

EXHIBIT "C".

Eric Richard; eleson®, Secured Party
In Care Of: MULE CREEK STATE PRISON
Fac. C-11-210 Low [J-59564]
U.S.P.S. Box 409060
Ione, California
Near [PZ: 95640-9060] N. America
Authorized Representative for and via,
ERIC RICHARD ELESON®, Trust (J-59564)

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MOLLY G. DWYER, CLERK
U.S. COURT OF APPEALS

SEP 30 2015

FILED _____
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DATE _____ INITIAL _____

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Eric Richard; eleson®, Secured Party,
Tertius Interveniens/Auth. Rep. ex rel.,
ERIC RICHARD ELESON®, J-59564, Trust,
(a legal fiction),

Petitioner,

vs.

JOE A. LIZARRAGA, Warden,
EDMUND G. "JERRY" BROWN, JR.,
GOVERNOR - STATE OF CALIFORNIA,

Respondents.

) Case No. 15-16697
)
) LOWER COURT #1:15-CV-00008-LJO-SAB (HC)
) SUPREME COURT #S-216294
) LOWER COURT #CRW-42088;
)
) PETITIONER'S SECOND (2nd) DEMAND FOR
) JUDICIAL NOTICE; CONSTITUTIONAL CHALLENGE
) PURSUANT TO FEDERAL RULES OF EVIDENCE,
) RULE 201 and FRCvP Rule 5.1(b)/28 USC
) §2403 FOR "FAILED" TREATY OF ANNEXATION &
) FRAUDULENT JOINT RESOLUTION OF 1897.-
) ESTABLISHING "STATE OF HAWAII DOES NOT
) LEGALLY EXIST; EXHIBITS "1" & "2";
) CERTIFICATE OF SERVICE BY MAIL

OFFICIAL NOTICE REQUESTED (Stat. 1945, Ch. 867, pg. 1633, §1)
JUDICIAL NOTICE REQUIRED (Stats. 1965, Ch. 299, §2)
FEDERAL RULES OF EVIDENCE; RULE 201

COMES NOW, Eric Richard; eleson®, Secured Party, Tertius Interveniens/
Authorized Representative for Petitioner, ERIC RICHARD ELESON®, J-59564,
Trust, and submits his SECOND (2nd) DEMAND FOR JUDICIAL NOTICE, and CHALLENGE
TO THE CONSTITUTIONALITY OF STATUTES/ACTS, pursuant to Federal Rules of
Evidence, Rule 201, and FRCvP Rule 5.1/28 USC §2403, of the following:

1. Article II, §2, Cl.2 of the Constitution for the United States of America.
2. The Non-Ratified TREATY OF ANNEXATION (of the Kingdom/Nation of Hawai'i) of 1897 (Article II, §2, Cl. 2-US Const.) establishing (Alleged) STATE OF HAWAII is NOT a STATE OF UNITED STATES, due to the FACT that the alleged TREATY OF ANNEXATION of 1897 WAS NOT Ratified by 2/3's of the Senators present, and therefore FAILED (See: Exhibit "1").

3. The (alleged) JOINT RESOLUTION (July 1897) allegedly passed by the U.S. Congress (in violation of Art. II, §2, Cl. 2 of the U.S. Constitution), allegedly adopting the TREATY OF ANNEXATION, annexing the Kingdom/Nation of Hawai'i, IS A FRAUD!

Petitioner states that the alleged (illegal) conviction from "STATE OF HAWAII" in 1984, which was used by the alleged COUNTY OF TUOLUMNE DISTRICT ATTORNEY to fit Petitioner's alleged Case into the "criteris" for alleged 3-Strikes Sentencing status (Stats 1994, Ch. 12, §1) in violation of the Constitutional prohibition of passing Ex-Post Facto Laws (Art. IV, §10 - CA Const.), is now proven to be ULTRA VIRES, as said alleged conviction is NOT from another "State," but from another "Nation." The alleged Stats. 1994, Ch. 12, §1, DOES NOT contemplate, nor claim authority/jurisdiction to "Legislate" regarding alleged crimes taking place in another Nation/Country.

This "new Evidence" of which this Court has a Duty to Judicially Notice, establishes that STATE OF HAWAII is a "LEGAL NULLITY," as the "occupied" KINGDOM OF HAWAI'I was NOT, in fact, legally Annexed by the UNITED STATES to become a Territory which could "evolve/be voted" into a STATE of the UNION, and be included in the "terms" of the alleged Stats. 1994, Ch. 12, §1!

CONSTITUTIONAL CHALLENGE

Petitioner challenges the Constitutionality of the alleged "JOINT RESOLUTION" (July 1897) "To Adopt the Treaty of Annexation" (of the Kingdom of Hawai'i). (See Exhibit "2").

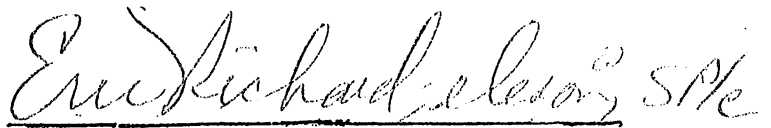
In question form: "Does the Congress of UNITED STATES have the Constitutional authority to create and allegedly pass a "JOINT RESOLUTION" to adopt a "Treaty of Annexation" in violation of the EXPRESS terms of a Constitutional provision (Art. II, §2, Cl. 2) that would Constitutionally empower the UNITED STATES to acquire another sovereign Country?"

The answer to this question must be a resounding NO! This alleged JOINT RESOLUTION was nothing more than an illegal and unconstitutional attempt to meet the numerical requirements of the aforesaid Constitutional provision of "... 2/3 of the Senators present, concurring." A look at the record Vote on the J.R. which is purported to be passed is: 42 ayes, and 21 noes in the Senate (an exact 2/3rd's); and 209 ayes and 91 noes in the House (more than 2/3rd's). However, upon closer review, the number of Senators actually "present" was ~~88~~ 86. Therefore, it is evident that those Senators present and NOT voting were not counted (for the 2/3 ratio). This also proves that the 42 ayes was NOT even a "simple majority," and the FRAUD of the J.R. should have been recorded as "FAILED," just like the Treaty!

Either way, this newly discovered Evidence VOIDS the "USE" of the alleged conviction (from Hawaii) and confirms the Petitioner's Claim as stated in Ground SEVEN of the Petition (supported by Exhibit "11") and further establishes that Petitioner was/is, ipso facto, allegedly "subject to the alleged '2-Strike' criteria," and Petitioner was Fraudulently DENIED Due Process, ab initio, at Trial when he provided the Evidence of "NO GOVERNOR of STATE OF HAWAII."

In question form: Can the STATE OF CALIFORNIA/COUNTY OF XXX (TUOLUMNE) use an alleged conviction from another Country/Nation as a "prior Strike conviction" to place Petitioner into the alleged criteria of Stats. 1994, Ch. 12, §1? this Court must answer NO!

Dated this 27th Day of September, 2015, c.e. Respectfully submitted,



Eric Richard; eleson[®], Secured Party,
Tertius Intervenians/Auth. Rep., ex rel.,
ERIC RICHARD ELESON[®], Trust (J-59564),
Exemption No. 559828464 (*juris et de jure*)
Holder-In-Due-Course, Record Owner
Trade Name Owner, Sovereign American
Bond No. C-52971371

TREATY OF ANNEXATION OF REPUBLIC OF HAWAI'I & JOPE

EXHIBIT

“1”

TREATY OF ANNEXATION BETWEEN THE REPUBLIC OF HAWAII AND THE UNITED STATES OF AMERICA

The Republic of Hawaii and the United States of America, in view of the natural dependence of the Hawaiian Islands upon the United States, of their geographical proximity thereto, of the preponderant share acquired by the United States and its citizens in the industries and trade of said islands, and of the expressed desire of the Government of the Republic of Hawaii that those islands should be incorporated into the United States as an integral part thereof, and under its sovereignty, have determined to accomplish by treaty an object so important to their mutual and permanent welfare.

To this end the high contracting parties have conferred full powers and authority upon their respectively appointed plenipotentiaries, to wit:

The President of the Republic of Hawaii, Francis March Hatch, Lorrin A. Thurston, and William A. Kinney.

The President of the United States, John Sherman, Secretary of State of the United States.

ARTICLE I.

The Republic of Hawaii hereby cedes absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies; and it is agreed that all the territory of and appertaining to the Republic of Hawaii is hereby annexed to the United States of America under the name of the Territory of Hawaii.

ARTICLE II.

The Republic of Hawaii also cedes and hereby transfers to the United States the absolute fee and ownership of all public, government, or crown lands, public buildings or edifices, ports, harbors, military equipments, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition. Provided, that all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

ARTICLE III.

Until Congress shall provide for the government of such islands, all civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaty (treaties) so extinguished, and not inconsistent with this treaty, nor contrary to the Constitution of the United States, nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands, the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

ARTICLE IV.

The public debt of the Republic of Hawaii, lawfully existing at the date of the exchange of the ratifications of this treaty, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed \$4,000,000. So long, however, as the existing government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided, said Government shall continue to pay the interest on said debt.

ARTICLE V.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States, and no Chinese by reason of anything here contained shall be allowed to enter the United States from Hawaiian Islands.

ARTICLE VI.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Territory of Hawaii as they shall deem necessary or proper.

ARTICLE VII.

This treaty shall be ratified by the President of the Republic of Hawaii, by and with the advice and consent of the Senate, in accordance with the Constitution of the said Republic, on the one part; and by the President of the United States, by and with the advice and consent of the Senate, on the other, and the ratifications hereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done in duplicate at the city of Washington this sixteenth day of June, one thousand eight hundred and ninety seven.

"[SEAL] (Sig.) FRANCIS MARCH HATCH.

"[SEAL] (Sig.) LORRIN A. THURSTON.

"[SEAL] (Sig.) WILLIAM A. KINNEY.

"[SEAL] (Sig.) JOHN SHERMAN."

I hereby certify that the foregoing resolution was unanimously adopted at the special session of the Senate of the Republic of Hawaii on the 9th day of September, A. D. 1897.

WILLIAM C. WILDER, President.

Attest:

J. F. CLAY,

Clerk of the Senate.

Pres. of the SENATE

/s/ William McKinley

PRESIDENT OF THE UNITED STATES

TREATY OF ANNEXATION OF HAWAI'I

OFFICIAL SENATE VOTE *

52	AYES
28	NOES
9	abstentions
89	Total Senators present

$$\frac{52}{89} = \frac{x}{100}$$

	58.427
89	5200.000
	<u>445</u>
	750
	<u>712</u>
	380
	<u>356</u>
	240
	<u>178</u>
	620
	623

This equals to 58.5% of the
Senators present. The
TREATY FAILS.

*This Official Vote can be found at:

<http://www.govtrack.us/congress/votes/>

(ALLEGED) JOINT RESOLUTION ADOPTING TREATY OF ANNEXATION OF HAWAI'I & VOTE

EXHIBIT

“2”

JOINT RESOLUTION OF THE U.S. SENATE AND U.S. HOUSE OF REPRESENTATIVES, SIGNED BY PRESIDENT MCKINLEY, TO ACCEPT THE TREATY OF ANNEXATION OFFERED BY THE REPUBLIC OF HAWAII (also known as the "Newlands Resolution" named after the Congressman who introduced it)

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution to cede absolutely and without reserve to whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, government, or crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all civil, judicial and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have the power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

- The public debt of the Republic of Hawaii, lawfully existing at the date of passage of this joint resolution, ~~including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the~~ Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing government and the present commercial ~~relations of the Hawaiian Islands are continued as hereinbefore provided said government shall continue~~ to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or many hereafter be allowed by the laws of the United States; no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

SERENO E. PAYNE,
Speaker of the House of Representatives Pro Tempore.

GARRET A. HOBART,
Vice-President of the United States and President of the Senate.

Approved, July 7th, 1898.
WILLIAM McKINLEY

THE (ALLEGED) JOINT RESOLUTION ADOPTING
THE TREATY OF ANNEXATION OF REPUBLIC OF HAWAII
OFFICIAL SENATE VOTE *

42 AYES
21 NOES
25 Abstentions
88 Senators present

$$\frac{42}{88} = \frac{x}{100}$$

$$\begin{array}{r} \frac{47.7272}{88)4200.00} \\ \underline{352} \\ 680 \\ \underline{616} \\ 640 \\ \underline{616} \\ 240 \\ \underline{176} \\ 640... \end{array}$$

= 48%!

This Vote does not equal even a simple Majority, let alone a 2/3rd of those present!

ONLY by NOT counting the Abstentions does it appear to be a 2/3rd Vote!

* This Vote can be found at:

THIS IS FRAUD!

<http://www.govtrack.us/congress/votes/55-2/s329>

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby declare that I am over the age of 18 years, and I am a party to the foregoing cause of action, and that on this 27th day of September, 2015, c.e., I placed the below-titled legal documents in the U.S. Mail postage prepaid.

2nd DEMAND FOR JUDICIAL NOTICE OF ARTICLE II, §2, Cl. 2 of the
CONSTITUTION FOR THE UNITED STATES OF AMERICA

"FAILED" TREATY OF ANNEXATION (of Kingdom of Hawai'i) (1897)
FRCvP Rule 5.1(b)/28 USC §2403

CONSTITUTIONAL CHALLENGE

FRAUDULENT "JOINT RESOLUTION" of 1897 (allegedly) Adopting Treaty

which were addressed to the below-named persons:

1. CLERK OF COURT
district court of the United States
2500 TULARE STREET
FRESNO, CA 93721
2. KAMALA HARRIS
ATTORNEY GENERAL
STATE OF CALIFORNIA
1300 "I" STREET
SACRAMENTO, CA 95814
3. Cassie Hulali Eleson
13787 SW Farmington Rd., #130
Beaverton, Oregon 97005
4. BENJAMIN B. WAGNER
U.S. ATTORNEY'S OFFICE
501 "I" STREET, RM 10-100
SACRAMENTO, CA 95814
5. LORETTA LYNCH
U.S. ATTORNEY GENERAL
950 PENNSYLVANIA AVENUE NW
WASHINGTON, D.C. 20530
6. Clerk of Court
9th Circuit Court of Appeal
95 Seventh St.
San Francisco, CA 94103-1526

I, Eric Richard, surnamed eleson®, hereby declare under pain and penalty of "thou shalt not bear false witness" (Exodus 20:16), and the laws of the united States of America and the Original Organic Jurisdiction of California Republic, that the foregoing is true, correct and completer, so help me GOD.

Eric Richard Eleson®
Declarant