

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

Mem. Park
This is a motion
to dismiss in the
music piracy lawsuit
from Herndonville
Best Jackson has
been an excellent
job on the motion
and supporting exhibits
Tom Felt

NATIONAL CUSTOM TAPES 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