

ABATEMENT - MAN BEATS IRS!

by Kenny Adler

The following transcript details a defendant beating the I.R.S. in just about the shortest amount of time I've ever seen. This is a 1994 case in California, and I have tried to copy it perfectly from my copy of the court reporter's transcript. The case number is crossed out in the middle, as is this man's last name. I shall use a series of x's to show where words were crossed out, presumably by the defendant, before distribution. Please pay special attention to the capitalization of words throughout the document. They are as the clerk capitalized them.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE JOHN G. DAVIES, JUDGE PRESIDING

UNITED STATES OF AMERICA)
)
 Plaintiff(s))
)
 vs.) NO. CV-94 xxxxx -JGD
)
RANDY L. OxxxxxxxxR)
_____Defendant(s)_)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
Los Angeles, California - Monday, March 21, 1994

BEVERLY A. CASARES CSR# 8630
Official Court Reporter
312 North Spring Street, Room 440
Los Angeles, California 90012
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APPEARANCES:
FOR PLAINTIFF(S) GREGORY A. ROTH
 312 N. Spring Street
 Los Angeles, California 90012
 (213) 894-2410
FOR DEFENDANT(S) RANDY L. OxxxxxxxxR

LOS ANGELES, CALIFORNIA; MONDAY, MARCH 21, 1994; 1:30 P.M.

THE CLERK: Item number 6, case number CV-94xxxxx, United States of America versus Randy L. Oxxxxxxxxr.

MR. ROTH: Good afternoon, your Honor, Assistant U.S. Attorney Gregory Roth appearing on behalf of the United States, and its agency the Internal Revenue Service.

THE COURT: Is there any opposition?

MR. OxxxxxxxxR: For the record.

THE COURT: Yes.

Mr. OxxxxxxxxR: My Christian name is Randy Lee and my family name is Oxxxxxxxxr.

THE COURT: All right.

MR. OxxxxxxxxR: That is spelled capital R, lower case, a-n-d-y, capital L, lower case e-e, capital O, lower case x-x-x-x-x-x-x-x-r.

I have responded to this petition, because it was found on the door of the place where I take up housekeeping, and attempts to create a colorable persona under colorable law by the name of capital R-A-N-D-Y L period, O-x-x-x-x-x-x-x-R. The artifice being used here to deceive this Honorable Court must be abated as a Public Nuisance.

For the record Randy Lee and Jesus the Christ Advocate and Wonderful Counselor are using the Right of Visitation to exercise the Ministerial Powers to be heard on this matter.

I, Randy Lee am a native Californian and a Man on the Land in Los Angeles County, not a resident in the Federal Judicial District in the Central District of California.

My Colors and Authority is the California Bear Flag with the Gold star. My Law is My Family Bible. And my Status is shown by the Seal of the People.

I am who I say I am, not who the U.S. Attorney says I am. Further I sayeth not and I stand mute.

THE COURT: All right. Please take your things off of the podium and sit down at your table. Mr. Roth, do you have any response to this alleged case of mistaken identity.

MR. ROTH: Well, your Honor, Mr. Oxxxxxxxxr seems to think that if you spell your name in upper and lower case, it relieves him of compliance.

THE COURT: Thank you, Mr. Roth. Please call the next case clerk.

(Proceedings concluded.)

C E R T I F I C A T E

I hereby certify that the foregoing matter entitled UNITED STATES OF AMERICA versus RANDY L. OxxxxxxxxR No. CV-94 xxxx -JGD is transcribed from the stenographic notes taken by me and is a true and accurate description of the same.

_____(signed)_____. 3/25/94_____.

BEVERLY A. CASARES CSR# 8630, Official Court Reporter

I have been told that this defense has been used many times, with success each time.

Another dozen people did what he did under his direction over the next few months after his case, which was the first. None of these people have had anything further happen to them on these matters.

He also told me that his brother had a federal warrant out for his arrest. The federals attempted to serve it when he wasn't home. He took the arguments used in court and did an abatement on them, and later received proof that the warrant was withdrawn (I forget the actual word that Randy used, but it was somehow nullified).

Randy speculates that a name in ALL CAPS means a person subject to military jurisdiction, which fits in

perfectly with what I've been saying over the past couple years.

I FOUND THE ANSWER! Here is a short section from 1 Corpus Juris on abatement. This will explain a lot of what happened in this case.

Definition, Nature, and Effect of Abatement

[1] A. DEFINITION. The abatement of an action at law is the overthrowing of the action caused by defendant's pleading some matter of fact tending to impeach the correctness of the writ or declaration. The abatement of a suit in equity is a mere suspension of all the proceedings therein for a want of proper parties before the court.

A plea in abatement is defined to be a plea that, without disputing the justice of the plaintiff's claim, objects to the place, mode, or time of asserting it, and requires that therefore, and pro hac vice, judgement be given for the defendant, leaving it open to renew the suit in another place or form, or at another time.

[2] B. EFFECT OF ABATEMENT - 1. At Law-a. Effect on Principal Suit. At law the abatement of a suit is a complete termination of that particular suit, so that it cannot be revived; but it does not determine or defeat plaintiff's cause of action or bar the issuance of a new suit.

[7] C. PLEAS IN ABATEMENT NOT FAVORED. Pleas in abatement, being dilatory pleas, are not favored either at common law, or under the codes and practices acts.

FOR THIS REASON, as will be shown in another place, pleas or answers in abatement must allege with the greatest certainty in every particular every fact necessary to their sufficiency. No presumptions of law or fact are allowed in their favor, but on the contrary every intendment must be taken against them. Furthermore matter in abatement must be pleaded at the earliest opportunity, and, if the facts are known, before a plea or answer in bar is interposed, and before a general imparlance or continuance.

So, this is why the Judge did what he did. The guy did not win per se, as the IRS could have corrected the defect in the "writ" and brought a new suit. This might not be a silver bullet, but it's not B.S. either.

Correspondence

Thanks for your input. I think I know how you feel about this "win." That it is correctable by the government. Simply don't use ALL CAPS next time, right?

That's where I think this issue is bigger. I think that the government CAN'T stop using ALL CAPS as a matter of martial law and/or commercial law. I have seen hints of this elsewhere, but nothing substantial.

Well, my wife suggested I take a look at the Lloyd Long [see Report: [#16F: The Becraft Landmark Case](#)] transcript, and sure enough, ALL CAPS. Interestingly enough in his answer and briefs his name is proper case.

The question which begs to be answered is WHY did his attorney not bring this up. HERE IS YOUR ANSWER.

Again, from 1 Corpus Juris:

II Objections to Jurisdiction

[17] A. Nature of Pleas to the Jurisdiction.

At common law pleas by which objection is taken to the jurisdiction of the court are not strictly pleas in abatement, but are in a class by themselves and are designated as pleas to the jurisdiction. They differ at common law from pleas in abatement in several respects, as, for example, in that they must be pleaded in

person and not by attorney, and in that they must conclude, not with a prayer for judgement of the writ or declaration, or of the writ and declaration, and that the same be quashed, but whether the court will or ought to take further cognizance of the action or suit. They are, however, dilatory pleas, as distinguished from pleas to the merits, in that their effect is to defeat the present suit and not to deny or bar the cause of action, and therefore they are in modern practice treated for most purposes like other dilatory pleas as pleas in abatement, and are subject to most of the rules governing such pleas.

Shew... Looks like if you have an attorney, you are f#@ked. We knew this all along, but here it is in print.

By the way, I looked at a copy of my IMF [master file kept by the IRS on taxpayers]. You guessed it, ALL CAPS! This is getting too interesting.

Information on Abatement

For more information on Abatement, contact Randy Lee at c/o General Delivery, Canoga Park Post Office, Canoga, California; 818-347-7080; or Joe Allen at c/o General Delivery, Rosamond Post Office, Rosamond, California; 805-824-2971.

The following is an excerpt from an article by James Hazel titled *The Abatement Process* (See also James' article: [Notes About Deceptive All Capitals Names](#)):

In written form, the following example, to be delivered to the court clerk or judge, conforms with Randy Lee's successful petition, and with the requirements for abatements as enumerated in Corpus Juris Secundum and many, many cases which have treated the subject of abatement for misnomer.

[This is useful for instances where you have the opportunity, as in most cases, to reply in writing to a written demand/summons -- as it's much simpler than appearing in person, and most people prefer this option.]

PETITION FOR ABATEMENT

TO: THE (FICTITIOUS NAME OF COURT, EXPRESSED IN ALL UPPERCASE LETTERS); ADDRESS OF COURT, INCLUDING ZIP CODE.

FROM: Petitioner John Doe (properly capitalized); Mail received: c/o (USPS address, including ZIP Code).

REGARDING: (Complaint, demand or accusation, [NO. ____]), attached hereto and thereby incorporated as an integral part of this petition for abatement.

COMES NOW, John Doe, to petition this court to abate the above-referenced (accusation, complaint) on the following grounds:

1. The (accusation, complaint) against JOHN DOE, a fictitious name, was delivered into my hand on (date). As a prudent Man who fears that his ignoring of the instrument might well result in coercive procedures being used against him, I have chosen to approach this court with this petition that the court abate the instrument so it cannot in its present form, further restrain my liberties.
2. That the instrument was served on or delivered to me is evidence that this is a case of misnomer or mistaken identity. The instrument is against a fictitious name, "JOHN DOE." My given, Christian name is "John," with the initial letter capitalized as required by Rules of English Grammar for the writing of the names of natural persons. My patronymic, family name or surname is "Doe," with the initial letter capitalized. The (accusation, complaint) does not name me.

3. If the complainant or accuser has any claim or argument against me, it can bring a complaint or accusation against my real name. My objections herein will make it possible for the complainant or accuser to issue a better writ, which is the primary purpose of matters in abatement.
4. This is by content, grounds, intent and definition a petition in abatement, and not a plea in bar; and may not be construed as a motion for dismissal or for mere amendment of the instrument. It may be justly resolved only by abatement by the court.

When a petition for abatement is before a court, that court is charged with according to the defendant (petitioner) the benefit of the doubt. Also, courts should take cognizance of the law that provides: Where conditions for its issuance exist, abatement is a matter of right, not of discretion; The misnomer or misdescription of a party defendant is ground for abatement; and, Grounds for abatements are the same for equity and law cases.

FURTHER I SAYETH NOT, except to advise the court that in the absence of abatement of the instrument as a restraint against my liberty, I shall henceforth remain mute.

Dated this ____ day of the (First - Twelfth) month of the Nineteenth Hundred and Ninety Sixth year Anno Domini, in _____ County, State of _____ (capitalize lawful name of State):

John Doe

[Note: When a DEMAND is abated, it can theoretically be refiled; properly naming the accused person.

Most DEMANDS prosecuted in courts contain other fatal errors besides mistaken identify of the accused. By use of all uppercase letters in their entitlements or captions, and by erroneously capitalizing the terms "plaintiff" and "defendant," they fail to identify the parties, the venue, including the NAMES of lawful states and counties, and the NAME of a lawful court. It is advisable to avoid the shotgun technique of trying to "cure" all defects with one abatement petition, but is preferable to focus the first (and usually the last needed abatement petition, on the failure to accuse the coerced Man by his proper name. The present *de facto* courts have no lawful power to name natural persons, or otherwise exercise jurisdiction over them, except with their tacit (ignorant) consent. To date, I have heard of no abated accusation being refiled, properly naming the natural Man who objected to be held to answer to a demand against a fictitious person. But in the unlikely event that an accusation or demand is refiled using a proper name for the accused, a second petition for abatement would lie against failure to name the venue. Then, if necessary, a third for failure to name the court. And if still necessary, a fourth petition for failure to identify the "nature" of the parties (plaintiff and defendant).]