791 A.D.).

If my suspicions are correct, by entering verified/notarized copies of those foundation documents *into your case file*, you provide evidence that leaves little doubt as to "which" constitution you're talking about and why *you* are entitled to claim those "unalienable Rights". Thus, I speculate that the solution to making a proper claim of God-given "unalienable [not constitutional] rights" is to insert proper, docu-

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mentary evidence into a case file of the *source* of those rights and the *foundation* (title) for your claim to those rights.

Send in the oaths

The April 30, 2001 issue of the *National Law Journal* published a "short list of rogue judges and ex-judges" which included one judge who resigned after it was discovered that he liked to bind and gag his secretaries while he visited sex-bondage websites. Another judge spent his off-duty hours letting prostitutes know that he was a good friend to have if they were troubled by the police. A female judge steered 60 cases to her lover—another attorney (who, incidentally, murdered his wife—apparently to be with the judge).

The stories of errant judges make amusing gossip, but one anecdote triggered my imagination:

> "Assigned to truancy court, Justice of the Peace Marvin Dean Mitchell of Amarillo, Texas, believed in making follow-up phone calls. Unfortunately for him, one of them was tape-recorded by law enforcement officers.
>
> A 15-year-old girl who was on probation in his court for truancy complained that he had pressed her in a phone call to her home to talk dirty. Then three other minor girls came forward with their own stories of harassment. The Texas Judicial Conduct Commission suspended the judge Mitchell and declared that he had "preyed upon the very persons he was *obliged by his oath of office* to protect."

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OK, what's this article got to do with the Texas Judicial Conduct Commission's statement that an errant judge "preyed upon the very persons he was *obliged by his oath of office* to protect"?

The patriot movement has sensed for some time that judges' oaths make judges personally liable should they fail to enforce the laws and Constitution. In the previous anecdote, the Texas Judicial Conduct Commission supports that suspicion.

If the previous "partial remedy" (that we should insert *documentary* evidence into our *case files* to lay a foundation for our claims of right) is generally valid, we have a strong foundation for asserting a claim of right. However, the previous quote from the Texas Judicial Conduct Commission suggests how that foundation might be strengthened by inserting a copy of the *judge's Oath of Office* to "support and defend the Constitution"—or words to that effect—into the case file.

By inserting copies of the Constitution, "Declaration of Independence" *and* the judge's Oath of Office into the case file, we might not

only establish the source of our rights (God) and our "title" to claim to those rights (the Declaration)—we might also establish the judge's sworn *duty* to enforce and protect those very rights. We might thereby establish the *judge's personal liability* should he fail to perform his sworn duty to enforce the rights established under the Declaration and enforced under the Constitution.

If the battle is decided in the "case" rather than the court, it follows that unless there's evidence of the judge's duty *within the case file*, no such duty exists in that case. However, once evidence of the judge's duty is included *within the case file*, the judge may become subject to subsequent suit for breach of fiduciary duties established by his Oath of Office.

If a case file includes evidence that the judge has sworn to "support and defend the Constitution," his obligation to do so (and his liability if he does not) should be pretty solid. If the judge understands that a litigant has brains enough to establish not only his claim of rights but also the *judge's duty* to secure those rights, the judge may be less inclined to rule against that litigant's claim of rights.

The more the merrier

It's worth noting that judges aren't the only government officials who take oaths of office. If I'm right about the impact of adding a verified copy of a judge's oath of office to your case file, it follows that adding verified copies of the oaths of office of *others* involved in prosecuting a case against you might have a similarly salutary effect.

For example, do lawyers take an oath of office? How 'bout prosecutors and police? Court clerks? Court reporters? IRS Special Agents? Officials responsible for impaneling jurors? Are any of those individuals required to take an oath of office? If so, by inserting copies of their oaths into the case file might help create a legal foundation for *suing them* for breach of fiduciary obligations. (If you're adventurous, you might even investigate the oaths of office taken by grand jurors or trial court jurors involved in your case.)

If the principle implied by the Texas Judicial Conduct Commission (that oaths of office create the *obligation* for judges to protect litigants) also applies to other oath takers—and *if* cases decided on a "case by case" basis depend primarily on those documents entered into each case file—*then* it follows that every oath of office you enter into your case file would create evidence of personal obligations and establish the personal liability for every oath-taker associated with your case. In the real world, when officials see they might be personally liable for prosecuting a case against you, their enthusiasm for prosecution tends to wane.

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Creating controversy

As usual, all this is only a hypothesis. Maybe it works. Maybe not. But I can't see any adverse repercussions that might flow from inserting copies of the Declaration, Constitution and the judge's Oath into the case file. What'll they do? Sue you? Jail you—for inserting official documents into a case file?

But. Will inserting these documents into a case file guarantee that you'll win in court? Of course not. Even if the hypothesis is valid, the strategy so far suggested is probably incomplete.

For example, just because you expressly claim to be entitled to various "unalienable Rights" doesn't mean your claim is clear and unequivocal. Suppose the case file contains evidence (which you may not even recognize or understand) that allows the government to presume you're a 14th Amendment "citizen of the United States" and thus *subject* to Congress and the states' parens patriae powers? Many suspect that the courts can use the presence of a drivers license, so-so security card or voters registration to legally infer that you are a 14th Amendment "citizen-subject" and therefore *not* entitled to "unalienable Rights" declared in the "Declaration of Independence".

So what'll happen if you intentionally insert evidence into the case file that you are a Citizen-sovereign entitled to "unalienable Rights"—but also unwittingly allow conflicting evidence into the case file that allows the court to presume that you're a 14th Amendment "citizen-subject" who is *not* entitled to "unalienable Rights"?

Seems to me that you would've created a *controversy*. Essentially, you claim (probably under oath) that you are entitled to "unalienable Rights" while government claims (at least by presumption) that you are not so entitled. You say Yes, they say No. That's a controversy.

Once a *controversy* is established, it must be resolved in a *judicial*—rather than administrative—procedure. If 1) you can produce sworn evidence to indicate that you are a sovereign Citizen entitled to God-given "unalienable Rights"; and 2) the government wants to try you as rightless "resident" in the 14th Amendment plantation, someone in authority should have to resolve the issue of your status. Once the controversy is created, someone in judicial authority should have to determine—on the record—whether you are a sovereign Citizen or resident-subject. If so, that express determination will almost certainly expose part of the legal foundation for the government's assertion that virtually all Americans are now mere 14th Amendment resident-subjects.

Of course, I don't doubt for a minute that in a politically-charged case, the courts can ignore anyone's claim of being a Citizen-sovereign. But they'll do so only if they really, *really* want to hang the defendant—no matter what.

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However, faced with a controversy in your case file over whether you are, or are not, entitled to "unalienable Rights," a pragmatic judge might let you go rather than face the controversy is openly and in public. After all, will gov-co admit *in public* that it regards all Americans as subjects (rather than sovereigns), persons without the "unalienable Rights" enshrined our "Declaration of Independence," and little more than serfs on the "global plantation"? I don't think so.

While the American people are almost astonishingly trusting, naïve and ignorant . . . they believe in their hearts that they're still free. This charming public faith in individual freedom is just as important to government control as a kid's belief in Santa Claus is important to parental control. "You know what'll happen if you not gooood . . . right? Santa Claus won't give you any presents."

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Likewise, government uses the myth of American freedom to control it's "kids" (the public). So long as the "kids" think they're free, they tend to accept government bondage without much fuss.

However, if gov-co were forced to admit that we're subjects and not free, the natives might get restless. Maybe even uppity. That admission would be just as damaging to government control as it would be for Toys R Us to announce on December 15th that Santa Claus doesn't exist. Izz bad for bidness.

Government doesn't want to publicly address the controversy over whether we are or are not still free. I don't doubt that government could win that controversy in most cases. How? By introducing evidence that an individual's voluntary use of the Social Security card, drivers license, voter registration, Zip codes and/or legal tender legally empowers government to treat that individual as a subject.

Unfortunately for government, exposing the foundation for its power over its "subjects" is a no-no. Thus, properly challenged, government can't "prove" the legal foundation for it's mastery over Americans without admitting and exposing how their scheme actually works. For now, government won't make that admission (at least, not while Americans still have millions of firearms).

Therefore, if you're accused of an offense and can raise a fairly good controversy over whether you are a free man or a government subject, government may decline to prosecute. Not because they couldn't "get" you—but because doing so would force government to publicly reveal some politically incorrect elements of a scheme they'd prefer to keep secret.

Strike while the iron is administrative

For now, government seems equally unwilling to enforce *or expressly deny* "unalienable Rights". Therefore, if you raise the issue of "unalienable Rights" early in the conflict—long before some prosecutor or other political figure has publicly committed to hanging your scalp on his lodge pole—there's a good chance that the case against

you may simply "disappear". For this to happen, you've got to create the controversy *in your case file* while the issue is still in the "administrative" (pre-trial) stage and long before it gets into court.

Once your case reaches the court, your goose is at least sauteed. When a defendant is tried by the government, we like to think of the case as being an impartial "trial" wherein the defendant might or might not be convicted. In reality, once the government gets you into court, the "trial" is typically just a sentencing hearing. For all practical purposes, you were "convicted" *administratively* long before government brought you before the judge. Sure, they'll provide the illusion of an "impartial trial," but typically the only issue before the parens patriae court is whether to give the defendant three years or five. Insofar as this generalization is valid, gov-co must be stopped *administratively*—*before* they get you into court.

If you're competent and blessed, and you create an important controversy *in your case file*, government will never admit you're right or that you've "won". Instead, they simply go away and leave you to wonder why they left (and worry when they'll be back). You win by default. Not because your arguments are perfect, but because they touch subjects government refuses to argue on the record. To avoid such public arguments, government sometimes abandons a prosecution.

Predators don't tell

Assuming this "battle in the case" strategy works, a default is all you'll get for presenting a credible claim of "unalienable Rights". No medals, no adulation from cheering crowds. Just a silent and unconfirmed victory that offers only the uneasy satisfaction of thinking that somehow, some way, maybe you've won.

Why do things work this way? Because parens patriae government sees itself as "king of the jungle" and us as its prey. Like all predators, a lion sometimes simply stops chasing an impala. The impala escapes but doesn't really know why. The lion never tells. If the prey knew exactly why the predator stopped chasing, it would be too easy for the prey to escape in the future.

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Government's predatory relationship to the American people is an unpleasant reality. But Americans must face that reality before they can take proper action to "right themselves by abolishing the forms to which they are accustomed"—and restore the (law)forms to which they're entitled by "Nature's God".

Will inserting copies of the Declaration, Constitution and judge's oaths into your case file may help precipitate that restoration? I think it's a good first step.