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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

JUL 17 2023

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RALAND J BRUNSON,

Plaintiff,

vs.

SONIA SOTOMAYOR, et al.,

Defendants.

**OBJECTION TO REPORT AND
RECOMMENDATION**

Case No. 1:23-cv-00042-HCN-JCB

Judge: Howard C. Nielsen

Magistrate Judge: Jared C. Bennett

Plaintiff Raland J Brunson (“Brunson”) hereby moves this court with his *Objection To Report And Recommendation* Submitted by the honorable Magistrate Judge Jared C. Bennett and states:

ARGUMENT

Brunson, based upon the following grounds, hereby objects to the REPORT AND RECOMMENDATION (“R&R”) filed by the Magistrate Judge Jared C. Bennett on July 7, 2023 (ECF 18).

The R&R states that this court lacks subject matter jurisdiction and that Brunson failed to identify a waiver of sovereign immunity.

The importance of this case is extreme. Brunson’s opposition states with legal authority that his right to bring his claims against Defendants invokes subject matter jurisdiction because the claims exposes acts of treason upon which immunity is not given, nor would it be

constitutional if it were. There is no immunity given for giving aid and comfort to enemies of the United States, which is treason. The Constitution was not written to protect treason by giving any immunity to any governmental position of any level at all. So in this case the Defendants cannot claim to have any immunity. See the whole of Brunson's opposition.

On footnote 23 of the R&R, it makes the claim that they've received hundreds of letters. Closer to the truth is that the court has received over 9,719 letters from across the country as of July 17, 2023. We the People are requiring the Defendants to answer the claims of this case because they know that the Defendants do not have any immunity under Brunson's claims, and they want to see justice served.

Again, the R&R states that this court lacks subject matter jurisdiction and that Brunson failed to identify a waiver of sovereign immunity. In support of this argument the R&R cites the cases of, but not limited to, *Wyoming, James, United States, Minnesota, Crow, Arizona, Bowers, Kokkonen, Koch, Holt*, and the R&R also cites 28 U.S.C. § 1441 & 1442. Brunson objects to these citations and arguments because to apply them in Brunson's case, which have no bearing under Brunson's claims, is an attempt to rewrite the Constitution which is an act of treason.

The R&R sets out to destroy the importance and the divinity associated with the oath of office found in Brunson's opposition. Despite the fact that the oath is the supreme law of the land, it is the edict of the R&R that the oath is subject to this court, and that it is this court that is the supreme law of the land, not the oath.

The R&R did not address Brunson's oath of office argument nor that our founding fathers incorporated themselves as "We the People" in order to establish a government away from the doctrine that a king that can do no wrong by having no king at all—no king, no sovereign immunity—this is the Constitution of the United States! What the R&R did state is that pursuant

to the case of *Alden v. Main*, 527 U.S. 706, 715-16 (1999) that the doctrine of sovereign immunity was a foundational concept from the framers of the Constitution. This “foundational concept”, as R&R puts it, has a different meaning than what R&R coins them to be. The case of *Alden* explains further that “If a colonial lawyer had looked into Blackstone for the theory of sovereign immunity, as indeed many did, he would have found nothing clearly suggesting that the Colonies as such enjoyed any immunity from suit.” And that ““The Constitution thus contemplates that a State's government will represent and remain accountable to its own citizens.” Printz, 521 U. S., at 920” (751) and “Justice Wilson's position in *Chisholm*: that because the people, and not the States, are sovereign, sovereign immunity has no applicability to the States.” [778] and ““To the Constitution of the United States the term SOVEREIGN, is totally unknown. There is but one place where it could have been used with propriety. But, even in that place it would not, perhaps, have comported with the delicacy of those, who ordained and established that Constitution. They might have announced themselves ‘SOVEREIGN’ people of the United States: But serenely conscious of the fact, they avoided the ostentatious declaration.” 2 Dall., at 454. [783] . . . “This last position [that the King is sovereign and no court can have jurisdiction over him] is only a branch of a much more extensive principle, on which a plan of systematic despotism has been lately formed in Eng- land, and prosecuted with unwearied assiduity and care. Of this plan the author of the Commentaries was, if not the introducer, at least the great supporter. He has been followed in it by writers later and less known; and his doctrines have, both on the other and this side of the Atlantic, been implicitly and generally received by those, who neither examined their principles nor their consequences[.] The principle is, that all human law must be prescribed by a superior. This principle I mean not now to examine. Suffice it, at present to say, that another principle, very different in its nature and operations, forms, in

my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. The sovereign, when traced to his source, must be found in the man. " Id., at 458."

[784] (brackets added to show page numbers)

Alden also stated that “. . . petition of right as an appropriate and normal practice. [791] . . . "there was no unanimity among the Framers that immunity would exist," [793] . . . It would be hard to imagine anything more inimical to the republican conception, which rests on the understanding of its citizens precisely that the government is not above them, but of them, its actions being governed by law just like their own. Whatever justification there may be for an American government's immunity from private suit, it is not dignity. [35] See *United States v. Lee*, 106 U. S. 196, 208 (1882). [803] . . . "If an act of parliament be made for the benefit of any person, and he is hindered by another of that benefit, by necessary consequence of law he shall have an action; and the current of all the books is so" (citation omitted).[41] *812 Blackstone considered it "a general and indisputable rule, that where there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded." 3 Blackstone. The generation of the Framers thought the principle so crucial that several States put it into their constitutions.[42] And when Chief Justice Marshall asked about *Marbury*: "If he has a right, and that right has been violated, do the laws of his country afford him a remedy?," *Marbury v. Madison*, 1 Cranch 137, 162 (1803), the question was rhetorical, and the answer clear: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and

he never fails to comply with the judgment of his court." *Id.*, at 163” [812]. (Brackets added to show page numbers)

So R&R’s claim that the foundational concept of sovereign immunity of our founders as being favorable for Defendants is wholly inaccurate and as such grants Brunson’s opposition, therefore Brunson moves this court to disregard the R&R and deny Defendants motion to dismiss.

The R&R states that Brunson failed to incorporate any authority supporting his claim that his right to petition the government for redress of grievances under the First Amendment. In addition to this being wholly inaccurate, the R&R cited authority which actually supports Brunson’s opposition, that being the case of *Alden*, as stated above. Again, this favors Brunson to which the R&R purposely ignored and would not address. This is more than just a violation of due process, which is the right to be heard¹, rather its supports acts of treason.

The R&R also went on to state that Brunson failed to cite any authority supporting his claim that the doctrine of sovereign immunity is unconstitutional and that the court is unaware of any. The R&R ignored all the legal authorities cited by Brunson that are paramount to Brunson’s argument in opposition and how under this case the doctrine of sovereign immunity is unconstitutional and cannot be applied. The legal authority cited by Brunson include those under the Constitution: Article I Section 9 Clause 8, Article VI, Article III, Amendments 1, IX, and XIV Section 3, in addition to the cases of *American Bush v. City Of South Salt Lake*, 2006 UT 40 140 P.3d.1235, and *New York State Rifle & Pistol Association, Inc., et al. v. Bruen, et al.*, 597 U. S. ____ (2022), and [*Puerto Rico v Brandstad, Governor of Iowa* (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187]. These are just some of the authorities that the R&R ignored.

¹ “(. . . an opportunity to be heard in a meaningful way are at the very heart of procedural fairness . . .)” *Brent Brown Dealerships v. Tax Com’n, MVED*, 2006 UT App 261.

Why didn't the R&R specifically address these authorities and point out how they are wrong? They are wrong because the R&R states so?

As stated in Brunson's opposition, Brunson's causes of actions are derived from the oath of office of the Constitution of the United States, and Brunson's complaint alleges that Amendment I of the Constitution states that Congress shall make no law prohibiting Brunson's right to petition the Government for redress of grievances. And that the Government is first subject to Brunson's rights, and that the Constitution grants no rights to the people, instead Brunson's individual rights are guarded and protected by the Constitution. And, pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would violate Brunson's individual rights which is the supreme law of the land, and that the Constitution is a restriction against the Government and not against Brunson's rights. *See* pages 1-5 of Brunson's complaint. The case of *Alden* supports this while the R&R has decided otherwise in violation of the oath of office.

Brunson's claims supersede the necessity of requiring a waiver of sovereign immunity and inherently invokes subject matter jurisdiction under the supreme law of the land as cited by legal authority found in Brunson's opposition. Again, the R&R did not address how that this is wrong only that it says it is.

WHEREFORE, in the name of justice and of due process, and in the name of "*We the People*" and as an act to preserve, defend and protect the Constitution in honor of the oath of office, which was inspired by God, Brunson moves this court to deny both the R&R and Defendants' Motion with an order to answer Brunson's complaint within 10 days or be in default.


Humbly submitted this the 17th day of July, 2023.


Raland J Brunson, Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of July, 2023 I personally placed in the United States Mail to the individuals named below a true and correct copy of **OBJECTION TO REPORT AND RECOMMENDATION**.

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