

Court Cases on Fictitious Names

Richard Anthony

The following court cases deal with objections to one's name being printed in capital block letters (all-caps). In every case, the court ruled that it is frivolous to argue how one's name is spelled and ruled against them. Many "patriots" (for profit) have used these court cases to "prove" that it does not matter how you spell a name (whether in all capital letters or not). But if it does not matter, why doesn't the court simply spell the name the way the accused asks them to? However, as will be seen, the reason for the courts ruling against these arguments was not because of how the name was spelled, but because the accused used the wrong arguments and submitted themselves to the courts jurisdiction! [Richard's comments in brackets].

Admitting It's Your Name

If a court calls out a name (which is fictitious), and the accused answers to that name, even if he says his name isn't spelled that way, **he is still admitting that it is his name!** The body of the accused is present, what does it matter how it's spelled now? Remember, either it **is** your name or it is **not** your name. If it's not your name, you don't answer to it. Period. Here's what happens if you do:

Russell v. US (WD Mich 1997) 969 F.Supp 24. "Petitioner...claims because **his name** is in all capital letters on the summons, he is not subject to the summons...completely without merit, patently frivolous, and will be rejected without expending any more of this court's resources."

[To argue that your name is spelled in all caps is wrong, because then you are admitting it is your name. A name spelled in all caps is not your name, and to say it is your name gives jurisdiction to the court. Instead of saying, "My name is spelled in all caps on your papers," one should say, "My godly name does not appear on your papers"].

Wyatt v. Kelly, Chief Bankruptcy Judge (WD Texas unpub 3/23/98) 44 USPQ2d 1578, 81 AFTR2d 1463, 98 USTC para 50326. Tried to sue judge for violating his **civil rights** by having **his name** printed in court documents in a way other than the "appellation" this crank prefers. Crank reacted by refusing to respond to prosecution's complaint whereupon the judge entered a Not Guilty plea on his behalf. Suit

against judge dismissed.

[#1: Civil Rights, which have men for their author, are an abomination to God because they create State Worship. If you partake of man's created rights, you are under the power of the creator of those rights (man). The creator determines what the created violated, not the other way around. #2: By him admitting "his name" was spelled incorrectly, he admitted it was his name, and he, again, gave jurisdiction to the court. #3: Scripture forbids us to go to courts of law, and commands us not to sue others, but to forgive others. Therefore, he gave jurisdiction to the court simply by being lawless in God's eyes.]

Gdowik v. US (Bankr. SD Fla unpub 7/23/96) 78 AFTR2d 6243 aff'd (SD Fla unpub 11/6/97) 228 Bankr.Rptr 481, 482 80 AFTR2d 8254. Claims that "the use of **his name** JOHN E GDOWIK is an 'illegal misnomer' and use of said name violates the right to his "lawful status" was rejected.

[Basically, John confessed to, and answered to, "his name" in all caps. Since by doing so, he gives jurisdiction to the court, it is no longer an "illegal misnomer."]

US v. Frech (10th Cir unpub 6/16/98) 149 F3d 1192(t). "Defendants' assertion that the capitalization of **their names** in court documents constitutes constructive fraud, thereby depriving the district court of jurisdiction and venue, is without any basis in law or fact."

[The defendants already admitted it was "their name", and answered to that name, so how can it be fraud? The court is correct].

Giving Wrong Reasons

US v. Washington (SDNY 1996) 947 F.Supp 87. "Finally, the defendant contends that the indictment must be dismissed **because** 'Kurt Washington,' spelled out in capital letters, is a fictitious name used by the Government to tax him improperly as a business, and that the correct spelling and presentation of his name is 'Kurt Washington.' This contention is baseless."

[The accused made the wrong argument. True, it is a fictitious name. However, to say it is used **because** the government wants to "tax him improperly as a business" is hypothetical and speculative. Opinions are not law and have no standing in law. There are other reasons why the government uses fictitious names, and to claim this one, without proof, is not a reason to dismiss the case].

Jaeger v. Dubuque County (ND Iowa 1995) 880 F.Supp 640 at 643. "The court finds Jaeger's arguments concerning capitalization

otherwise specious. The court routinely capitalizes the names of all **parties** before this court in all matters, civil and criminal, without any regard to their **corporate or individual** status..."

[Notice the court qualified the term "status." The court did not say "without regard to their status," but only to their "corporate or individual" status. Under the law, corporate and individual status is identical. **Maxim of Law:** "The law which governs corporations is the same as that which governs individuals." Jaeger's error was as follows; either he admitted he was an "individual," or he did not rebut the presumption by his accusers that he was an individual.]

Davis v. Deddens (SD Ohio unpub 4/18/98). "I believe that not only is this case subject to dismissal...but it is also subject to sanctions under Rule 11. Making a distinction between all-capital letters and capital and small letters is frivolous." Litigant tried to deny validity of traffic ticket because it printed the court's name in all-caps.

[It does not matter how the court's name is spelled (it was spelled correctly since it is a fiction). It has no bearing on the validity on a traffic ticket.] Similar court ruling in drug prosecution case *US v. Wacker* (10th Cir unpub 3/31/99).

Rippy v. IRS (ND Calif unpub 1/26/99). "Plaintiff's response...consists of nothing more than a protest against the capitalization of **his name** in the caption. Accordingly, summary judgment is granted in favor of defendants and against plaintiff." The same ruling is in *Hancock v. State of Utah* (10th Cir unpub 5/10/99) 176 F3d 488(t).

US v. M.L. Lindsay (10th Cir 7/1/99) F3d, 99 USTC para 50648, 84 AFTR2d 5102. Tax evasion defendant's refusal to read court papers that capitalized **his name** and his other misbehavior justified the court refusing to reduce his sentence.

Stoecklin v. US (MD Fla unpub 12/8/97). "Tax evader complained of **his name** being in a prior order issued by this court and then...makes and incorrect reference to this form of using all capital letters as being proper only in reference to corporate entities. This is an incorrect statement of the law...is illustrative of [his] continued harassing and frivolous behavior."

Boyce v. CIR (9/25/96) TC Memo 1996-439 aff'd (9th Cir 1997) 122 F3d 1069. An objection to the spelling of **petitioners' names** in capital letters because they are not "fictitious entities" was rejected.

US v. Lindbloom (WD Wash unpub 4/16/97) 79 AFTR 2d 2578, 97 USTC para 50650. "In this submission, Mr. Lindbloom states that he and his wife are not proper defendants to this action because **their names** are not spelled with all capital letters as indicated in the civil

caption." The CAPS argument and the "refused for fraud" contention were rejected.

Similar Cases

Sadlier v. Payne (D Utah 1997) 974 F.Supp 1411. Crank called it "killed on paper".

Braun v. Stotts (D Kan unpub 6/19/97) aff'd (10th Cir unpub 2/4/98).

Vos v. Boyle (WD Mich unpub 4/11/95).

Liebig v. Kelly-Alle (EDNC 1996) 923 F.Supp 778).

US v. J.F. Heard (ND WV 1996) 952 F.Supp 329).

Napier v. Jones (WD Mich unpub 2/10/95).

Wacker v. Crow (10th Cir unpub 7/1/99).

Brown v. Mueller (ED Mich unpub 6/24/97).

Harvard v. Pontesso (6th Cir unpub 8/8/97) 121 F3d 798(t).

State v. Martz (Ohio App unpub 6/9/97).

Cole v. Higgins (D. Ida unpub 1/23/95) 75 AFTR2d 1102 rept adopted (D. Ida unpub 2/27/95) 75 AFTR2d 1479 aff'd (9th Cir 4/1/96) 82 F3d 422(t), 77 AFTR2d 1586.

Capaldi v. Pontesso (6th Cir 1998) 135 F3d 1122.

Russell v. US (WD Mich 1997) 969 F.Supp 24.

In re Shugrue (Bankr. ND Tex 1998) 221 Bankr. Rptr 394.

Punctuation

The following court cases deal with objections to having no punctuation in the midst of one's name.

Rosenheck & Co. Inc. v. US ex rel IRS & Kostich (ND Okla unpub 4/9/97) 79 AFTR2d 2715. "Kostich has made the disingenuous argument that the IRS documents at issue here fail to properly identify him as the taxpayer. Defendant Kostich contends his 'Christian name' is Walter Edward, Kostich, Junior and since the IRS documents do not contain his 'Christian name,' he is not the **person** named in the Notice of Levy. The Court expressly finds Defendant WALTER EDWARD KOSTICH JR. is the **person** identified in the Notice of Levy, irrespective of the commas, capitalization of letters, or other alleged irregularities Kostich identifies as improper. Similarly, the Court's finding applies to the filed pleadings in this matter."

[The court is right when it says WALTER EDWARD KOSTICH JR is the person identified in the document, because this capitalized name is a person and it does appear on the document! The judge was not referring to Kostich, but to KOSTICH. In addition, Kostich said he is not the "person" named, but since he

admitted to being a "person," that gave the court jurisdiction. The government has jurisdiction over all persons, but not all men. All persons are not men.]

Person: "In law, man and person are not exactly-synonymous terms." *Bouvier's Law Dictionary, 1856, 1 Bouv. Inst. n. 137.*

"...not every human being is a **person**..." *Black's Law Dictionary, 4th ed. 1957 & 1968, p.1300.*

State v. R.E. Wilson (Mont.Supm unpub 12/3/98). Appellant argued that his convictions, for **driving** without a license or insurance or registration, was invalid **solely because** the court papers identified him as "Richard E. Wilson," whereas he claimed his actual name is "Richard Earl., of Wilson" (period after Earl and no capital for Wilson), consisting of his "nomen, pronomen and cognomentation" in that order. The court rejected this argument by ruling, "The caption more than adequately identifies [the] appellant as the party in interest...and appellant's efforts to distinguish his name from that shown on the caption by means of punctuation and terminology are wholly unpersuasive."

[The appellant basically argued that he can drive without a license **solely** because the court misspelled his name. This is not true. #1: The way a court spells a name is not an excuse for driving without a license. The reason for exercising your duty of movement on the common way is **solely** because Christ commanded us to do so without permission from men. #2. The fact that he admitted to "driving" gave them jurisdiction because it's a commercial term. #3: He admitted to being, or did not refute the accusation that he was, an "appellant" and a "party" to the action, which gave the court jurisdiction.]

And approximately at the same time, *The Cincinnati Enquirer (12/16/98)* reported that an Ohio court rejected that a defendant who had taken to identifying himself as "Jack Edward; Taylor" was not the jack Edward Taylor" named in the court documents, especially since there were plenty of old letters and other papers **he had signed** in the usual way and sometimes without his middle name. The verdict was rebutted on use of semicolon. [

This defendant, by his own act, showed himself to be a false witness by signing his name on other pieces of paper the same way that he himself said it was not spelled. By signing his name to the "fictitious name" in all caps, he stood as surety in the flesh for the "person" the State created. He became "one flesh" and merged with a lie. The State used his own evidence against him. This is God's rod of correction for having a double mind.]

US v. Weatherley (ED Penn 1998) 12 F.Supp.2d 469. **Threatened to sue** the court clerk and others if they didn't address all their mail and

paperwork to a very strange and long description of him with his name interrupted by a colon and his street address without a zip code.

[Followers of Christ are forbidden to sue others (1 Corinthians 6:1-8) and it is not the character of a bondman of Christ to use threats against others. The words we speak will be used to judge us as to whether we are truly of God, or of the world.]

US v. Klimek (ED Penn 1997) 952 F.Supp 1100. Tried to refuse all pleadings and court papers that spelled **his name** in all caps and without intervening punctuation.

Swartzendruber v. US (WD Mo unpub 4/17/97). Threatened to refuse any court papers that printed **her name** in the normal way or which were addressed in the normal way, didn't help because her case was immediately dismissed.

In re Busby (MD Fla unpub 10/2/98) 82 AFTR2d 6924. Used colon in midst of name in pleadings, but case option had normal name.

Similar Cases

US v. Warren (ND NY unpub 1/22/98).

Schneider v. Schlaefer (ED Wisc 1997) 975 F.Supp 1160.

Frech v. Incorporated Case (10th Cir unpub 7/24/97).

Ex parte Evans (1997) 40 Tex. SupmCt. Jnl 364, 939 SW2d 142.

Smith v. Rubin (10th Cir unpub 3/9/98) 81 AFTR2d 1096, 98 USTC para 50247.

Bey v. Smith (SDNY unpub 8/1/97).

US v. Gamble (ND IL unpub 12/3/96).

Bixler v. Cir (7/23/96) TC Memo 1996-329.

W.E. Johnson v. Starkey (ED NC unpub 9/3/98) 82 AFTR2d 6950.

Tabron v. Starkey (ED NC unpub 8/24/98) 82 AFTR2d 6448.

Smith v. Kitchen (10th Cir 1997) 156 F3d 1025, 97 USTC para 50107

Farm Credit Bank of Wichita v. Devous (WD Okl 1996) 933 F.Supp 1028.

Farm Credit Bank of Wichita v. Powers (Okla.App 1996) 919 P2d 31.

US v. Lerch (ND Ind unpub 3/28/97) 79 AFTR2d 2195.

Kish v. CIR (1/13/98) TC Memoc1998-16.

Leverenz v. Torluemlu (ND IL unpub 6/13/96).

Simon v. Thalken (D Neb unpub 7/17/97) 80 AFTR2d 6281 app.dismissed (D Neb unpub 7/27/97).

Dulisse v. Twardowski (ED Penn unpub 7/16/98).

DiLouie v. Padova (ED Penn unpub 3/18/98).

Lang v. Dieleuterio (D NJ unpub 2/17/99).

Rodrock v. Foulston (10th Cir unpub 6/12/98) 98 Colo. JCAR 3155.

Three Final Cases

The Supreme Court held in *Grannis v. Ordean* (1914) 234 US 385 at 395, that "even in names, due process of law does not require ideal accuracy. In the spelling and pronunciation of proper names there are no generally accepted standards, and the well-established doctrine of **idem sonans**...is recognition of this." In that case, a person with the unusual name of Albert Gilfuss ignored the delivery of a summons and court pleadings against "Albert Gilfuss" (presumably typed in all-caps) and the default judgment against him was binding. A similar ruling on a misspelling on an indictment in *Faust v. US* (1896) 163 US 452.

[Idem Sonans is when a name sounds the same, but spelled differently. And thus why, if you answer to a name that sounds the same as yours, yet is spelled in all caps, you give the court jurisdiction. So don't answer! Also, notice that Albert had these papers "delivered" to him, insinuating he had an address, which gave the court jurisdiction.]

In a Missouri arraignment in 1996, "one of the 'freemen' stood up to announce that...he refused to recognize anything but his 'full Christian name' (evidently not printed in all caps and with some punctuation). This resulted in an unusual scene. An arrest warrant was issued and executed for the defendant's failure to appear at his arraignment even though he was physically present in the court room." *J.W. Nixon & E.R. Ardini, Combating Common Law Courts, Criminal Justice, spring 1998, p.14.*

[This is why it is so important not to appear before their courts. Take note of these:

Maxims of Law:

The presence of the body cures the error in the name; the truth of the name cures an error in the description.

An error in the name is immaterial if the body is certain.

An error in the name is nothing when there is certainty as to the person.

The truth of the demonstration removes the error of the name.

A general appearance cures antecedent irregularity of process, a defective service, etc.

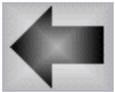
Certain legal consequences are attached to the voluntary act of a person.]

In one instance, a federal judge, confronted with a tax protester whose argument consisted of the fact that all the tax and legal documents spelled **his name** out in capitals in a normal way while he insisted his name was spelled out with capitals and lower case letters

and with punctuation in the middle (i.e. Edgar Francis., Bradley), ordered him to undergo psychiatric examination (which subsequently found him to be competent to stand trial). *B.L. Kaufman, Judge Orders Defendant Tested, Cincinnati Enquirer, 6/17/98.*

[Can you blame the judge? Here is a guy admitting the name on these documents **is** his name! Then turns around and says it's **not** his name (because it's not spelled that way). This guy is obviously confused (or deceived)]

So remember, if a court yells out a name that "sounds" like your name, and you know that the name called out is not your name (because the court has spelled it in all capital letters), then do not answer to that fictitious name!



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