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Sovereign Citizens: A Homegrown Terrorist Threat and Its Negative Impact on South Carolina

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**SOVEREIGN CITIZENS:
A HOMEGROWN TERRORIST THREAT AND
ITS NEGATIVE IMPACT ON SOUTH CAROLINA**

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Sovereign citizens are “anti-government extremists who believe that even though they physically reside in this country, they are separate or ‘sovereign’ from the United States.”¹ As many as 300,000 Americans consider themselves to be sovereign citizens and “many [do not] pay taxes, carry a driver’s license, or

1. *Domestic Terrorism: The Sovereign Citizens Movement*, FED. BUREAU OF INVESTIGATION (Apr. 13, 2010), http://www.fbi.gov/news/stories/2010/april/sovereigncitizens_041310 [hereinafter *Domestic Terrorism*].

hold a Social Security card.”² The movement remains relatively unknown to most Americans, despite the fact that sovereign citizens reside throughout the United States.³

Sovereign citizens try to “beat the system” by purposely failing to pay their taxes or by claiming that courts do not have jurisdiction over them.⁴ When these efforts fail, many sovereign citizens seek retribution and engage in tactics known as “paper terrorism”—inundating courts with paperwork such as frivolous lawsuits and liens against public officials.⁵ In recent years, several factors, including the economic recession and mortgage crisis, have catalyzed an apparent increase in sovereign citizen activity and violence.⁶ The list of violent events perpetrated by sovereign citizens has become so extensive that the Federal Bureau of Investigation labeled the movement as a domestic terrorist threat.⁷

2. *60 Minutes: A Look at the “Sovereign Citizen” Movement* (CBS television broadcast May 15, 2011) [hereinafter *60 Minutes*], available at <http://www.cbsnews.com/stories/2011/05/15/60minutes/main20062666.shtml>.

3. See generally *id.* (discussing various individuals around the United States who are involved in the movement).

4. See *id.*; see also *Domestic Terrorism*, *supra* note 1 (“[T]hey believe they don’t have to answer to any government authority, including courts, taxing entities, motor vehicle departments, or law enforcement.”). Efforts to avoid paying taxes are deeply rooted in American history. Prior to the American Revolution, the British Parliament levied various taxes on American colonists without the colonists having any representation in Parliament; perhaps the most notable are the Stamp Act, the Townsend Duties, and the Tea Act. See *The Boston Tea Party, 1773*, EYEWITNESS TO HISTORY, <http://www.eyewitnesstohistory.com/teaparty.htm> (last visited Mar. 8, 2012). Colonists believed they were not required to pay taxes levied by a government in which they had no representation and purposefully refused to pay such taxes. *Id.* Eventually, Parliament retracted all but the tax on tea, gave the East India Company a monopoly on tea, and reduced the duty on imported tea, making it cheaper than ever before. *Id.* Instead of paying the duty on imported tea (and thus accepting British taxation), revolutionaries staged the Boston Tea Party and dumped imported tea into Boston Harbor. See *id.*

5. See *60 Minutes*, *supra* note 2.

6. See *id.* Violence resulting from economic pressures seems somewhat analogous to resistance of the colonists against the Crown preceding the American Revolution. See generally BERNARD BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* 94–143 (1967) (discussing the political and social environment in the colonies prior to the American Revolution). Angered by the British system of taxation without representation, revolutionaries began to violently resist—in Boston, for example, revolutionaries held riots and assaulted British customs officials after the passage of the Stamp Act. See *id.* at 112. Colonial leaders saw the Stamp Act, which aimed to raise money for the military defense of the colonies without approval from colonial legislatures, see *American History Documents*, LILLY LIBRARY, INDIANA UNIVERSITY BLOOMINGTON, <http://www.indiana.edu/~liblilly/history/stamp-act.html> (last visited Mar. 8, 2012), as “blatantly obnoxious [and] ‘designed . . . to force the colonies into a rebellion, and from thence to take occasion to treat them with severity, and, by military power, to reduce them to servitude.’” BAILYN, *supra*, at 101 (quoting Letter from Joseph Warren to Edmund Dana (Mar. 19, 1776), in RICHARD FROTHINGHAM, *LIFE AND TIMES OF JOSEPH WARREN* 20, 22 (Leonard W. Levy, ed., photo. reprint 1971) (1865)).

7. See *Domestic Terrorism*, *supra* note 1.

This precipitous increase in violence is evidenced in South Carolina by *State v. Bixby*.⁸ In December 2003, the sovereign citizen movement took center stage in Abbeville, South Carolina, where a day-long gun battle between the Bixby family and the South Carolina Law Enforcement Division (SLED) resulted in the death of two public officials.⁹ Despite the Bixbys' violence, sovereign citizens are generally quite different from militia groups—guns are only secondary to the citizens' anti-government, anti-tax beliefs.¹⁰ *Bixby* demonstrates the necessity for education on the sovereign citizen movement in South Carolina and nationwide, as well as the need to develop effective methods to prevent similar situations from occurring in the future.

This Note addresses the sovereign citizen movement and explores initiatives that South Carolina can take to curtail the sovereign citizen movement and the negative effects thereof. Part I examines the philosophical foundations regarding why people generally owe allegiance to non-oppressive states. Part II outlines the various movements that contributed to the creation of the sovereign citizen movement. Part III delves deeper into the tenets of the sovereign citizen movement. Part IV then addresses the use of paper terrorism nationwide and specifically in South Carolina. Part V illustrates the shift from the use of paper terrorism to the use of violence, discussing cases of sovereign citizen violence throughout the nation, as well as the specific facts leading up to *State v. Bixby*. Part VI emphasizes that sovereign citizen claims and defenses have never been recognized as valid. Finally, Part VII addresses potential changes in South Carolina law to prevent what happened in *Bixby* from happening again in the future.

I. LEGITIMACY OF ALLEGIANCE TO THE STATE

A. *Allegiance to Non-Oppressive States*

Philosophers have long given credence to the idea that citizens owe allegiance to the state. Thomas Hobbes articulated the notion that government is necessary in order to overcome the perils of "the state of nature."¹¹ Hobbes's state of nature is essentially a society in which all individuals are equal in both abilities and rights,¹² but resources are scarce, resulting in a "permanent state of reciprocal lack of trust."¹³ Each individual has a right to self-preservation and

8. 388 S.C. 528, 698 S.E.2d 572 (2010).

9. *See id.* at 539, 698 S.E.2d at 578.

10. *See Domestic Terrorism*, *supra* note 1.

11. *See* NORBERTO BOBBIO, THOMAS HOBBS AND THE NATURAL LAW TRADITION 46 (Daniela Gobetti trans., The Univ. of Chi. Press 1993) (1989).

12. *See* GEORGE MACE, LOCKE, HOBBS, AND THE FEDERALIST PAPERS: AN ESSAY ON THE GENESIS OF THE AMERICAN POLITICAL HERITAGE 33 (1979).

13. *See* BOBBIO, *supra* note 11, at 39.

can take what is necessary from the state of nature to do so.¹⁴ However, no authority exists to arbitrate disputes over resources or to enforce rules,¹⁵ causing each individual to prepare for war, rather than attempt peace.¹⁶ In addition to competition for resources, the desire for both security and glory can incite greater conflict.¹⁷ Thus, the state of nature, according to Hobbes, is not sustainable because it is no more than a state of war.¹⁸

As an alternative, Hobbes proposed what has come to be known as a “social contract” between individuals, wherein individuals realize that the state of nature is in fact “inimical to the satisfaction of [their] interests” and, accordingly, will seek peace.¹⁹ Human nature and rationality lead individuals to conclude that adhering to the “laws of nature” is the most efficient means to their desired ends.²⁰ “[T]he laws of nature are ‘nothing else but certain conclusions understood by reason, of things to be done and omitted . . .’”²¹ However, Hobbes acknowledged that individuals will not abide by laws if there is no guarantee those around them will also comply,²² and accordingly, emphasized the need for a covenant under which individuals agree to submit to the political authority of the sovereign.²³

The covenant must confer upon the sovereign absolute authority because, Hobbes argued, limiting authority will make any government ineffective and ultimately result in disputes among individuals.²⁴ Together, the individuals must agree to subject themselves to the sovereign’s power,²⁵ and in return the sovereign will “use the strength and means of them all, as [the sovereign] shall think expedient, for their peace and common defence.”²⁶

14. *Id.* See also Sharon A. Lloyd & Susanne Sreedhar, *Hobbes’s Moral and Political Philosophy*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Aug. 23, 2008), <http://plato.stanford.edu/archives/spr2011/entries/hobbes-moral/> (“Hobbes ascribes to each person in the state of nature a liberty right to preserve herself, which he terms the ‘right of nature.’ This is the right to do whatever one sincerely judges needful for one’s preservation . . .”).

15. *See id.*

16. BOBBIO, *supra* note 11, at 39.

17. *See id.* at 40 (citing THOMAS HOBBS, *LEVIATHAN* 81 (Michael Oakeshott ed., Oxford: Basil Blackwell 1947) (1651)).

18. *Id.* at 41.

19. Lloyd & Sreedhar, *supra* note 14.

20. *See* BOBBIO, *supra* note 11, at 44.

21. *Id.* at 45 (quoting 2 THOMAS HOBBS, *De Cive*, in *THE ENGLISH WORKS OF THOMAS HOBBS* 49 (William Molesworth, ed., London: John Bohn 1841) (1642)).

22. *See id.*

23. *See* Lloyd & Sreedhar, *supra* note 14; *see also* BOBBIO, *supra* note 11, at 47 (“It is necessary that human beings agree to institute a state that will create the conditions for living a life according to reason. This agreement is an act of will. Thus, the state is not a product of nature, but of the human will; the state is artificial man.”).

24. *See* Lloyd & Sreedhar, *supra* note 14.

25. *See* BOBBIO, *supra* note 11, at 46–47.

26. *Id.* (quoting HOBBS, *supra* note 17, at 112) (internal quotation marks omitted).

Several decades later, John Locke authored his *Second Treatise of Civil Government*,²⁷ which, in a sense, built upon Hobbes's work. Like Hobbes, Locke noted the existence of a state of nature in which all individuals are equal and can utilize their possessions and persons as they so desire.²⁸ Reason, however, dictates that individuals within the state of nature not harm one another "in [their] life, health, liberty, or possession."²⁹ Accordingly, there existed a corresponding right to defend oneself against such harm.³⁰ The state of nature resulted in individuals having power over one another, thereby leading to an inevitable state of war.³¹

Thus, individuals have purposefully organized themselves into societies to avoid the perils of the state of nature,³² specifically emphasizing the "mutual preservation of their lives, liberties, and . . . 'property.'"³³ The state of nature cannot adequately protect individuals because there is no "*establish'd*, settled, known *Law*," there is no established authority to arbitrate disputes, and there is no ability to enforce decisions.³⁴ When individuals organize in a society, they consent to make "*one Body Politick*, wherein the *Majority* have a Right to act and conclude the rest."³⁵ In organizing such a community, each individual transfers his "natural power" to the community, which, in return, protects each person's rights and property.³⁶ The power to arbitrate disputes and enforce punishments becomes the power of the community, which is to be impartial in adjudicating differences.³⁷

In noting that the majority has the power to create and enforce laws, Locke emphasized that unanimous consent would almost always be impossible.³⁸ Accordingly, Locke averred that submission to a community sovereign is tantamount to granting power to the majority to act on behalf of the entire community.³⁹ Additionally, Locke acknowledged the likelihood of a government incorporating a separation of powers approach and concluded that "several things should be left to the discretion of him who has the executive power,"⁴⁰ labeling this the prerogative of the

27. JOHN LOCKE, *SECOND TREATISE OF CIVIL GOVERNMENT* (Lester DeKoster ed., William B. Eerdmans Publ'g Co. 1978) (1690)).

28. *See id.* at 16.

29. *See id.* at 16–17.

30. *See id.* at 17.

31. *See id.* at 21.

32. *Id.* at 23.

33. *Id.* at 56.

34. MACE, *supra* note 12, at 17 (quoting JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* 369 (Peter Laslett ed., Cambridge Univ. Press 2d ed. 1970) (1690)) (internal quotation marks omitted).

35. *Id.* (quoting LOCKE, *supra* note 34, at 349) (internal quotation marks omitted).

36. LOCKE, *supra* note 27, at 43.

37. *See id.*

38. *See id.* at 48.

39. *See id.* at 49.

40. *Id.* at 68.

executive.⁴¹ As long as a government acts for the benefit of the governed, its authority cannot be questioned,⁴² and those who enjoy the protections of the government must remain obedient.⁴³ However, because individuals give up their power solely to protect themselves and their liberties, the government's power only extends so far as to work toward the common good.⁴⁴

B. The Possibility of Dissenting or Resisting an Oppressive State

Despite their support for a sovereign governing body, both Hobbes and Locke realized the necessity of the ability of the individual to resist his government. While individual members of a state transfer their rights to the sovereign, Hobbes believed they still maintain the right to their own lives, based on the premise that the sole motivation for individuals entering a social contract is to protect their lives from the forces of the state of nature.⁴⁵ Accordingly, individuals may disobey or resist the authority of the sovereign when their lives are in danger.⁴⁶ Hobbes outlined various liberty rights reserved to individuals in Chapter XXI of *Leviathan*, including, perhaps most importantly, that individuals cannot be ordered to injure or kill themselves, nor can individuals be ordered to abstain from eating, using medicine, or utilizing other life-sustaining resources.⁴⁷ Other liberty rights on which the law is silent are reserved to individuals, but the sovereign can expand, limit, or suppress liberty rights as it deems necessary.⁴⁸

Locke seemed to grant broader resistance ability. In cases of tyranny, wherein government exercises power beyond its rights, individuals may oppose the government using such force as would be justified against the invasion of his rights.⁴⁹ The commands of the government may not be resisted except when "unjust and unlawful."⁵⁰

Furthermore, governments can be dissolved from within their own society through various means. First, dissolution occurs when the legislature changes such that individuals who are not appointed to engage in law-making do so.⁵¹ The public, then, has the opportunity to recreate its government while fully resisting the commands of those who purport to have authority to govern.⁵² Additionally, the government can be dissolved if those who have power

41. *Id.* at 69.

42. *Id.*

43. *Id.* at 54.

44. *See id.* at 58.

45. BOBBIO, *supra* note 11, at 54–55; *see also* MACE, *supra* note 12, at 36–37 (discussing the reciprocal nature of the Hobbesian social contract).

46. BOBBIO, *supra* note 11, at 55.

47. *See id.* (citing HOBBS, *supra* note 17, at 142).

48. *Id.* (quoting HOBBS, *supra* note 17, at 147).

49. *See* LOCKE, *supra* note 27, at 73–74.

50. *Id.* at 74.

51. *Id.* at 76.

52. *Id.*

“neglect[] and abandon[] that charge, so that the laws already made can no longer be put in execution.”⁵³ When laws are left unenforced, the purpose of the social contract—protecting individuals’ rights from a free-wheeling, anarchist-like society—is violated.⁵⁴

The right to be free of an oppressive government is not relief that must wait until oppression has occurred—people must have the ability to prevent tyranny, rather than simply respond to it.⁵⁵ Accordingly, the people may dissolve their government in cases where the government acts “contrary to [the peoples’] trust.”⁵⁶ This occurs when the government attempts to infringe on the property rights of individuals or appoint itself “master[] or arbitrary disposer[] of the lives, liberties, or fortunes of the people.”⁵⁷ Individuals consent to government in order to preserve their property, and any infringement upon such property essentially puts the government “into a state of war with the people, who are thereby absolved from any further obedience.”⁵⁸ The government’s reason for infringing upon property does not matter; any transgression returns power to the hands of the people, who are free to reorganize their society as they see fit.⁵⁹

Locke anticipated critics would argue that his proposed theory would allow “ignorant and . . . discontented” people to constantly reinvent their government at any offense, thus making it impossible for government to exist.⁶⁰ Locke countered by arguing that change of this magnitude is hard to come by; the public grows accustomed to a certain type of governance, and the government’s faults are unlikely to be a poignant source of discontent.⁶¹ Additionally, Locke argued that allowing people to oppose their governments under certain circumstances will not encourage rebellion more than any other theory.⁶² If people are faced with a situation such as tyranny, they will almost always find a way to change the circumstances and rid themselves of oppression.⁶³ Rebellions will typically only come on the heels of a history of mistreatment and discontent, not after a single occurrence.⁶⁴

In general, it seems modern society does not perceive the government as an oppressor of its citizens. However, despite an overall lack of discontent, a series of movements have prompted fanatical individuals to relentlessly challenge and disobey widely accepted decisions of the government, and to organize an extremist movement, known as the sovereign citizen movement.

53. *Id.*

54. *See id.*

55. *See id.* at 77.

56. *Id.* at 77.

57. *Id.*

58. *Id.* at 77–78.

59. *Id.* at 78.

60. *See id.* at 79.

61. *See id.*

62. *See id.*

63. *See id.*

64. *See id.* at 79–80.

II. PRECURSORS TO THE SOVEREIGN CITIZEN MOVEMENT

The sovereign citizen movement grew from the foundations of four related movements: the Posse Comitatus, tax protestors, common-law courts, and the Patriots and militia movements.⁶⁵

A. *Posse Comitatus*

Founded in 1969, the Posse Comitatus believed that the highest authority was the county sheriff and that an “international Zionist conspiracy” had overtaken the federal government.⁶⁶ The group, whose name means “power of the county,”⁶⁷ believed that only the first twelve Amendments were binding; consequently, they formed their own courts based on their claimed right to defend the Constitution against public officials who they believed had acted unconstitutionally.⁶⁸ The farm crisis of the 1980s saw the apex of the Posse Comitatus movement, as farm families were pushed into bankruptcy due to various factors.⁶⁹ Leaders of the movement, including well-known leader Roderick Elliot, claimed that “farmers could refuse to pay taxes on constitutional grounds and keep federal agents from seizing their land.”⁷⁰ Members were encouraged to file pro se lawsuits against their mortgage lenders to inundate courts and prevent foreclosure, along with common-law liens against the personal property of public officials and others involved in the foreclosure.⁷¹ The Posse Comitatus practices of filing common-law liens and pro se lawsuits became a critical weapon in the sovereign citizens’ arsenal.⁷²

65. See Francis X. Sullivan, Comment, *The “Usurping Octopus of Jurisdictional Authority”: The Legal Theories of the Sovereign Citizen Movement*, 1999 WIS. L. REV. 785, 786.

66. *Id.* at 787.

67. BLACK’S LAW DICTIONARY 1281 (9th ed. 2009).

68. See Sullivan, *supra* note 65, at 787.

69. *Id.*

70. *Id.* at 787–88.

71. *Id.* Although the farm crisis appeared 200 years later, both it and the Posse Comitatus movement seem to parallel Shays’ Rebellion, which occurred in Massachusetts in 1786. See *Shays’ Rebellion*, U.S. HISTORY.ORG, <http://www.ushistory.org/us/15a.asp> (last visited Mar. 11, 2012). Farmers in newly settled rural areas often accumulated large debts, but Massachusetts (unlike some other states) did not pass laws to forgive debts and print new money. *Id.* To satisfy farmers’ debts, sheriffs seized their lands and put some farmers in jail. *Id.* A resistance movement formed, with farmers forcing local courts to close and release indebted farmers from jail, but the movement was quickly quashed by military forces. *Id.*

72. See Sullivan, *supra* note 65, at 786 (“[T]he movement’s members create headaches for the legitimate system, both by their voluminous and complicated pleadings and through their use of tactics such as common-law liens to harass judges and other public officials.”).

B. Tax Protestor

In addition to, and often in conjunction with, utilizing Posse Comitatus tactics, sovereign citizens often use tax protestor theories, many of which are derived from books written by notorious tax protestor Irwin Schiff.⁷³ Often, tax protestors appear pro se, perhaps because they are too poor to afford an attorney or because they are “looking for trouble with the IRS.”⁷⁴ Courts often express their frustrations with the poorly written, often incoherent, pleadings of tax protestors.⁷⁵ In *United States v. Cheek*,⁷⁶ the Seventh Circuit identified several arguments typical of the tax protestor movement, including “challenges to the ratification and constitutionality of the Sixteenth Amendment, Fifth Amendment challenges under the takings and self-incrimination clauses, [and] challenges to the constitutionality of tax laws themselves.”⁷⁷ Tax protestor tactics are often utilized by sovereign citizens who wish to avoid paying their income taxes for various reasons.⁷⁸

C. Common-Law Courts

Not only do sovereign citizens inundate the judicial system with rambling documents, they also attempt to haul government officials into courts—both fictional and real.⁷⁹ “Common-law courts” are an oft utilized measure by government dissidents, wherein courts organized outside the recognized judicial system meet in private homes or other gathering places to resolve disputes and criminal matters using the common law.⁸⁰ Some common-law courts are sincere attempts to implement members’ beliefs, but some courts are used purely to harass and intimidate public officials by ordering the officials to appear before the common-law court.⁸¹ Officials typically ignore such orders and do not

73. See *id.* at 789. Schiff’s writings on federal income tax avoidance stemmed from his belief that the Sixteenth Amendment was never ratified, thereby invalidating federal income taxes. *Id.* at 789–90.

74. *Id.*

75. *Id.*

76. 882 F.2d 1263 (7th Cir. 1989), *judgment vacated*, 498 U.S. 192 (1991).

77. Sullivan, *supra* note 65, at 790. The Supreme Court addressed a Fifth Amendment self-incrimination challenge in *Doe v. United States*, 487 U.S. 201 (1988), and held that compelling Doe to sign a consent directive authorizing banks to disclose records of any accounts Doe held did not violate the Self-Incrimination Clause. *Id.* at 219. The Self-Incrimination Clause only protects someone from having to relate facts or disclose information that would incriminate them. *Id.* at 209. The directive Doe signed neither disclosed information nor related facts to the government, but simply provided the government with a “potential source of evidence,” and thus is not protected. *Id.* at 215. Therefore, under *Doe*, requiring citizens to file federal income tax returns would not likely violate the Fifth Amendment protection against self-incrimination.

78. See Sullivan, *supra* note 65, at 789.

79. See *id.* at 792.

80. *Id.*

81. *Id.* at 792. See also, Judy L. Thomas, *Hard-line Approach Used on Extremists: Common Law Lien Becomes Felony for 15 of “Missouri 20,”* KANSAS CITY STAR, Aug. 18, 1997, at A1

appear in front of common-law courts, thereby causing the court to order liens placed on the official's personal property.⁸²

D. Patriot Movement

While it incorporates tactics of the Posse Comitatus, tax protestors, and common-law courts, the modern sovereign citizen movement is perhaps most akin to the Patriot movement and militias.⁸³ Members of the Patriot movement believe that the control exerted by the federal government over citizens' lives, particularly in areas such as taxation, gun ownership, and constitutional liberties, has gone too far.⁸⁴ There is no real agreement on the ideological tenets of, or who belongs to, the movement.⁸⁵ Members of both the Patriot movement and militias sometimes engage in violence, such as the Oklahoma City bombing in 1995,⁸⁶ but not all members condone such violence.⁸⁷ Characteristics of the Patriot movement and the militias are reflected especially by recent acts of violence at the hands of sovereign citizens.⁸⁸

The threads of these four movements—Posse Comitatus, tax protestors, common-law courts, and the Patriot movement and militias—can be seen throughout the tenets and practices of the sovereign citizen movement.⁸⁹

III. THE SOVEREIGN CITIZEN MOVEMENT

The sovereign citizen movement resulted not from a particular event or occurrence, but rather from the culmination of the four movements discussed in Part II. Many of the main tenets of the four foundational movements make up the beliefs of the sovereign citizen movement and stem from the notion that the federal government drastically changed from its original republican form and now attempts to exert control over citizens' lives, essentially "reduc[ing] the People to slavery, peonage and involuntary servitude."⁹⁰

(noting that a judge who refused to dismiss a sovereign citizen's speeding ticket had a \$10.8 million lien placed on his house by a sovereign citizen common-law court).

82. See generally Sullivan, *supra* note 65, at 793–94 (discussing examples of such liens).

83. See *id.* at 791.

84. See *id.*

85. *Id.*

86. See Brannon P. Denning, *Palladium of Liberty? Causes and Consequences of the Federalization of State Militias in the Twentieth Century*, 21 OKLA. CITY U. L. REV. 191, 228 (1996).

87. Sullivan, *supra* note 65, at 791.

88. See *infra* Part V.

89. See Sullivan, *supra* note 65, at 786.

90. *Id.* at 796 (citation omitted).

A. *Federal Citizenship*

Sovereign citizens believe in two forms of citizenship: sovereign citizenship and federal citizenship, the latter of which stems from the Fourteenth Amendment.⁹¹ Fourteenth Amendment citizenship is separate from state citizenship⁹² and consists of people who are “enfranchised to the federal government.”⁹³ The franchised class includes areas of the United States that have not attained statehood as well as anyone who has “renounced their birthright of sovereign citizenship by entering into contracts with the government, receiving benefits from it, and thereby becoming subject to its jurisdiction.”⁹⁴ Federal citizens essentially give up their sovereign rights and thus can be taxed and regulated by the federal government.⁹⁵ The Bill of Rights does not protect federal citizens, although the Fourteenth Amendment grants them certain privileges and immunities.⁹⁶ Additionally, Congress has granted many rights to federal citizens that reflect those of the Bill of Rights; however, “Congress can rescind them at any time.”⁹⁷

B. *Sovereign Citizenship*

Sovereign citizenship is much more expansive than the federal citizenship created by the Fourteenth Amendment.⁹⁸ Sovereign citizens consider themselves citizens of the state and thus, state constitutions protect their rights, and the federal Constitution cannot intrude.⁹⁹ Sovereign “states” are not the states established by the federal government, despite sharing the same geographical boundaries—sovereign “states” exist independently of the federal government.¹⁰⁰ Furthermore, sovereign citizens are only citizens of the United States insofar as the federal Constitution demands the citizens of one state be treated in the same manner as the citizens of every other state.¹⁰¹

91. *Id.* at 797.

92. *Id.* (quoting Scott Eric Rosenstil, *Fourteenth Amendment Citizenship*, FREEDOM-SCHOOL.COM, <http://www.freedom-school.com/truth/search/sovereign.htm> (last visited Mar. 12, 2012)).

93. *Id.* (quoting T. Collins, *White Paper on State Citizenship* (Nov. 14, 2004), <http://www.freerepublic.com/focus/f-news/1279555/posts>) (internal quotation marks omitted).

94. *Id.* at 797–98.

95. *Id.* at 798.

96. *Id.* (quoting Rosenteil, *supra* note 92).

97. *See id.*

98. *See id.* at 797.

99. *Id.* (quoting Collins, *supra* note 93).

100. *See id.*

101. *Id.*

C. The “Strawman” Redemption Theory

Sovereign citizens believe that the federal citizenship conferred by the Fourteenth Amendment, inferior to that of sovereign citizenship, was originally intended only for residents of the District of Columbia, and that the government has wrongfully extended it to others.¹⁰² Federal citizenship is formed by entering into a contract with the federal government; once the contract is formed, sovereign citizenship is stripped and a person is bound by illegitimate federal law.¹⁰³ The Social Security system is one of the most common ways to contract with the federal government.¹⁰⁴ The system established ten federal social security zones; more federal zones were created through the ZIP code program.¹⁰⁵

Sovereign citizens also believe that the use of misspelled or wrong names creates a fictitious persona that is distinct from the sovereign citizen.¹⁰⁶ In *United States v. Singleton*,¹⁰⁷ Anthony Singleton claimed he was not the defendant in the matter and that the court did not have jurisdiction over him because all of the court documents were named “ANTHONY SINGLETON.”¹⁰⁸ Singleton claimed that he was the “flesh and blood man,” while ANTHONY SINGLETON was, essentially, a strawman under the government’s control; as such, Singleton asserted that he was not responsible for any “debts, damages, or penalties” assessed by the court.¹⁰⁹

The *Singleton* case is an illustration of the “strawman” or “redemption” theory. According to this theory, every person has a split personality: there is a “real person and a fictional person called a ‘strawman.’”¹¹⁰ The notion of a strawman arose when the federal government abandoned the gold standard in 1933, at which point all citizens were “pledged” as collateral for the national debt.¹¹¹ Abandonment of the gold standard in favor of paper money required the federal government to borrow from other nations in order to sustain the country’s expenditures.¹¹² But nearly every loan needs collateral, so the government created accounts under “secret identities”—straw men—for all citizens and offered them as collateral to secure loans from foreign nations.¹¹³

102. *Id.* at 801.

103. *See id.* at 802.

104. *See id.*

105. *Id.*

106. *See id.* at 803.

107. No. 03 CR 175, 2004 WL 1102322 (N.D. Ill. May 7, 2004).

108. *See id.* at *1.

109. *See id.*

110. *Monroe v. Beard*, No. 05-04937, 2007 WL 2359833, at *2 (E.D. Pa. Aug. 16, 2007).

111. *Id.*

112. *See id.*

113. *See* Andrew Welsh-Huggins, *Sovereign Citizens—A 21st Century Counter Culture*, MSNBC.COM (Aug. 12, 2010, 12:06 AM), http://www.msnbc.msn.com/id/38668124/ns/us_news-life/sovereign-citizens-st-century-counter-culture/#.TxCVJPKwXDw.

The strawman is created at birth, when children are registered with the government using a birth certificate.¹¹⁴ The federal government has power over the strawman but does not have any power over the actual person.¹¹⁵ “The real person . . . can ‘redeem’ the fictional person by filing a [Uniform Commercial Code] financing statement” against the strawman.¹¹⁶ Once a filing has occurred, the real person’s interest in the strawman is superior to that of the government, and the government must pay millions of dollars to continue use of the strawman.¹¹⁷ If the government does not pay, a lien is typically filed against public officials’ personal property, encouraging the government to drop any civil or criminal proceeding against the sovereign citizen.¹¹⁸

D. Inalienable Rights

Sovereign citizens claim that they have several inalienable rights, which they defend vigorously, as evidenced by their willingness to “engage in pitched legal battles over trivial matters.”¹¹⁹ This requires courts to devote substantial time and resources to matters that would otherwise be resolved quickly.¹²⁰

Sovereign citizens first claim an inalienable right to traverse public roads without needing documentation such as car registrations, license plates, and driver’s licenses, and without needing to conform to basic traffic laws.¹²¹ This right apparently differentiates between “ordinary” use of vehicles, or commercial use, and “extraordinary” use of vehicles, or personal use, asserting that the government cannot regulate vehicles in the extraordinary use.¹²² Sovereign citizens view any citations for traffic infractions as violations of constitutional rights because it interferes with the inalienable right to travel.¹²³ Furthermore, the common law requires damage to a person or property for a crime to have been committed, and, thus, traffic violations cannot be considered crimes.¹²⁴

114. See Leslie R. Masterson, “Sovereign Citizens”: *Fringe in the Courtroom*, AM. BANKR. INST. J., Mar. 2011, at 1, 66; see also Sullivan, *supra* note 65, at 803 (“Any government-issued identification redefines the holder as a legal fiction because the government itself is a legal fiction.”).

115. *Monroe*, 2007 WL 2359833, at *2

116. *Id.*

117. See *id.*

118. See *id.*

119. Sullivan, *supra* note 65, at 799.

120. *Id.*

121. *Id.*

122. See *id.*

123. *Id.*; cf. *Saenz v. Roe*, 526 U.S. 489, 498, 500 (1999) (stating that the right to travel is “firmly embedded in [American] jurisprudence” and consists of three components: “the right . . . to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State.” (citing *United States v. Guest*, 388 U.S. 745, 757 (1960))). The constitutionally protected right to travel recognized by *Saenz* does not seem to resemble the inalienable right to travel asserted by sovereign citizens.

124. See Sullivan, *supra* note 65, at 799–800.

“Sovereign citizens [also] consider the right to own property to be an inalienable right.”¹²⁵ Notably, this particular right has theoretical tax implications.¹²⁶ Sovereign citizens believe that the government cannot base taxation simply on ownership of personal property and, thus, that these taxes are unconstitutional.¹²⁷ Sovereign citizens also believe they own the “labor of their own hands” and nobody, including the federal government, can take away the “labor, ideas, production, or property” of sovereign citizens without their consent.¹²⁸ This idea mirrors the tax protestor argument that income tax is illegal because wages are earned in exchange for labor, so taxes essentially violate the inalienable right to property.¹²⁹

The corollary of the right to own property is the inalienable right to defend property.¹³⁰ The Second Amendment, which the movement believes applies only to sovereign citizens as the Bill of Rights does not cover federal citizens, gives sovereign citizens the right to “own guns and other weapons without hindrance.”¹³¹ Neither the federal government nor the states have the power to regulate gun ownership by sovereign citizens.¹³² Accordingly, sovereign citizens may defend themselves against aggression from anyone, including the government, and can even contract with others for assistance in the pursuit of this defense.¹³³

Finally, the sovereign citizen movement recognizes an inalienable right of “full civic” participation, which is essentially the right to hold political office.¹³⁴ This right includes the right to hold judicial offices that are typically reserved for lawyers.¹³⁵ Sovereign citizens claim to exercise this right in conjunction with

125. *Id.* at 800.

126. *See id.*

127. *Id.*

128. *Id.* (quoting *Report #PCT07: Understanding Common Law*, SOVEREIGN SERVICES (1994), <http://www.buildfreedom.com/tl/pct07.shtml> (last visited Mar. 12, 2012)).

129. *See id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.* (quoting *Report #PCT07: Understanding Common Law*, *supra* note 128). Sovereign citizens may also argue that, by owning weapons and contracting with each other to defend against aggression, they are simply enjoying their Second Amendment right to maintain a well-regulated militia. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court addressed the meaning of “well-regulated militia,” and stated that “the Militia comprise[s] of all males physically capable of acting in concert for the common defense.” *Id.* at 595 (quoting *United States v. Miller*, 307 U.S. 174, 179 (1939)) (internal quotation marks omitted). While sovereign citizens may have an argument that they maintain a militia to act for the common defense of their community, such an organization likely fails the standard applied by the Court to “well-regulated”—“‘well-regulated’ implies . . . the imposition of proper discipline and training.” *Id.* at 597. There is no evidence that sovereign citizen (militia-like) groups are properly trained and disciplined in such a way that would satisfy the Court’s requirement.

134. Sullivan, *supra* note 65, at 800–01 (quoting *Report #PCT07: Understanding Common Law*, *supra* note 128).

135. *Id.* at 801.

the common-law court system, which allows the citizen to serve virtually any role from judge to jury.¹³⁶

E. Yellow-Fringed Flag of Admiralty

Admiralty law originally existed to govern contracts between parties that traded on the high seas.¹³⁷ Sovereign citizens believe the federal government has illegitimately expanded admiralty law from its original status¹³⁸ to encompass “contracts and torts on land when the commerce is between different States.”¹³⁹ The Judiciary Act of 1789 gives federal district courts admiralty jurisdiction, “leaving the courts to ascertain its limits, as cases may arise,” and thus, these courts are not bound by the Constitution.¹⁴⁰ Sovereign citizens believe statutory law is enforced under admiralty law.¹⁴¹

Admiralty flags, signified by a yellow-fringe, fly in federal district courtrooms, and thus, the sovereign citizens claim constitutional rights are not applicable.¹⁴² Flying a flag other than the traditional American “Flag of Peace” deprives anyone who enters the courtroom of “constitutional rights without due process of the law.”¹⁴³ Sovereign citizens argue that the yellow-fringed flag of admiralty and the resulting deprivation of due process preclude district courts from having jurisdiction, and thus, they are free to oppose such proceedings.¹⁴⁴ As a form of their typical “paper terrorism,” sovereign citizens often file documents disputing a court’s jurisdiction, as well as civil suits demanding damages for previously being subjected to allegedly improper admiralty jurisdiction.¹⁴⁵

In *Sadlier v. Payne*,¹⁴⁶ for example, the plaintiff sought \$16 million in damages resulting from alleged violations of his civil rights and the Constitution by the defendants—the judge, the prosecutor, and his defense counsel from his prior trial—because his trial had been conducted in a courtroom that flew the yellow-fringed admiralty flag.¹⁴⁷ The judge noted that many documents submitted by sovereign citizens typically have the “unoffending American flag

136. *Id.*

137. *Id.* at 804.

138. *Id.*

139. *Propellor Genesee Chief v. Fitzhugh*, 53 U.S. (12 How.) 443, 452 (1851).

140. *See Waring v. Clarke*, 46 U.S. (5 How.) 441, 466 (1847) (Cartron, J., concurring).

141. Sullivan, *supra* note 65, at 804.

142. *See* Bob Hardison, *Treason in Government! Admiralty on Land!! Where’s the Water?*, BAREFOOT’S WORLD, <http://www.barefootsworld.net/admiralty.html> (last visited Mar. 12, 2012).

143. *Schneider v. Schlaefter*, 975 F. Supp. 1160, 1162 n.1 (E.D. Wis. 1997).

144. Sullivan, *supra* note 65, at 805 (quoting *Schneider*, 975 F. Supp. at 1162 n.1).

145. *See, e.g., Schneider*, 975 F. Supp. at 1162 (“The rest of *Schneider*’s complaint is a rambling collection of . . . conclusory allegations of . . . ‘betraying the state into the hands of a foreign power’ [and] . . . ‘neglect to stop a jurisdictional wrong’ . . .”). Plaintiff *Schneider* sought a default judgment against *Schlaefter* for these various alleged wrongs. *Id.* at 1163.

146. 974 F. Supp. 1411 (D. Utah 1997).

147. *Id.* at 1412.

of peace” on the first page, and sovereign citizens will even wear the flag on or near their persons.¹⁴⁸ Sovereign citizens believe this protects them from being subjected to admiralty jurisdiction and secures their sovereign rights.¹⁴⁹

Sovereign citizens allege that the Uniform Commercial Code (U.C.C.) is the modern basis for admiralty law, providing a foundation for contracts giving rise to federal citizenship and obligating citizens who enter such contracts to the federal government.¹⁵⁰ However, U.C.C. § 1-207 apparently provides a way to “disclaim” the obligation.¹⁵¹ Sovereign citizens believe they can essentially claim that they “reserve[] [their] common law right not to be compelled to perform under any contract that [they] have not entered knowingly, voluntarily, and intentionally.”¹⁵² Furthermore, the alleged disclaimer provides sovereign citizens with a way to escape liability associated with the “compelled benefits of any unrevealed agreement,” such as those derived from having a social security number.¹⁵³ In order to disclaim obligations, sovereign citizens will typically write “U.C.C. 1-207” on any documents they believe might inadvertently create a contract with the federal government.¹⁵⁴

IV. PAPER TERRORISM

A. *Paper Terrorism Throughout the United States*

Throughout the nation, sovereign citizens have a long history of engaging in paper terrorism—inundating the court system with frivolous claims in an effort to protect their claimed rights.

In 2004, the Deputy Chief Counsel of the Pennsylvania Department of Corrections (DOC) discovered that inmates across the country were engaging in paper terrorism by obtaining information related to “filing fraudulent liens and judgments against prosecutors and prison officials.”¹⁵⁵ The DOC imposed a state-wide ban on any documents that would assist inmates in filing such liens and authorized prison officials to seize illicit documentation.¹⁵⁶ Inmates challenged the policy as violating their constitutionally guaranteed right to access to the courts.¹⁵⁷ In assessing this challenge, the court stated that inmates would have to demonstrate actual injury, meaning “they lost a chance to pursue a ‘nonfrivolous’ . . . underlying claim,” and that “no other ‘remedy [could] be

148. *Id.* at 1413 n.2.

149. *See id.*

150. *See Sullivan, supra* note 65, at 806.

151. *Id.*

152. *Id.* at 806–07 (quoting Bill St. Clair, *The Frog Farm FAQ*, BILLSTCLAIR.COM (May 6th, 1999), <http://billstclair.com/FrogFarm/fffaq.html>) (internal quotation marks omitted).

153. *Id.* at 807 (quoting St. Clair, *supra* note 152).

154. *Id.*

155. *Monroe v. Beard*, 536 F.3d 198, 202 (3d Cir. 2008).

156. *See id.* at 204.

157. *Id.* at 205.

awarded as recompense' for the lost claim."¹⁵⁸ Ultimately, the court held that the inmates did not present evidence sufficient to prove that any filings would be nonfrivolous.¹⁵⁹

In *El Ameen Bey v. Stumpf*,¹⁶⁰ a federal court in New Jersey received documents from a group of plaintiffs who submitted them in lieu of an *in forma pauperis* application.¹⁶¹ The submission consisted of boilerplate language that came from an online website offering products that "hav[e] titles somewhat resembling actual legal documents but having . . . content that makes no sense legally."¹⁶² Filing the boilerplate language rather than the proper application will almost always lead to a denial of *in forma pauperis* status, so the website also offers various ways to "abuse the courts with a slew of senseless follow-up submissions."¹⁶³ The court ultimately refused to grant the plaintiffs *in forma pauperis* status because the plaintiffs did not file the correct documentation.¹⁶⁴

In 2011, David Myrland pled guilty to falsifying warrants for the arrest of public officials in Washington after the City of Kirkland impounded his car.¹⁶⁵ The warrants essentially provided for a citizens' arrest of public officials and warned that the citizens would be heavily armed and willing to use force.¹⁶⁶ Prosecutors stated that Myrland's sovereign citizen claims "strain[ed] common sense."¹⁶⁷ Even before he pleaded guilty in this case, Myrland was known as a tax protestor for decades and took pride in the fact that he had used "arcane legal loopholes" to get around paying taxes for years.¹⁶⁸

More recently, Richard Ulloa, a sovereign citizen from New York, was sentenced to five years in prison for mail fraud that centered on paper terrorism.¹⁶⁹ Ulloa's scheme involved sending falsified bills and liens to bankers and public officials.¹⁷⁰ When a bank foreclosed on Ulloa's house in 2008, he

158. *Id.*

159. *See id.* at 209–11.

160. No. 11-5684 (RBK), 2011 WL 4962326 (D.N.J. Oct 17, 2011).

161. *Id.* at *1.

162. *Id.* at *9.

163. *See id.* at *10.

164. *Id.* at *18. It can be inferred from the court's conclusion that filing senseless, non-legal documentation in this situation was frivolous, and the sovereign citizens' paper terrorism tactic is not valid.

165. Levi Pulkkinen, *Tax-Dodge Purveyor with Ties to 'Sovereign' Group Faces Prison for Threats*, SEATTLEPI (Nov. 18, 2011, 10:29 AM), <http://www.seattlepi.com/local/article/Tax-dodge-purveyor-with-ties-to-sovereign-2275263.php>.

166. *See id.*

167. *Id.*

168. *See id.*

169. Jillian Rayfield, *Sovereign Citizen Gets Five Years for Trillion-Dollar 'Paper Terrorism' Scheme*, TPM (Dec. 14, 2011, 3:23 PM), http://tpmmuckraker.talkingpointsmemo.com/2011/12/sovereign_citizen_gets_five_years_for_trillion-dol.php.

170. *Id.*

sent a complaint to the bank demanding officers pay him \$46 million.¹⁷¹ Ulloa also filed liens and bills against public officials after he was given several traffic tickets.¹⁷² Ultimately, Ulloa's liens and bills totaled over \$4 trillion.¹⁷³ At his sentencing, the judge rejected Ulloa's sovereign citizen arguments, sentenced him to five years in prison, and ordered him to repay the county over \$60,000.¹⁷⁴

These cases illustrate the extent of paper terrorism throughout the United States, especially in the past several years. It appears that judges have uniformly rejected paper terrorism tactics, consistently penalizing those who utilize such measures.

B. Paper Terrorism in South Carolina

Although the movement is not well known, sovereign citizens are nevertheless abundant in South Carolina, particularly in the Upstate, along with Patriots and tax protestors.¹⁷⁵ Many people come to Abbeville, "the self-proclaimed 'birthplace and deathbed of the Confederacy,'" because they wish to live among people who "despise the federal government every bit as strongly as their ancestors did in 1861."¹⁷⁷ In fact, there may be more sovereign citizens

171. *Id.* (quoting *Sovereign citizen Richard Ulloa sentenced to 5 years in federal prison*, RECORDONLINE.COM (Dec. 12, 2011, 11:01 PM), <http://www.recordonline.com/apps/pbcs.dll/article?AID=/20111212/NEWS/111219948>).

172. *Id.*

173. *Id.*

174. *See id.*

175. BOB MOSER, SOUTHERN POVERTY LAW CENTER, THE ABBEVILLE HORROR 18 (2004), available at www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2004/spring/the-abberville-horror.

176. *Id.*

177. *Id.* See generally DANIEL J. ELAZAR, BUILDING TOWARD CIVIL WAR: GENERATIONAL RHYTHMS IN AMERICAN POLITICS 83–144 (1992) (discussing how the expanding role of the federal government in the 1850s led to the polarization of political ideology). The federal government's role decreased throughout the 1830s and early 1840s, likely due to the preference for laissez-faire economics, but began to expand again by the late 1840s, with the federal government increasing expenditures, creating governmental offices, and expanding the civil service. *Id.* at 83–85. This expansion, however, led to increased discontent in many southern states, as programs implemented by the government disproportionately benefited northern states. *See id.* at 88. As a result, Southerners felt discriminated against not only "in the matter of federal support for their legal claims," but also "in formal aid programs." *Id.* By 1850, the dispute between the North and South had grown to focus in large part on two questions of federalism—whether new territories would be admitted as slave states (and thus support the South), and whether fugitive slave laws would be enforced. *See id.* at 107–08. Southern extremists predicted that the North would push for new territories to become free states and would fail to enforce fugitive slave laws; as more of these predictions came to fruition, more Southerners isolated themselves from the federal political system, *see id.*, because it "appeared to be unable to guarantee their agreed upon rights." *Id.* at 110. Furthermore, Southerners hoped to limit the federal constitution to a "contract between the states" which only applied to white men, thus "limit[ing] the operation of the federal government except insofar as it supported the member states in their rights," while the North took a more expansive view of the Constitution and desired a strong national government. *Id.* at 128. This polarization inevitably led Southern leaders to "abandon[] their commitments to the Union" because the federal

in Abbeville than any other place in the nation.¹⁷⁸ Abbeville is not alone, however. Until 2002, *The Edgefield Journal* was published in Edgefield by neo-Confederates and blended “[Southern] nationalism . . . with New World Order paranoia.”¹⁷⁹ Firm believers of common-law courts reside in Anderson, while Greenville and its Bob Jones University have become a “national rallying point for hard-line Christian Right politics.”¹⁸⁰ In 2004, Ron Wilson, leader of the most radical sect of the Sons of Confederate Veterans in the nation, ran for senate in Easley.¹⁸¹

Most South Carolina court cases involving sovereign citizens deal with paper terrorism and tax protestor issues. In 1997, for example, Danny Ivestor sued the Internal Revenue Service (IRS) and First Union National Bank of South Carolina, claiming to be a sovereign citizen and seeking damages caused by an IRS levy on \$908.09 in his bank account after Ivestor failed to pay back taxes.¹⁸² Ivestor asserted numerous claims, including “malicious injury, malice of aforethought, refund of frivolous tax penalties, assessments, interest, declaratory and injunctive relief, damage and injuries, defamation and writ of mandamus.”¹⁸³ The court ultimately rejected Ivestor’s sovereign citizen arguments and dismissed Ivestor’s claims for lack of subject matter jurisdiction, stating that Ivestor failed to follow requisite IRS procedures and therefore could not bring his claims.¹⁸⁴

The rejection of Ivestor’s sovereign citizen arguments did not seem to quell the tide of seemingly frivolous sovereign citizen claims. In 2006, George W. Bush was sued, individually and as president, by Jonathan Lee Riches for alleged violations of “various federal statutes concerning terrorism, murder, treason, major fraud, extortion, torture, [and] racketeering.”¹⁸⁵ Riches, a federal prisoner at the time, sought \$299 trillion backed by silver or gold for fifteen various claims, including claims that President Bush was involved in a “vast conspiracy of Uniform Commercial Code . . . followers” and had stolen Riches’s identity.¹⁸⁶ The Court disposed of Riches’s seemingly frivolous claims by stating that

government had infringed on the states’ absolute sovereignty by intervening in state activities where intervention was prohibited. *Id.* at 139. Perhaps as the “birthplace of the Confederacy,” sovereign citizens come to Abbeville to revel in the Confederate distaste for federal infringement on states’ absolute sovereignty.

178. MOSER, *supra* note 175, at 18.

179. *Id.* (citation omitted).

180. *Id.*

181. *Id.* at 19.

182. *Ivestor v. U.S. Internal Revenue Serv.*, No. 6:96-2958-21AK, 1997 WL 370156, at *1 (D.S.C. Mar. 20, 1997).

183. *Id.* (internal quotation marks omitted).

184. *Id.*

185. *Riches v. Bush*, No. 4:06-0442-MBS-WMC, 2006 U.S. Dist LEXIS 96782, at *1 (D.S.C. Feb. 24, 2006).

186. *Id.* at *1-2.

President Bush is entitled to absolute immunity, and that the federal government is entitled to sovereign immunity.¹⁸⁷

Soon after *Riches* was decided, the federal government sued Robert Clarkson individually and on behalf of the Patriot Network, a political organization hoping to “return to Constitutional government through a tax revolt,”¹⁸⁸ for allegedly making “false statements . . . concerning the inapplicability of the tax code” and for “unlawfully impeded[ing] and obstruct[ing] the enforcement efforts of the Internal Revenue Service.”¹⁸⁹ The Patriot Network maintained a website with materials advocating a “massive refusal of . . . the population to support the unconstitutional taxing and spending programs of the national government,”¹⁹⁰ essentially asserting the sovereign citizen belief that federal income taxes are void and need not be paid. The Court enjoined Clarkson and the Patriot Network from making statements about the tax structure that he knows or should know are false, including stating that federal income taxes do not need to be paid.¹⁹¹

Cleveland Kilgore presented a similar claim in 2008.¹⁹² Kilgore argued that a lower federal court lacked subject matter jurisdiction when finding him guilty of bank fraud, aggravated identity theft, and aiding and abetting, because he was a “Foreign Nation (not a person) who rules autonomously and [was] not subject to any entity or jurisdiction anywhere.”¹⁹³ The court held that Kilgore’s claim was meritless and that the lower court had properly exercised subject matter jurisdiction.¹⁹⁴

In the most recent South Carolina case involving sovereign citizens, Demetric Hayes argued sovereign citizen beliefs in a bankruptcy proceeding.¹⁹⁵ Hayes filed two motions with the court, attaching over twenty-five documents, including many documents typical of sovereign citizen filings such as a birth certificate, tax forms, and a promissory note.¹⁹⁶ The motions and accompanying documents appeared to be legal documents but were in fact “incomprehensible, nonsensical, and, even if liberally construed, [did] not appear to state a legally

187. See *id.* at *8–10 (citing *Forrester v. White*, 484 U.S. 219, 225 (1988); *Nixon v. Fitzgerald*, 457 U.S. 731, 756–58 (1982); *El-Shifa Pharm. Indus. Co. v. United States*, 402 F. Supp. 2d 267, 271 (D.D.C. 2005)).

188. *United States v. Clarkson*, No. 8:05-2734-HMH-BHH, 2007 WL 1988261, at *1 (D.S.C. May 14, 2007), *report and recommendation adopted in part, rejected in part*, 2007 WL 1988257.

189. *Id.*

190. *Id.* (internal quotation marks omitted).

191. *Id.* at *13.

192. *Kilgore v. Drew*, No. 9:08-02299-HFF-BM, 2008 WL 4279565, at *1–2 (D.S.C. Sept. 18, 2008).

193. *Id.* at *1–2 (internal quotation marks omitted) (citing *Judgment in a Criminal Case*, *United States v. Kilgore*, No. 8:-cr-001150-RBD (D. Md. Dec. 15, 2006)).

194. *Id.* at *2 (citing 18 U.S.C. § 3231 (2000)).

195. See *Hayes v. S.C. Fed. Credit Union (In re Hayes)*, No. 11-80131-JW, 2011 WL 4566378, at *1,*3 (Bankr. D.S.C. Sept. 22, 2011).

196. See *id.* at *1 & nn.1–2, *3.

cognizable claim for relief.”¹⁹⁷ Hayes’s motions were seemingly based on sovereign citizen beliefs and the strawman redemption theory, “which are frivolous legal theories that have been consistently rejected by federal courts.”¹⁹⁸ Accordingly, the court dismissed Hayes’s motions and requests for relief.¹⁹⁹

Despite the continued use of paper terrorism both within South Carolina and throughout the entire nation, paper terrorism has generally proved futile in preserving the claimed rights of sovereign citizens, as their claims are systematically dismissed as having no basis in law.

V. THE SHIFT TOWARD VIOLENCE

A. *Violence Throughout the United States*

As a result of paper terrorism’s futility, sovereign citizens have turned to violence rather than the court system as their preferred form of protest and problemsolving.²⁰⁰ The events of *State v. Bixby* have been likened to the historical occurrences of Ruby Ridge and Waco by some participants.²⁰¹ Though the actors involved in Ruby Ridge and Waco were not sovereign citizens per se, they held similar beliefs about the government.²⁰²

In 1992, Ruby Ridge became the site of a tragic altercation between the Weaver family and various federal agencies.²⁰³ In the mid-1980s, one of Randy Weaver’s neighbors, upset by a property dispute he had with Weaver, contacted the Federal Bureau of Investigation (FBI), the Secret Service, and the county sheriff, alleging that Weaver had threatened to kill the Pope, the President, and the governor of Idaho.²⁰⁴ The Secret Service and the FBI subsequently discovered Weaver’s involvement with the racist right-wing movement known as the Aryan Nations.²⁰⁵ An undercover informant, known as “Gus Magisono,”

197. *Id.* at *2.

198. *Id.* at *3 & n.8 (quoting *McLaughlin v. Citimortgage, Inc.*, 726 F. Supp. 2d 201, 209 & n.8 (D. Conn. 2010)).

199. *See id.* at *4.

200. *See generally* 60 *Minutes*, *supra* note 2 (noting that there has been a “marked increase in violence associated with sovereign citizens”).

201. *Deadly Domains: Standoffs with Extremists*, ANTI-DEFAMATION LEAGUE (Dec. 15, 2003), http://www.adl.org/learn/safety/deadly_domains.asp.

202. *See* Mark Potok, *Introduction*, in *THE SECOND WAVE: RETURN OF THE MILITIAS*, SOUTHERN POVERTY LAW CENTER, 4 (Aug. 2009), http://www.splcenter.org/sites/default/files/downloads/The_Second_Wave.pdf (discussing how the events at Ruby Ridge, Idaho, and Waco, Texas, sparked anti-government movements such as the sovereign citizen movement).

203. *The Tragedy at Ruby Ridge*, LAWS.COM, <http://cases.laws.com/ruby-ridge> (last visited Mar. 12, 2012).

204. *Id.*

205. *See Department of Justice Report on Internal Review Regarding the Ruby Ridge Hostage Situation and Shootings by Law Enforcement Personnel*, UMKC SCHOOL OF LAW, <http://law2.umkc.edu/faculty/projects/ftrials/weaver/dojrbychron.htm> (last visited Mar. 12, 2012) [hereinafter *Department of Justice Report*]; *see also* *The Tragedy at Ruby Ridge*, *supra* note 203; *Aryan Nations*,

noticed Randy Weaver's attendance at an Aryan Nations meeting.²⁰⁶ Magisono subsequently met with Weaver several times over the next three years, culminating in an October 1989 meeting where Weaver agreed to sell Magisono sawed-off shotguns.²⁰⁷ Weaver was later arrested on federal weapons charges but failed to show up for his trial date.²⁰⁸

The case was then passed to the United States Marshal Service, who continued to monitor Weaver and the threat he posed.²⁰⁹ In 1991, the Marshal Service sent a team to scout the area around Weaver's house and to devise a plan to arrest him.²¹⁰ Reconnaissance continued through 1992, and on Friday, August 21, 1992, Weaver's dogs alerted him to the Marshals' presence, causing Weaver, his son, and Kevin Harris to pursue the team through the woods.²¹¹ A firefight erupted, resulting in the deaths of Weaver's son and Deputy U.S. Marshal Degan.²¹² Upon hearing of Degan's death, the FBI sent a Hostage Rescue Team (HRT) to Ruby Ridge, where snipers were told to use deadly force against any adult seen carrying a weapon.²¹³ Randy Weaver was shot in the arm and a second shot killed his wife Vicki and injured Harris.²¹⁴ Efforts to convince Weaver to surrender dragged on for days until Weaver and his children finally surrendered.²¹⁵

Harris was indicted for Deputy Marshal Degan's murder, while Weaver was indicted for aiding and abetting the murder.²¹⁶ During the trial, the prosecutor presented fourteen guns and over 4,500 rounds of ammunition, including armor-piercing bullets, which had been found on Weaver's property.²¹⁷ Despite the seemingly overwhelming evidence suggesting that Weaver had stockpiled weapons and ammunition to be used against the government,²¹⁸ controversy erupted from the use of deadly force by federal agents.²¹⁹ Ultimately, Harris was acquitted of all charges and Weaver was convicted only of failing to appear in

ANTI-DEFAMATION LEAGUE (Mar. 2, 1998), http://www.adl.org/presrele/neosk_82/aryan_nations_82.asp (describing the Aryan Nations' ideology).

206. See Alan W. Bock, *Ambush at Ruby Ridge*, REASON MAGAZINE, Oct. 1993, available at <http://reason.com/archives/1993/10/01/ambush-at-ruby-ridge/singlepage>; *Department of Justice Report*, *supra* note 205.

207. *Department of Justice Report*, *supra* note 205.

208. *See id.*

209. See Douglas O. Linder, *The Ruby Ridge (Randy Weaver) Trial: An Account*, UMKC SCHOOL OF LAW (2010), <http://law2.umkc.edu/faculty/projects/ftrials/weaver/weaveraccount.html>.

210. *See Department of Justice Report*, *supra* note 205.

211. *See id.*; Linder, *supra* note 209.

212. *Department of Justice Report*, *supra* note 205.

213. *See Linder*, *supra* note 209.

214. *Id.*

215. *See id.*

216. *Id.*

217. *See id.*

218. *See id.*

219. *See generally id.* ("[A]nother theme of defense questions was the significance of the FBI's revised rules of engagement . . . rules that the defense maintained led inevitably to the death of Vicki Weaver.").

court, for which he was sentenced to a mere eighteen months.²²⁰ An acquittal and minimal punishment for what should constitute severe crimes suggests a failure of the system in penalizing wrongdoers. The sheer volume of weaponry possessed by Weaver and the presence of armor-piercing bullets in his stockpile indicate that Weaver was not merely enjoying rights guaranteed by the Second Amendment. Weaver possessed weapons and ammunition capable of killing law enforcement officers—the only people likely to be wearing body armor in the mountains of Idaho—and yet he was only punished for failing to show up for court. Letting these dangerous men go free, seemingly because of outrage at the use of deadly force by public officials, seems to be an utter failure of the justice system.

The Department of Justice published a report in 1994, followed by a 1995 Senate subcommittee report, both criticizing the rules of engagement used by the FBI as unconstitutional.²²¹ The government subsequently adopted deadly force policies to standardize various departments' procedures, with the major policy change being that officials could use deadly force only if there was a reasonable belief of "imminent danger of death or serious physical injury."²²² Also in 1995, the Weaver family received a \$3.1 million settlement from the federal government for the deaths of Vicki and Sammy Weaver,²²³ further suggesting that use of deadly force by federal officials at Ruby Ridge was improper.

On February 28, 1993, just six months after the deaths at Ruby Ridge, the Bureau of Alcohol, Tobacco, and Firearms (ATF) attempted to execute a search warrant at a Branch Davidian sect compound just outside of Waco, Texas, to search for an alleged weapons stockpile.²²⁴ Gunfire erupted, ending in the deaths of four ATF agents²²⁵ and six Davidians.²²⁶ The gun battle led to a fifty-one day siege of the compound, during which time FBI and ATF agents attempted to negotiate with various Davidians.²²⁷ Throughout the siege, Davidians left the compound in small numbers, but sect leader David Koresh indicated he would not leave voluntarily.²²⁸ A second assault on the compound occurred April 19, 1993, at which time FBI released tear gas into the compound and announced that

220. *Id.*

221. See *Department of Justice, supra* note 205; RUBY RIDGE: REPORT OF THE SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT INFORMATION OF THE SENATE JUDICIARY COMMITTEE 54 (1995).

222. John C. Hall, *FBI Training on the New Federal Deadly Force Policy*, FBI LAW ENFORCEMENT BULLETIN, Apr. 1996, at 25, 25–26, available at http://findarticles.com/p/articles/mi_m2194/is_n4_v65/ai_18555062/ (citation omitted).

223. Linder, *supra* note 209.

224. See U.S. DEP'T OF JUSTICE, REPORT TO THE DEPUTY ATTORNEY GENERAL ON THE EVENTS AT WACO, TEXAS, available at <http://www.justice.gov/publications/waco/wacoone.html>.

225. *Id.*

226. See Justin Sturken & Mary Dore, *Remembering the Waco Siege*, ABC NEWS (Feb. 28, 2007), <http://abcnews.go.com/US/story?id=2908955&page=1#.T010tPX3CS0>.

227. See *Waco: The Inside Story: Chronology of the Siege*, PBS, <http://www.pbs.org/wgbh/pages/frontline/waco/timeline.html> (last visited Feb. 28, 2012).

228. See *id.*

everyone inside was under arrest.²²⁹ According to arson investigators, approximately three fires were set by Davidians in the compound, resulting in the asphyxiation death of nearly eighty sect members.²³⁰

After the siege, twelve survivors were indicted on charges including conspiracy to murder federal officers and unlawful possession and use of firearms.²³¹ Eight were subsequently convicted, six of whom appealed challenging the constitutionality of the prohibition on possession of machine guns.²³² Ultimately, the United States Supreme Court held that the meaning of “machine gun” was a jury question, not a sentencing factor for the trial judge to consider.²³³ Survivors and family members of those killed in the siege brought civil suits against various other parties, seeking monetary damages under the Federal Tort Claims Act, but the suits were dismissed.²³⁴ A jury finally returned a verdict in a civil trial in 2001, finding that the federal agents involved in the Waco siege were not at fault.²³⁵

While there is quite assuredly a history of violence by sovereign citizens and related movements, the past two or three years have seen an explosion of violence,²³⁶ perhaps due to factors such as the downturn of the economy or dissatisfaction with policies enacted by the federal government.²³⁷

Violence by sovereign citizens came to the forefront on May 20, 2010, when sovereign citizen Jerry Kane was pulled over while driving with his son.²³⁸ Kane exited the vehicle and instead of handing over a driver’s license handed over a document declaring his sovereignty.²³⁹ Kane’s son then jumped out of the car with an AK-47 and opened fire, killing both police officers.²⁴⁰ The Kanes then fled the scene, only to be caught later that day and killed in a Wal-Mart parking lot.²⁴¹ In the past, Jerry Kane made statements such as:

229. *See id.*

230. *See Waco: The Inside Story: Frequently Asked Questions About Waco*, PBS, <http://www.pbs.org/wgbh/pages/frontline/waco/topten.html> (last visited Mar. 12, 2012).

231. *See* U.S. DEP’T OF JUSTICE, *supra* note 224.

232. *See* *United States v. Branch*, 91 F.3d 699, 709, 711 (5th Cir. 1996).

233. *See* *Castillo v. United States*, 530 U.S. 120, 121 (2000).

234. *See* *Andrade v. Chojnacki*, 338 F.3d 448, 452–53 (5th Cir. 2003).

235. *See* Stuart A. Wright, *Justice Denied: The Waco Civil Trial*, 5 NOVA RELIGIO: J. ALTERNATIVE & EMERGENT RELIGIONS 143, 143 (2001).

236. *See, e.g.*, 60 Minutes, *supra* note 2 (noting the “marked increase in violence associated with the sovereign citizens”).

237. *See, e.g.*, Dan Harris, *Deadly Arkansas Shooting By ‘Sovereigns’ Jerry and Joe Kane Who Shun U.S. Law*, ABC WORLD NEWS (July 1, 2010), <http://abcnews.go.com/WN/deadly-arkansas-shooting-sovereign-citizens-jerry-kane-joseph/story?id=11065285#.T0ZglZh90qd> (noting that “[o]bservers say that the [sovereign citizen] group is growing, fueled by the internet, the recession, and anger at the current administration”).

238. *See id.*

239. 60 Minutes, *supra* note 2.

240. Harris, *supra* note 237.

241. *See id.*

"I don't want to have to kill anybody. But if they keep messing with me, that's what it's going to have to come out, that's what it's going to come down to is I'm gonna have to kill. And if I have to kill one, then I'm not going to be able to stop."²⁴²

Prior to the officers' deaths, most of the West Memphis Police Department was unfamiliar with the sovereign citizen movement.²⁴³ Now, however, the department is working to educate law enforcement officers about the movement and the legitimate threats it poses.²⁴⁴

B. Violence in South Carolina—State v. Bixby

While incidents involving sovereign citizens filing frivolous claims have been numerous, sovereign citizen beliefs have also caused acts of terrible violence in South Carolina. The events leading up to *State v. Bixby* constitute perhaps the most notorious example of bloodshed in South Carolina. In December 2003, the South Carolina Department of Transportation (SCDOT) was working on expanding a road in Abbeville and planned to utilize a right of way that it held across the Bixby family's property.²⁴⁵ According to the Bixbys, self-proclaimed sovereign citizens,²⁴⁶ SCDOT did not hold right of way access across their property.²⁴⁷ SCDOT officials continued attempts to persuade the Bixbys that they in fact held a right of way, even showing the Bixbys the construction plans.²⁴⁸ In response, the Bixbys began to threaten violence if anyone attempted to come onto their property.²⁴⁹

On December 5, 2003, Steven Bixby discussed the right of way and SCDOT's project with Dr. Mark Horton.²⁵⁰ Horton told Steven that he had been engaged in similar dealings with SCDOT and had hired a lawyer to help resolve the matter.²⁵¹ Dr. Horton later testified that Steven stated "[SCDOT will] take my land over my cold, dead body."²⁵² Later that day, SCDOT officials contacted Rita Bixby and asked to discuss the right of way the following Monday, but Rita told officials if they had any documentation to show her they could come to her house immediately.²⁵³ Upon seeing the documents, Rita claimed they were forgeries and stated that "her family 'would fight till the last breath and there

242. *60 Minutes*, *supra* note 2 (quoting Jerry Kane).

243. *Id.*

244. *See id.*

245. *State v. Bixby*, 388 S.C. 528, 535, 698 S.E.2d 572, 576 (2010).

246. *See Deadly Domains: Standoffs with Extremists*, *supra* note 201.

247. *Bixby*, 388 S.C. at 535, 698 S.E.2d at 576.

248. *Id.* at 536, 698 S.E.2d at 576.

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.* at 536–37, 698 S.E.2d at 576–77.

253. *See id.* at 537, 698 S.E.2d at 577.

would be hell to pay” if anyone attempted to come on their land.²⁵⁴ Steven also informed his former girlfriend that he and his parents had “guns loaded . . . and if anybody comes in the yard” they would be shot.²⁵⁵

On Monday, December 8, Deputy Wilson went to the Bixbys’ house by himself, with SCDOT officials following shortly thereafter.²⁵⁶ Driving past the Bixbys’ house soon after, SCDOT officials Williams and Hannah did not see Deputy Wilson, but they noticed that the blinds were closed and that “peep holes were cut into them.”²⁵⁷ Later, they saw Steven standing at the door holding two guns.²⁵⁸ At 9:30 a.m., Steven called his mother, who was not at the house, and told her that the shooting had begun.²⁵⁹ Soon, the South Carolina Law Enforcement Division (SLED) sent over fifty agents to the scene.²⁶⁰ Rita Bixby was apprehended, and the Abbeville County Sheriff’s Department requested her help in convincing Steven and his father, Arthur, to surrender.²⁶¹ Rita refused, stating that she really wanted to be inside with her son and husband, but they “made [her] stay outside to tell the world why they died.”²⁶²

Ten hours after the ordeal began, SLED sent robots toward the house and captured images of Deputy Wilson’s body handcuffed and face down on the floor in a pool of his own blood, having been shot “with a high powered rifle at point-blank range.”²⁶³ At 8:55 p.m., SLED sent another robot inside the house, prompting Arthur and Steven to begin shooting, causing a return volley of bullets and tear gas²⁶⁴ from more than 200 law enforcement officials.²⁶⁵ The volley lasted so long that SLED officers had to be resupplied with ammunition multiple times.²⁶⁶ Steven finally surrendered at 9:25 p.m., telling SLED that Arthur was inside wounded.²⁶⁷ Arthur eventually surrendered at 11:00 p.m., ending the stand-off after more than twelve hours.²⁶⁸ A search of the house revealed ten weapons, including handguns, shotguns, and rifles.²⁶⁹

Steven Bixby was indicted on charges including conspiracy to commit murder, kidnapping, murder, possession of a firearm or knife during the

254. *Id.*

255. *Id.* (internal quotation marks omitted).

256. *Id.* at 538, 698 S.E.2d at 577.

257. *Id.*

258. *Id.*

259. *Id.* at 538, 698 S.E.2d at 578.

260. *Id.* at 539, 698 S.E.2d at 578.

261. *See id.*

262. *Id.* (internal quotation marks omitted).

263. *Deadly Domains: Standoffs with Extremists*, *supra* note 201.

264. *See Bixby*, 388 S.C. at 539, 698 S.E.2d at 578.

265. *Deadly Domains: Standoff with Extremists*, *supra* note 201.

266. *Bixby*, 388 S.C. at 539, 698 S.E.2d at 578.

267. *Id.*

268. *See id.*

269. Charmaine Smith-Miles, *Weapons ‘everywhere’ in Bixby house*, INDEPENDENT MAIL.COM (Feb. 16, 2007, 11:48 PM) <http://www.independentmail.com/news/2007/feb/16/least-10-weapons-were-found-bixby-house/>.

commission of a violent crime, and twelve counts of assault with intent to kill.²⁷⁰ During his trial, Steven claimed that Deputy Wilson attempted to kick in the Bixbys' door,²⁷¹ and that, similar to the events of Waco and Ruby Ridge, the Bixbys were merely attempting to defend themselves and their property.²⁷²

VI. SOVEREIGN CITIZEN DEFENSE INVALID

Despite sovereign citizens' efforts to preserve their claimed rights, it appears no court has ever recognized the sovereign citizen defense as valid. The practice of inundating the court system with frivolous claims and defenses has generally not been successful. The failure of paper terrorism has caused sovereign citizens to resort to violence, but defenses raised and arguments made have consistently failed. Sovereign citizens believe they are entitled to defend their rights, seemingly at any cost, and have, quite obviously, utilized violence to serve this end. Courts, however, have not seen eye to eye with sovereign citizens who file a myriad of pleadings, and definitely have not accepted sovereign arguments in defense of violence, explicitly rejecting sovereign claims.

In *Dowis v. State*,²⁷³ for example, Carey Dowis was charged with various counts related to hunting and driving without a license.²⁷⁴ Dowis claimed he was a sovereign citizen and therefore was not "required to have a driver's license, car tag, car insurance, or a hunting license."²⁷⁵ The court rejected Dowis' sovereign citizen argument and held that Dowis's arrest and law enforcement's seizure of Dowis' truck, crossbow, and rifle were valid because Dowis had violated several laws and regulations.²⁷⁶

Similarly, in *United States v. Singleton*, the court ordered a competency evaluation after Singleton argued that the court did not have jurisdiction over him under the strawman redemption theory.²⁷⁷ The doctor performing the competency evaluation found that Singleton's sovereign beliefs did not mean he was incompetent to stand trial, but Singleton continuously asserted that he was not the defendant in the case.²⁷⁸ The court rejected Singleton's arguments and held that the court clearly had jurisdiction, characterizing Singleton's propositions as "highly dubious."²⁷⁹

270. *Bixby*, 388 S.C. at 539–40, 698 S.E.2d at 578.

271. *Deadly Domains: Standoffs with Extremists*, *supra* note 201.

272. Jeffrey Collins, *Suspect in Abbeville standoff claims self-defense*, THE ITEM, Dec. 10, 2003, at 2A.

273. 501 S.E.2d 275 (Ga. Ct. App. 1998).

274. *Id.* at 275.

275. *Id.* at 276.

276. *See id.* at 277 (citations omitted).

277. *See United States v. Singleton*, No. 03 CR 175, 2004 WL 1102322, at *1–2 (N.D. Ill. May 7, 2004).

278. *Id.* at *2–3.

279. *Id.* at *3.

Two cases decided since December 2010, also support the notion that courts continually reject sovereign citizen arguments as invalid. In *Berry v. Seeley*,²⁸⁰ Charles Berry asserted that he was a sovereign citizen and refused the judge's request to turn over his Social Security number so that the defense could access his medical records in relation to the personal injury suit at hand.²⁸¹ Berry claimed that the judge and defense counsel violated various rights and argued that he should not be required to turn over his Social Security number, presumably because he was a sovereign citizen.²⁸² The court dismissed all of Berry's sovereign citizen claims because he did not state a cause of action upon which relief could be granted.²⁸³

In *United States v. Cordell*,²⁸⁴ Cordell claimed he was a sovereign citizen and therefore the court had no jurisdiction over him.²⁸⁵ Based upon such statements, defense counsel requested a mental evaluation to determine Cordell's competency.²⁸⁶ After the evaluation, the court noted that Cordell and other sovereign citizens "are not rendered incompetent simply by holding those beliefs."²⁸⁷ One psychiatrist asserted that people who have "sovereign citizen views *may* believe that they are legitimate, but that does not mean they have a mental disease or defect."²⁸⁸ The court ultimately held that Cordell was competent and exercised jurisdiction over him.²⁸⁹

Sovereign citizen claims have been rejected in the criminal context as well. For example, Richard Marks was convicted of money laundering and conspiracy and sentenced to eighty-one months in prison.²⁹⁰ Marks argued that "as a citizen of the 'Sovereign State of California,' [he] was not subject to criminal prosecution for charges arising under the United States Code."²⁹¹ The court outright rejected Marks' sovereign claims as "entirely frivolous and without legal basis" and summarily denied his claims.²⁹²

Similarly, the Ninth Circuit Court of Appeals affirmed a lower court's rejection of Jerry George's contention as frivolous, that the "federal government lacked jurisdiction to prosecute him for narcotics offenses because he is a citizen of the 'Sovereign State of Oregon.'"²⁹³ A few years later, a federal court in Kansas addressed Andre Rhoiney's claim that the federal government lacked

280. No. 2:10-CV-162, 2010 WL 5184883 (E.D. Tenn. Dec. 15, 2010).

281. *See id.* at *1.

282. *See id.*

283. *See id.* at *14.

284. No. 4:09-CR-006-CAP-WEJ, 2011 WL 2581018 (N.D. Ga. May 23, 2011).

285. *Id.* at *1.

286. *Id.*

287. *Id.* at *5.

288. *Id.* at *6 (emphasis added).

289. *See id.* at *9.

290. Marks v. Wrigley, No. 1:06-cv-01695-OWW-TAG HC, 2007 WL 1463423, at *1 (E.D. Cal. May 18, 2007) (citing 18 U.S.C. §§ 1956(h); 1956(a)(3) (2006)).

291. *Id.* at *4.

292. *Id.*

293. *United States v. George*, No. 97-35210, 1997 WL 669900, at *1 (9th Cir. Oct. 20, 1997).

jurisdiction to prosecute him on drug possession charges, as the charges stemmed from an act that occurred in Kansas, rather than on federal land, and because he was “a resident of the ‘sovereign’ State of Kansas.”²⁹⁴ In rejecting this argument, the court stated that Rhoiney’s arguments were frivolous and that the federal government could prosecute him under its Commerce Clause authority.²⁹⁵ As these cases illustrate, sovereign citizen arguments are ineffective in both civil and criminal cases. Despite the many “rights” claimed by adherents, courts roundly reject the claims propagated by the sovereign citizen movement.

VII. RECOMMENDATIONS

Sovereign citizens seem to pose significant threats, both in the courtroom and any time their beliefs lead to violence. In the courtroom, sovereign claims have not been recognized as valid and yet sovereign citizens continue to waste courts’ valuable time and resources. Even more alarming is the fact that the sovereign citizen movement has been breeding violence in the past few years. To spare both courts and law enforcement alike, precautions must be taken in the future to minimize the consequences of the sovereign citizen movement.

A. *In Response to “Paper Terrorism”*

The rejection of sovereign citizen arguments and defenses has been unwavering, yet sovereign citizens continue to inundate courts with reams of paper, often in the form of frivolous filings.²⁹⁶ Typical filings are rambling, incoherent, and bizarre, yet judges are required to assess whether there are any valid underlying legal contentions.²⁹⁷ South Carolina courts risk an increasing sovereign citizen presence in the courtroom in coming years, especially considering the significant population of sovereign citizens in the Upstate.²⁹⁸ In response to this inundation, South Carolina courts have several recourses, including sanctions, dismissal, and pre-filing review requirements.

Federal court judges sitting in South Carolina should levy Rule 11 sanctions against sovereign citizen litigants who file frivolous or improper claims in violation of Federal Rule of Civil Procedure 11(b).²⁹⁹ Many sovereign claims have traditionally been found to have no basis in law or are submitted to delay the litigation and increase costs of litigation,³⁰⁰ and thus are

294. *United States v. Rhoiney*, No. 02-40014-01-RDR, 2002 WL 31987473, at *3 (D. Kan. Dec. 17, 2002).

295. *Id.*

296. *See supra* Part IV.

297. Sullivan, *supra* note 65, at 819–20.

298. *See supra* note 175 and accompanying text.

299. *See* FED. R. CIV. P. 11(b).

300. *See supra* Part VI.

improper.³⁰¹ Further, Rule 11(c)(1) allows for sanctions on pro se litigants, including monetary sanctions.³⁰² To be effective, though, monetary sanctions must be severe enough to deter sovereign citizens from continuing their frivolous filings.³⁰³ However, because sovereign citizens believe their claims have a basis in law, sanctions may not be entirely effective.³⁰⁴

Judges in South Carolina state court are left with less recourse, as there is no equivalent to Federal Rule of Civil Procedure 11(c) sanctions in South Carolina law. As such, sovereign citizen litigants in state court cannot be sanctioned for filing frivolous and improper suits. If South Carolina adopted Federal Rules 11(b) and 11(c), some sovereign citizen litigants, especially those who are not strict adherents, could feasibly be deterred from filing frivolous claims for fear of mounting sanctions.

Federal and state court judges should also utilize dismissal procedures to purge the court system of frivolous claims. In federal litigation, an opposing party can file a Federal Rule 12(b)(6) Motion, requesting dismissal of the sovereign citizen's claim for "failure to state a claim upon which relief can be granted."³⁰⁵ South Carolina Rule 12(b)(6) similarly states that a claim can be dismissed for "failure to state facts sufficient to constitute a cause of action."³⁰⁶ Generally, however, utilizing either rule requires that the claimant be given an opportunity to amend the complaint.³⁰⁷ Sovereign citizens who are attempting to prolong litigation might amend in attempt to bring their complaints within the bounds of stating a legitimate claim, so courts should still scrutinize filings rigorously.

Federal court judges have a further dismissal mechanism available in 28 U.S.C. § 1915, which governs proceedings *in forma pauperis*.³⁰⁸ Under § 1915(e), federal courts can request that an attorney represent someone who is unable to afford counsel.³⁰⁹ Furthermore, a court must dismiss an action if it finds that "the action or appeal—(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief."³¹⁰ The cases indicate that few sovereign citizens are represented in court,³¹¹ likely because of the claim that

301. See FED. R. CIV. P. 11(b).

302. See FED. R. CIV. P. 11(c)(1).

303. See *Coleman v. Comm'r*, 791 F.2d 68, 72 (7th Cir. 1986).

304. See *Sullivan*, *supra* note 65, at 821.

305. FED. R. CIV. P. 12(b)(6).

306. S.C. R. CIV. P. 12(b)(6).

307. See *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)); *Spence v. Spence*, 368 S.C. 106, 129, 628 S.E.2d 869, 881 (2006).

308. See 28 U.S.C. § 1915(e)(2) (2006).

309. § 1915(e)(1).

310. § 1915(e)(2)(B).

311. See, e.g., *Berry v. Seeley*, No. 2:10-CV-162, 2010 WL 5184883, at *1 & n.1 (E.D. Tenn. Dec. 15, 2010) (noting that the plaintiff claimed that he is "a citizen 'sovereign over the State'" and that "this is a *pro se* civil rights case which seeks both injunctive relief and monetary damages").

they are too poor to afford an attorney, thus bringing their proceedings within the statute.

Ideally, federal courts should utilize this statute instead of Federal Rule 12(b)(6), because it does not require that a litigant be given leave to amend his complaint³¹² and would seemingly rid the federal court system of many sovereign citizens' frivolous complaints. South Carolina does not have a correlating state statute that would allow state court judges to dismiss *in forma pauperis* complaints that are frivolous or malicious.

Although severe, courts should utilize stringent pre-filing review requirements when there is an indication that sovereign citizens might make excessive filings, requiring that a litigant submit all filings to a competent attorney for review before being allowed to file with the court. All courts are empowered to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."³¹³ In *Johns v. Town of Los Gatos*,³¹⁴ the Northern District of California asserted that federal courts can impose pre-filing review requirements if:

(1) [The] plaintiff is given adequate notice to oppose [the] . . . order before it is entered; (2) the court provides an adequate record for review, including a listing of all the cases and motions that led the court to conclude that a vexatious litigant order was needed; (3) the Court makes substantive findings as to the frivolous or harassing nature of the litigant's actions; and (4) the Court order is narrowly tailored.³¹⁵

These criteria provide beneficial guidelines in sovereign citizen cases. Federal courts in South Carolina should see fit to utilize 28 U.S.C. § 1651(a), and not hesitate to impose pre-filing review requirements on sovereign citizen litigants that have already harassed or inundated the system with frivolous and improper filings. This Note argues that the requirement of a record of vexatious litigation is unnecessary in cases such as that of *Riches v. Bush*, where Riches sued President Bush for \$299 trillion.³¹⁶ It seems quite obvious that this claim is completely frivolous, and it should not take but this initial filing for a court to impose a pre-filing review requirement.

B. Responses to Acts of Violence

As *State v. Bixby* illustrates, the effects of an act of violence by a sovereign citizen can be far reaching. The case creates several questions. How were the

312. See Sullivan, *supra* note 65, at 820.

313. 28 U.S.C. § 1651(a) (2006).

314. 834 F. Supp. 1230 (N.D. Cal. 1993).

315. *Id.* at 1232 (citing *De Long v. Hennessey*, 912 F.2d 1144, 1147–48 (9th Cir. 1990)).

316. See *Riches v. Bush*, No. 4:06-0442-MBS-WMC, 2006 U.S. Dist. LEXIS 96782, at *1 (D.S.C. Feb. 24, 2006).

Bixbys able to acquire more than ten weapons, including handguns, rifles, and shotguns? Several transgressions of the law in New Hampshire transpired prior to the Bixby's move to South Carolina, including domestic violence and harassment charges.³¹⁷ If the Bixbys bought their weapons in South Carolina, it seems that South Carolina gun laws might be too relaxed. In South Carolina, it is illegal to carry a handgun, whether concealed or not, unless Section 16-23-20 of the South Carolina Code applies.³¹⁸ Section 16-23-20 grants exceptions to people such as licensed hunters that are going to or from their place of hunting and members of authorized military or civil organizations.³¹⁹ The Bixbys likely would argue that their possession of firepower was valid under Section 16-23-20(8), which states that a person may possess a handgun "in his home or upon his real property."³²⁰ However, Section 16-23-30 prohibits the possession or sale of a handgun to certain people.³²¹ Specifically, Section 16-23-30(A) prohibits one from

knowingly sell[ing], offer[ing] to sell, deliver[ing], leas[ing], rent[ing], barter[ing], exchang[ing], or transport[ing] for sale . . . any handgun to: (1) a person who has been convicted of a crime of violence in any court... or who is a fugitive from justice . . . [or] (2) a person who is a member of a subversive organization³²²

The Bixbys seem to fall within both categories. They were fleeing New Hampshire in the face of a warrant for Steven's arrest,³²³ Steven had been convicted of domestic violence in the past,³²⁴ and all three members of the Bixby family identified with the sovereign citizen movement.³²⁵ It is unclear whether the Bixbys brought guns with them from New Hampshire or procured them once in South Carolina. However, if the latter is indeed the case, gun laws were obviously violated. Furthermore, other sections of the South Carolina Code make it a criminal offense to transport, sell, or possess sawed-off shotguns and rifles, punishable by a fine of ten thousand dollars, up to ten years in prison, or both.³²⁶

It may be the case that South Carolina gun laws are in fact sufficiently stringent and that the Bixbys simply fell through the cracks. However, the legislature and SLED should attempt to devise a system that will double-check

317. See MOSER, *supra* note 175, at 19–20.

318. S.C. CODE ANN. § 16-23-20 (2003 & Supp. 2011).

319. § 16-23-20(4), (7).

320. § 16-23-20(8).

321. See S.C. CODE ANN. § 16-23-30 (2003 & Supp. 2011).

322. *Id.*

323. MOSER, *supra* note 175, at 20.

324. See *Deadly Domains: Standoffs with Extremists*, *supra* note 201.

325. See generally MOSER, *supra* note 175, at 19–25 (discussing the Bixbys' radical beliefs and the events surrounding their shootout with state officials).

326. See S.C. CODE ANN. §§ 16-23-220 to -240, -260 (2003).

possession of guns of any sort. Perhaps performing a background check on anyone who is applying for a hunting or fishing license to check for any convictions would be sufficient. But in the case of people who, like the Bixbys, would not likely apply for a license, it would be much harder to ascertain gun possession. Law enforcement officers should develop a Fourth Amendment-friendly practice wherein, if they possess evidence that someone is a sovereign citizen, they can search the person's home, car, and property for illegal weapons. However, this presents another problem insofar as sovereign citizens might and likely will use force against anyone who enters their property.

If no changes are made to South Carolina gun law, judges should not hesitate to impose the harshest criminal penalties available on sovereign citizens. Light penalties will not deter most sovereign citizens—a year or two in prison is likely insufficient to cause sovereign citizens to rethink their actions. However, imposing the maximum ten-year sentence for possession of a handgun, for example, might make others who are drawn to the sovereign citizen movement realize that the consequences of taking up arms with the movement can be drastic.

C. Generally

Everyone who comes into contact with sovereign citizens including the public should have a basic understanding of the movement. SLED should follow the lead of the West Memphis Police Department and educate every officer about the dangers of the sovereign citizen movement, from their tendency to not carry driver's licenses to their illegal possession of guns.³²⁷ If a situation similar to what occurred in Abbeville arises in the future, being educated about the sovereign citizen movement might help police officers diffuse the situation.

Furthermore, the South Carolina Bar Association should offer lawyers and judges education about legal arguments that are typically advanced by sovereign citizens. Knowing what to expect when an adherent enters the court room might allow a judge or lawyer to remain composed while facing outlandish, bizarre filings and arguments. This knowledge might actually help judges and lawyers engage in a logical discussion of the arguments being made with the sovereign citizen. Courts may have a tendency to disregard sovereign citizen arguments due to their nature, creating a rift between the court and the litigant. A logical, mature discussion could help sovereign citizens realize the shortcomings of their arguments and prevent violence in the future.

Michelle Theret

327. See Kristina Goetz, *West Memphis police chief narrates training video about sovereign-citizen movement*, THE COMMERCIAL APPEAL, Nov. 30, 2010, available at <http://www.commercialappeal.com/news/2010/nov/30/film-warns-officers-of-sovereign-citizens/>.

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