

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Ben Park,
This is a motion
to dismiss in the
music piracy lawsuit
from Nashville
But Durham has
done an excellent
job on the motion
and supporting authorities
Tom Felt

NATIONAL CUSTOM TAPE SERVICE,
INC., a Tennessee Corporation;
AUTRY INMAN and JAMES MURPHY,

Plaintiffs

v.

CIVIL ACTION NO. 6256

O'BRIEN PRICE, District Attorney,
County of Sumner, State of Tennessee,

Defendant

MOTION TO DISMISS
FOR LACK OF JURISDICTION OVER THE SUBJECT MATTER AND
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

The defendant, O'Brien Price, moves pursuant to the Federal Rules of Civil Procedure, Rule 12(b) and numbered sections of said rule cited infra to dismiss the complaint for:

1. Lack of jurisdiction of the subject matter.

a. Cases arising solely under the Supremacy Clause of the Constitution, Article VI, do not fall within the meaning of "unconstitutionality" as used in 28 USC, § 2281, Swift and Co. v. Wickham, 382 U.S. 111, 126-127, 86 S.Ct. 258, 15 L.Ed.2d 194 (1965), and consequently there is no jurisdiction to convene a statutory three-judge court.

b. Neither the Declaratory Judgment Act, 28 U.S.C., § 2201 and 2202, nor the Copyright Clause, U.S. Const., Art. I, § 8, cl. 8, in and of themselves create or confer subject matter