

Is Registration for Selective Service Mandatory?

There are many nexus which can be used by the government
to attach a presumed liability upon a citizen.

One of these is military service.

If one is a member of the military,
even if that membership is only pursuant to the
Military Selective Service Act
of June 24, 1948, Ch 625, 62 Stat. 604,
one may be subject to the Martial Law jurisdiction of the United States.

Whether or not you realize it, there are currently
14 declared states of national emergency
which are listed in the Federal Register.
The oldest of these has been in effect since March 9th, 1933.

Both of my parents were born after that date.

This means that there are currently
three generations of Barnhill's
who have lived out their entire lives in a Nation
which has been in a perpetual state of National Emergency.

The only question that I would have to this is:
Are these Executive Orders promulgated in the
Parallel Table of Authorities
which would give them force and effect within
the states of the Union party to the Constitution?

I certainly hope not.

I realize that many will think that this position is
totally unpatriotic.

I would remind those of you of this mind of the following:
The War Powers Act allows the President to essentially
declare war in contravention to the relevant sections
of the Constitution.

There are currently U.S. troops stationed
in over 100 foreign countries.
Why?

Should the need arise, I and my sons will be the first ones to
pick up arms to defend our nation from all enemies,
foreign and domestic.

This document is protected as free speech under the
1st article of Amendment to the Constitution of the United States
(1787, as amended, 1860)

Brad L. Barnhill
16th Judicial Circuit
109 Shale Place
Charlottesville, Virginia

25 February 1999

Restricted Delivery Certified Mail No. _____

Mr. Gil Coronado, Director
Selective Service System
1515 Wilson Blvd
Arlington, Virginia [22209-2425]

Re: Request for Administrative Declaratory Order per Title 5 USC § 554(e).

Dear Mr. Coronado,

My son, -name redacted-, born the -date redacted- A.D. -year- in Charlottesville, Virginia, has received a Selective Service Application from your office in the mail, Form 3D 5/95, OMB control number 3240-0003.

I have been doing a little research into the laws, regulations, and authority surrounding the Selective Service System and am a little confused by why he was sent this notice. For the record, should your office determine that my son is required to register, then he will do so. **I need for you to issue an administrative declaratory order per Title 5 USC § 554(e).**

1. The operative statute for registration pursuant to the Military Selective Service Act of June 24, 1948, Ch 625, 62 Stat. 604, appears to be section 3, as amended:

§ 3. Registration

(a) Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and every other male person **residing in the United States**, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

(b) Regulations prescribed pursuant to subsection (a) may require that persons presenting themselves for and submitting to registration under this section provide, as part of such registration, such identifying information (including date of birth, address, and social security account number) as such regulations may prescribe.

(June 24, 1948, ch 625, Title I, § 3, 62 Stat. 605; June 19, 1951, ch 144, Title I, § 1(c), 65 Stat. 76; Sept. 28, 1971, P. L. 92-129, Title I, § 101(a)(2), 85 Stat. 348; Dec. 1, 1981, P. L. 97-86, Title XI, § 916(a), 95 Stat. 1129.) (**emphasis** added)

According to the Supreme Court of the United States, there are three definitions for the term "United States":

The term "United States" may be used in any one of several senses. [1] It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. [2] It may designate the territory over which the sovereignty of the United States extends, or [3] it may be the collective name of the states which are united by and under the Constitution.

Hooven & Allison v. Evatt, 324 US 652 (1945). ([notes] added)

Also, "It is a well established principle of law that all federal legislation applies only within the territorial jurisdiction of the United States unless contrary intent appears." Foley Brothers v. Filardo, 336 U.S. 281 (1948). The Federal Register Act requires that statutes which confer general rule making ability to the public at large and into the states of the Union must have corresponding entries in the Parallel Table of Authorities. Therefore, I took the time to check the Parallel Table of Authorities and find that the Military Selective Service Act of June 24, 1948, Ch 625, 62 Stat. 604 (page 605 for § 3), is not listed as having rule making ability within the states of the Union:

62 Stat.

172 46 Part 310

273 25 Part 175. 43 Part 17

281 7 Part 500, 43 Part 421

1061 7 Part 1435

1070 7 Part 1492

No corresponding entries can be found in the Parallel Table of Authorities for any of the amending Acts to this section (65 Stat. 76, 85 Stat. 348, 95 Stat. 1129) either. From this I am forced to conclude that the rulemaking ability conferred by these statutes affects only federal territories and possessions.

Also, I find that the following proclamations related to registration have been revoked:

Proc. Nos. 2799, effective July 20, 1948, 13 Fed. Reg. 4173, 62 Stat. 1531; 2937, effective Aug. 16, 1951, 16 Fed. Reg. 8263, 65 Stat. c. 27; 2938, effective Aug. 16, 1951, 16 Fed. Reg. 8265, 65 Stat. c. 30; 2942, effective Aug. 30, 1951, 16 Fed. Reg. 8969, 65 Stat. c. 35; 2972, effective April 17, 1952, 17 Fed. Reg. 3473, 66 Stat. c. 28; 3314, effective Sept. 14, 1959, 24 Fed. Reg. 7517, 73 Stat. c. 78; 4101, effective Jan. 13, 1972, 37 Fed. Reg. 659, formerly classified as notes to this section, were revoked by Proc. No. 4360, effective March 29, 1975, 40 Fed. Reg. 14567, located as a note to this section. Proc. No. 2799 related to registration of male persons upon attaining their eighteenth birthday; Proc No. 2937 provided for registration of citizens of the Canal Zone; Proc. No. 2938 related to registration in Guam; Proc. Nos. 2942, 2972, 3314 and 4101 related to the supplementing of prior registration proclamations and extra registration.

The currently operative Presidential Proclamation seems to be number 4771:

Proc. No. 4771 of July 2, 1980, 45 Fed. Reg. 45247, provided:

"1-1. Persons to be Registered and Days of Registration.

"1-101. Male citizens of the United States and other males **residing in the United States**, unless exempted by the Military Selective Service Act, as amended, who were born on or after January 1, 1960, and who have attained their eighteenth birthday, shall present themselves for registration in the manner and at the time and places as hereinafter provided.

"1-102. Persons born in calendar year 1960 shall present themselves for registration on any of the six days beginning Monday, July 21, 1980.

"1-103. Persons born in calendar year 1961 shall present themselves for registration on any of the six days beginning Monday, July 28, 1980.

"1-104. Persons born in calendar year 1962 shall present themselves for registration on any of the six days beginning Monday, January 5, 1981.

"1-105. Persons born on or after January 1, 1963, shall present themselves for registration on the day they attain the 18th anniversary of their birth or on any day within the period of 60 days beginning 30 days before such date; however, in no event shall such persons present themselves for registration prior to January 5, 1981.

"1-106. Aliens who would be required to present themselves for registration pursuant to Sections 1-101 to 1-105, but who are in processing centers on the dates fixed for registration, shall present themselves for registration within 30 days after their release from such centers.

"1-107. Aliens and noncitizen nationals of the United States who reside in the United States, but who are absent from the United States on the days fixed for their registration, shall present themselves for registration within 30 days after their return to the United States.

"1-108. Aliens and noncitizen nationals of the United States who, on or after July 1, 1980, come

into and reside in the United States shall present themselves for registration in accordance with Sections 1-101 to 1-105 or within 30 days after coming into the United States, whichever is later. "1-109. Persons who would have been required to present themselves for registration pursuant to Sections 1-101 to 1-108 but for an exemption pursuant to Section 3 or 6(a) of the Military Selective Service Act, as amended [this section or 50 USCS Appx § 456(a)], or but for some condition beyond their control such as hospitalization or incarceration, shall present themselves for registration within 30 days after the cause for their exempt status ceases to exist or within 30 days after the termination of the condition which was beyond their control.

"1-2. Places and Times for Registration.

"1-201. Persons who are required to be registered and who are in the United States on any day fixed herein for their registration, shall present themselves for registration before a duly designated employee in any classified United States Post Office.

"1-202. Citizens of the United States who are required to be registered and who are not in the United States on any of the days set aside for their registration, shall present themselves at a United States Embassy or Consulate for registration before a diplomatic or consular officer of the United States or before a registrar duly appointed by a diplomatic or consular officer of the United States.

"1-203. The hours for registration in United States Post Offices shall be the business hours during the days of operation of the particular United States Post Office. The hours for registration in United States Embassies and Consulates shall be those prescribed by the United States Embassies and Consulates.

"1-3. Manner of Registration.

"1-301. Persons who are required to be registered shall comply with the registration procedures and other rules and regulations prescribed by the Director of Selective Service.

"1-302. When reporting for registration each person shall present for inspection reasonable evidence of his identity. After registration, each person shall keep the Selective Service System informed of his current address."

(emphasis added)

But again, checking the Parallel Table of Authorities, I do not find it as being listed, so there are no rule making abilities pursuant to Presidential Proclamation 4771 which have force and effect within the states of the Union:

Proclamations:

April 28, 1916	25 Part 88
1371	35 Part 131
2028	43 Part 3820
2039	43 Part 3820
2232	43 Part 3820
2351	7 Part 6
2544	7 Part 6
2695	17 Part 240
3004	8 Part 215, 22 Parts 46, 53
3279	18 Part 706
3339	43 Part 15
3447	31 Part 515
4040	29 Part 5
4547	7 Part 6
4941	7 Part 6
5002	7 Parts 6, 1530
6179	15 Part 2011

2. My son is not a "citizen of the United States" as defined in Title 8 USC § 1101(a)(22)(A) or 32 CFR § 1602.3(b)(1), as he was born in Virginia, a Sovereign state of the Union, and not within any territory which is sovereign to the self interested United States, which includes only the District of Columbia, Puerto Rico, Virgin Islands, and the territories, possessions and enclaves of the United States (U.S. Const 1:8:17, 4:3:2, and Hooven & Allison v. Evatt [2]). Technically he is a "national of the United States" as defined in Title 8 USC § 1101(a)(22)(B):

Title 8 § 1101(a)

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(Act June 27, 1952, ch 477, 66 Stat. 163)

and 32 CFR § 1602.3(b)(2):

32 CFR § 1602.3 Aliens and nationals.

(a) The term alien means any person who is not a citizen or national of the United States.

(b) The term national of the United States means:

(1) A citizen of the United States, or

(2) A person, though not a citizen of the United States, who owes allegiance to the United States.

3. My son has never made application for a social security number, and is therefore not a federal citizen

pursuant to the 14th Amendment. He is a natural born free State citizen of Virginia, a state of the Union, and entitled to all of the privileges and immunities thereof.

4. I find that contrary to some of the language found on your Form 3D, that there seem to be no penalties for failure to register other than loss of certain federal "benefits" as shown in § 462(f) within the Title 50 Appendix:

(f)(1) Except as provided in subsection (g), any person who is required under section 3 [50 USCS Appx § 453] to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965 [20 USCS §§ 1070 et seq.].

(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 [50 USCS Appx § 453] to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 [50 USCS Appx § 453] and regulations issued thereunder.

(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV [20 USCS §§ 1070 et seq.] for failure to meet the registration requirements of section 3 [50 USCS Appx § 453] and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3 [50 USCS Appx § 453]. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.

As my son has no social security number, he is not entitled to nor can he apply for these "benefits" in any event. We find that participation in socialism is repugnant to our faith.

5. Since my son lives in Virginia, a state of the Union, in the event that he should be prosecuted for some offense related to the Military Selective Service Act of June 24, 1948, Ch 625, 62 Stat. 604, as amended, such an action would have to be brought in a district court of the United States exercising the Article III judicial power. It appears from subsection (d) below that this action may only be brought in a "court of the United States for the Territories and possessions of the United States", which are Article IV (territorial) courts.

§ 466. Definitions

When used in this title--

[for brevity, subsections (a) through (c) not set out herein]

(d) The term "district court of the United States" shall be deemed to include the courts of the United States for the Territories and possessions of the United States.

[for brevity, remainder of section not set out herein]

(June 24, 1948, ch 625, Title I, § 16, 62 Stat. 624) (emphasis added)

Request for determination

Given the above facts, please provide an administrative declaratory order per Title 5 USC § 554(e) which answers the following questions. Please be sure to cite the relevant statutory or regulatory authority.

1. Pursuant to the Military Selective Service Act of June 24, 1948, Ch 625, 62 Stat. 604, is my son a "citizen of the United States" 32 CFR § 1602.3(b)(1) or a "national of the United States" 32 CFR § 1602.3(b)(2) ?

2. Pursuant to the Military Selective Service Act of June 24, 1948, Ch 625, 62 Stat. 604, which of the definitions of the "United States" within Hooven & Allison v. Evatt, 324 US 652 (1945) applies? [1] Nation, [2] territories and possessions, or [3] collection of the states of the Union united by and under the Constitution?

3. The only applicable section of Presidential Proclamation No. 4771 which might apply seems to be "1-101. Male citizens of the United States and other males residing in the United States, unless exempted by the Military Selective Service Act, as amended, who were born on or after January 1, 1960, and who have attained their eighteenth birthday, shall present themselves for registration in the manner and at the time and places as hereinafter provided." The nexus would seem to be "residing in the United States". My son currently lives in Virginia, a state of the Union, and not within any federal enclave within the boundaries of the commonwealth of Virginia which would be sovereign to the self interested United States (U.S. Const 1:8:17, 4:3:2, and Hooven & Allison v. Evatt [2]). Is my son "residing in the United States"?

4. Other than the loss of federal "benefits" for which my son is ineligible anyway, due to his not having made application for a social security number, is my son subject to any possible imprisonment or fines should he fail to register for selective service?

5. If the answer to (4) above is "YES", would the case be prosecuted in an Article III venue exercising the judicial power in a district court of the United States or in an Article I administrative venue exercising the Article IV plenary power of Congress in a United States District Court?

6. Is it your determination that my son is required to register for Selective Service?

7. **If the answer to question (6) above is "YES"**, and since my son has no social security number due to his religious objection to the inventorying of human flesh, **can he make application without a social security number?**

My Proper and Timely Notice to you

Please keep in mind that when an order is issued the burden of proof rests with the government agency. "Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof ... with the reliable, probative and substantial evidence" (USC Title 5 USC 556(d)).

In addition, Congress provided penalties for officers and employees of the United States who refuse to do their job or who exceed their authority. The Military Selective Service Act (June 24, 1948, ch 625, Title I, § 12, 62 Stat. 622, as amended) provides for penalties for members of the Selective Service Administration who exceed or abuse their authority. 18 USC 241 states that if two or more persons conspire to injure, oppress, threaten or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right ... shall be fined not more than \$10,000.00 or imprisoned not more than 10 years or both. Section 242 states that anyone, under color of law, statute, ordinance, regulation or custom, willfully subjects any inhabitant of a State, Territory, or District to the deprivation of any rights, privileges or immunities ... shall be fined not more than \$1,000.00 or imprisoned not more than one year or both.

I heartily suggest you review the applications of law in this case, and invite you to cancel the Notice and all related proceedings immediately. Further, I officially request an exact statement of what statutory or regulatory authority (promulgated with respect to the Parallel Table of Authorities) makes my son required to register for Selective Service, with supporting statutes and regulations, with which he is expected to comply in the future. If you are not in a position to do that, please let me know where I should go to get that information, or have whoever is responsible for providing such notice officially send me the proper notice and regulations, pursuant to the statutes and regulations cited herein.

I anticipate a response within 30 days. Should you fail to respond as required by law with all the appropriate Federal Regulations and other documentation as needed to respond to the above statements with a proper and lawful affidavit or notice submitted under penalty of perjury that rebut or controvert any of the facts and law set out herein, such failure to answer will be deemed an express and explicit admission as to the truth of all the facts and law herein. I must then presume that this is your and the Selective Service System's admission to all the above, including but not limited to the fact that there are no regulations which pertain to my son identifying him as within the scope of said requirement to register, that the SSS Form 3D he received is insufficient to establish jurisdiction since it provides no basis nor notice of regulations for such a requirement to register, that there are no regulations relating to a requirement to send him such a Notice, and, since any one of the issues raised herein could render the Notice defective, clearly the Notice has no legal effect and is null and void. In that event, you will be in default and I shall consider this matter closed, and my administrative remedies exhausted with prejudice. Then, if you should fail to vitiate the Notice and correct your records, or attempt to proceed

against my son further, I'll find resolution in the district court of the United States.

Finally, I give you proper and timely notice that our mailing location is shown in the heading of this letter and no other. We live in Virginia, a state of the Union. We do not live in a national regional area, we live within the 16th Judicial Circuit of the commonwealth of Virginia. Any correspondence sent from your agency to an address which uses the federal enclave designation of "VA" or uses of a national regional area designation in the form of a zip code will be returned unopened for improper service outside its venue and cannot be considered properly served.

I thank you kindly for your prompt consideration of this important matter.

/s/ Brad L. Barnhill

Brad L. Barnhill

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Last Updated: Wednesday, February 24, 1999 11:50:34 PM

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