

First Judicial District Division 8 CourtRoom 520 100 Jefferson County Parkway Golden, Colorado 80401	<p style="text-align: center;">▲ Court Use Only ▲</p>
PEOPLE OF THE STATE OF COLORADO , Plaintiff v. STEVE D. GARTIN, Defendant	
First Secured Party for the “Defendant” In Propria Persona: Steve Douglas Gartin P.O. Box 70185 Albuquerque, NM 87197 Email: sheriffsteve@justice.com	Case Number: 04CR2541 Division 8 CourtRoom: 520
First Amendment Petition for Redress of Grievance <i>in the Nature of a</i> MOTION TO DISMISS DUE TO UNCONSTITUTIONALITY OF STATUTE C.R.S. §18-8-306 ON ITS FACE AND AS APPLIED	

Standing:

Steve Douglas Gartin, is *First Secured Party for the above captioned* “Defendant” deliberately and consistently spelled in all capital letters to denote a Transmitting Utility pursuant to U.C.C. Security Agreement #SDG0911200-SA or a strawman “corporate person,” in Admiralty/Maritime Prize and Booty courts and is *designated in this secret and undisclosed lawform as* STEVEN DOUGLAS GARTIN.

Secured Party’s priority interest is legally established as first-in-line and first-in-time and remains unrefuted by official record: U.C.C. # SDG9112000-SA on file with the Colorado Secretary of STATE.

First Secured Party appears, Non-voluntarily, by Special Visit in propria persona by the Doctrine of Necessity; under credible threat of assault and incarceration by heavily armed Police, under duress induced by numerous forcible imprisonments based upon an unbroken chain of groundless and frivolous charges, *including this instant matter*, and coercion compelled by threat of economic damages and forcible imprisonment or death by Police due to the slanderous entry in the NCIC/CCIC database recorded by the Colorado State Attorney General’s Office Investigator Gary Clyman.

Jurisdiction:

First Secured Party is *Child of יהוה יי* (YHVH-the EverLiving God), a sovereign Inhabitant of the California Republic, currently sojourning in New Mexico and claims all Rights secured by the 1849 California Constitution, the New Mexico Constitution, the Treaty of Hildago, the Colorado Constitution, as well as the Original Jurisdiction Constitution for the united States of America, the Supreme Law of the Hebrew People, the Torah of יהוה יי, and the Common Law and hereby provides Notice of Foreign Law in good faith accordance with your colorable codes.

- [C.R.S. 24-12-101. Form of oath. Whenever any person is required to take an oath before he enters upon the discharge of any office, position, or business or on any other lawful occasion, it is lawful for any person employed to administer the oath to administer it in the following form: The person swearing, with his hand uplifted, shall swear "by the everliving God".]

First Secured Party has denied and squarely Challenged Jurisdiction at each and every Special Appearance under threat, duress and coercion and continues to protest the court’s unjustified seizure of

jurisdiction sans appellate record and without due process of law or adherence to constitutional or statutory mandates.

- Where jurisdiction is denied and squarely challenged, jurisdiction cannot be assumed to exist “sub silentio” but must be proven. *Hagens v. Laving*, 415 U.S. 528, 533, n. 5; *Monell v. N.Y.*, 436 U.S. 633. Mere “good faith” assertions of power and authority (jurisdiction) have been abolished. *Owen v. Indiana*, 445 U.S. 622; *Butz v. Economou*, 438 U.S. 478; *Bivens v. 6 unknown agents*, 403 U.S. 388.

Special Appearance

First Secured Party has never knowingly, deliberately nor intentionally joinded with this Court of Un-Disclosed Jurisdiction. Any and all interaction with the First Colorado STATE Judicial District, Inc. has been under threat, duress and coercion. At no time has either the “Defendant” nor its First Secured Party volunteered into or in any manner contracted with the First Judicial District, Inc. to adjudicate any aspect of the matter known in un-disclosed legal fiction as 04CR2541.

However, there would be grave consequences should one choose to ignore the great monopoly of military force that the court wields. Bench warrants are served with up to, and including, lethal force, arrest, confinement and extorted joinder in the form of a bail contract.

The institution of this controversy was commenced in just such a manner. First, another secret charge with a warrant issued, rather than the summons, preferred by your own C.R.S. Then, the set-up, in this instance it was Thomas Cecil “Doc” Miller’s attorney, Kevin Massaro, Esquire in conspiracy with the “arresting agency” the Colorado State Attorney General’s Office Special Prosecution Unit, Marleen M. Langfield and Investigator Gary Clyman. The place was the Boulder County CourtHouse and the Boulder County Sheriff’s Office provided the arrest mechanism, although the computer warrant was issued NationWide and any police anywhere in the United States would have initiated arrest procedures, up to lethal force, based upon that computer entry.

Although the court’s jurisdiction remains undefined, First Secured Party has been extorted into non-voluntary participation by threat of military force wielded by the MultiJurisdictional Domestic Terrorism Task Force and directed by the First Colorado Judicial District. Therefore, the Defense moves the Honorable Court to Dismiss the above captioned case based upon the unconstitutionality of the statute both on its face and as applied and as grounds therefore states:

STEVE D. GARTIN is charged with one count of “C.R.S. §18-8-306. **Attempt to influence a public servant.** This statute states that “Any person who” attempts to influence any public servant by means of deceit or by threat of violence or economic reprisal against any person or property, with the intent thereby to alter or affect the public servant’s decision, vote, opinion, or action concerning any matter which is to be considered or performed by him or the agency or body of which he is a member, commits a class 4 felony.”

According to discovery, MR. GARTIN allegedly violated the code relating to Intimidating Public Servants, although the specifics elements of the “violation” are also vague and unclear and cause a reasonable person to guess as to the what the actual proscribed act was.

📖 For the answer, let us look, once again, to the U.S. courts for a determination of this very issue. In *Hertado v. California*, 110 US 516, the U.S Supreme Court states very plainly: “The state cannot diminish rights of the people.” And in *Bennett v. Boggs*, 1 Baldw 60, “Statutes that violate the plain and obvious principles of common right and common reason are null and void.”

There is no lawful method for government to put restrictions or limitations on rights belonging to the people. Other cases are even more straight forward:

📖 "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 US 22, at 24 "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491.

Can the Constitutionally protected right of Forgiveness be converted into a crime?

The Accused is charged with **C.R.S. §18-8-306. Attempt to influence a public servant.** The Exhibit supporting this charge appears to be a Motion of Forgiveness and Petition to Seal.

📖 "The claim and exercise of a constitutional right cannot be converted into a crime." *Miller v. US*, 230 F 486, at 489. There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen*, 481 F 946

C.R.S. §18-8-306. Attempt to influence a public servant is unconstitutionally vague and overly broad both on its face and as applied to this case. Additionally the statute is ipso facto unconstitutional in light of the fact that it proscribes punishment prior to due process of law and without any safeguards of liberty guaranteed by both the United States and the Colorado Constitutions.

📖 The 14th Amendment to the United States Constitution and Article II §25 of the Colorado Constitution require specificity in criminal laws in order to give fair warning of the prohibited conduct. Criminal statutes are unconstitutionally vague if they “forbid or require the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess as to its meaning and differ as to its application.” *Connelly v. General Construction*, 269 U.S. 385, 391 (1926). This interest in fair notice requires that the **statute be sufficiently definite** in order to notify persons of the proscribed conduct.

The language of the statute is **unduly vague** since it does not sufficiently define “attempting to influence a public servant” and persons of common intelligence would guess as to the meaning.

The statute is **overly broad** in that it could lead to criminalization of behavior in cases such as this, where MR. GARTIN sought only to Forgive government agents of their crimes against him, which is protected by both statute and constitution.

📖 **Statutes must give notice of proscribed conduct.** To the extent that a statute places a penalty upon completed acts, concepts of fairness require that it be sufficiently definite to give notice as to what conduct is necessary to avoid those penalties. *Memorial Trusts, Inc. v. Beery*, 144 Colo. 448, 356 P.2d 884 (1960).

Even if the statutory requirement of notice of proscribed conduct was met, *which in this case was not*, the language of the statute itself is so vague and ambiguous as to cause confusion regarding the legislative intent as to the acts and actions that were intended to be proscribed and the public good it was intended to further. If indeed petitioning the government for redress of grievance is legislatively proscribed, that legislative act is anti-constitutional and it is the Honorable Court’s solemn duty to declare it so.

📖 **Inherent in due process is the concept of fairness** which requires the general assembly to frame criminal statutes with sufficient clarity so as to inform persons subject to such laws of the standards of conduct imposed, i.e., give a fair warning of the forbidden acts. *People v. Heckard*, 164 Colo. 19, 431 P.2d 1014 (1967).

As is clearly defined in Defense’s motion on file entitled “Notice of Standing and Capacity,” the Accused is NOT a “person” by statutory construction and is not subject to the “codes” or “statutes” at issue herein. Even if Accused were a “person” – which he is NOT – the statute at issue contains such broad and far-

reaching language that ALL “persons” and ALL actions could be construed by over zealous law enforcement personnel and prosecutors to be within the purview of such anti-constitutional legislation.

- 📖 The terms of a penal statute creating a new offense must be sufficiently explicit to inform **those who are subject to its provisions** of what conduct on their part will render them liable to its penalties. *Memorial Trusts, Inc. v. Beery*, 144 Colo. 448, 356 P.2d 884 (1960).

If indeed petitioning the government for redress of grievance, in good faith, has recently become an act subject to criminal sanctions, sufficient notice must be given before that act can be prosecuted as a crime. No such notice of proscribed conduct has been given to this Accused.

- 📖 Any criminal statute where vagueness is alleged must be closely scrutinized. *People v. District Court*, 185 Colo. 78, 521 P.2d 1254 (1974).

The Defense in this matter implores the Honorable Court to closely scrutinize the statutes relative to purported “ATTEMPTING TO INFLUENCE A PUBLIC SERVANT. . .” and to weigh the Accused Attorney’s NON-VIOLENT Motion of Forgiveness and Petition to Seal in the light of a statute having no relation to such actions, but attempting to define “BRIBING or THREATENING,” as behavior proscribed as contrary to the interests of Society. The Defense is confident that the probity of the Honorable Court will find no correlation between the Accused Attorney’s innocent actions and the fraudulent behavior intended to be proscribed by legislation.

- 📖 If a statute gives fair descriptions of the conduct forbidden and men of common intelligence can readily apprehend the statute's meaning and application, it will not be declared unconstitutional for vagueness. *Howe v. People*, 178 Colo. 248, 496 P.2d 1040 (1972); *People v. District Court*, 185 Colo. 78, 521 P.2d 1254 (1974).
- 📖 Doctrine of vagueness has its roots in the due process clause requirement that there be adequate notice of what conduct is proscribed by a criminal statute. *People v. District Court*, 185 Colo. 78, 521 P.2d 1254 (1974).
- 📖 Legislative intent is what a legislature as a whole had in mind when it passed a particular statute.
- 📖 Normally, any given statute is interpreted by looking just at the statute’s language. But when the language is ambiguous or unclear, courts try to glean the legislative intent behind words by looking at legislative interpretations (for instance, reports issued by legislative committees) which were relied upon by legislators when voting on the statute.
- 📖 Statutes are often ambiguous enough to support more than one interpretation, and the material reflecting legislative intent is frequently sparse. This leaves courts free to interpret statutes according to their own predilections. Once a court interprets the legislative intent, however, other courts will usually not go through the exercise again, but rather will enforce the statute as interpreted by the other court. practice. It is defined to be “the drawing in inference by the act of reason, as to the intent of an instrument, from given circumstances, upon principles deduced from men’s general motives, conduct and action.”

Statute is unconstitutional as Applied:

The purported “charging instrument” in this matter fails to allege facts sufficient to define a crime.

“Any person who”

First Secured Party is not a “person” and the ALL CAPITAL LETTER version thereof is Private Registered Property not authorized for PUBLIC use.

attempts to influence any public servant

What is influence? Why would any person want to influence any public servant?

by means of deceit

What constitutes “deceit?”

or by threat of violence or economic reprisal against any person or property,

Has any threat of violence or economic reprisal been alleged?

with the intent thereby to alter or affect the public servant’s decision, vote, opinion, or action

concerning any matter which is to be considered or performed by him or the agency or body of which he is a member, commits a class 4 felony.”

What “decision, vote, opinion or action” constitutes the object of the alleged criminal intent? Why would any such action as a Motion of Forgiveness trigger felony prosecution?

The Defense alleges that the Accused has been vindictively selected for malicious prosecution based upon a religious and political discriminatory animus and in retaliation for his seeking Redress of Grievance as guaranteed by the First Amendment for damages proximately caused by government actor’s unlawful actions against the Accused committed by conspiracy and under color of authority. {See Federal Civil Rights Actions entitled: 97S1523 – 97D1036 – 97N1501 – 01-Z-1145 – 95B1747}

📖 Criminal laws must be drafted to provide police and prosecution with clearly defined standards to lessen the effect of personal judgment and discrimination upon enforcement processes. *People v. Heckard*, 164 Colo. 19, 431 P.2d 1014 (1967).

There is an unequal application of the statutes relating to ATTEMPTING TO INFLUENCE A PUBLIC SERVANT when there have been NO OTHER CASES in which anyone has been prosecuted under C.R.S. § 18-8-306 for PETITIONING THE GOVERNMENT FOR REDRESS OF GRIEVANCE nor for offering Forgiveness to government agents named as Defendants in Federal Civil Rights and R.I.C.O. Actions. No reasonably prudent person could conceivably expect governmental retribution for exercising their First Amendment Right to Forgive.

📖 The rule that ignorance of the law will not excuse its violation is limited, however, by the constitutional demands of due process. *See Lambert*, 355 U.S. at 228. "Engrained in our concept of due process is the requirement of notice." *Id.* Thus, a law violates due process if it is so vague that its prohibitions are not clearly defined. *See Rickstrew v. People*, 822 P.2d 505, 506-07 (Colo. 1991) ("Due process also requires that a penal statute provide fair warning of the conduct prohibited"); *Smith v. Charnes*, 728 P.2d 1287, 1290 (Colo. 1986) (statute must provide "fair notice of the conduct that has been determined to be unlawful").

📖 Vague laws offend due process in at least two important ways. First of all, "because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly." *High Gear & Toke Shop v. Beacom*, 689 P.2d 624, 630 (Colo. 1984) (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972)); *see also People v. Buckallew*, 848 P.2d 904, 907 (Colo. 1993). Secondly, laws must supply explicit standards for those who apply them in order to prevent arbitrary and discriminatory enforcement. *See Buckallew*, 848 P.2d at 907; *People v. Nissen*, 650 P.2d 547, 549 (Colo. 1982).

Selective enforcement of legislative enactments, such as the facts in this instant matter establish, offend justice in a heinous and sinister manner. When such power is vested in law enforcement and prosecutors as to **completely destroy a man’s life, family and career** based on such an innocuous allegation as the act of Petitioning the Government for Redress of Grievance in an attempt to protect his liberty interests

and financial investments from abusive police actions, or for offering to forgive those criminal tortfeasors from civil suit, American jurisprudence and law enforcement has become an anathema.

- 📖 The due process requirement that a statute clearly define the prohibited conduct is not relaxed simply because the statute delegates certain decisions to an agent or agency. In such a situation, "[t]he responsibility to promulgate clear and unambiguous standards is on the [agency]." *United States v. Trident Seafoods Corp.*, 60 F.3d 556, 559 (9th Cir. 1995). Furthermore, where a violation of an agency regulation subjects a party to criminal sanctions, "a regulation cannot be construed to mean what an agency intended but did not adequately express [and] the [administrative head of the agency] has the responsibility to state with ascertainable certainty what is meant by the standards he has promulgated." *Gates & Fox Co. v. Occupational Safety & Health Review Comm'n*, 790 F.2d 154, 156 (D.C. Cir. 1986).
- 📖 Thus, in assessing the propriety of a criminal law, a reviewing court must balance the general rule that ignorance of the law is no defense with the due process requirement of notice. As the Second Circuit explained, in attempting to achieve this balance: "*The primary purpose of law, and the criminal law in particular, is to conform conduct to the norms expressed in that law. When there is no knowledge of the law's provisions, and no reasonable probability that knowledge might be obtained, no useful end is served by prosecuting the "violators." Since they could not know better, we can hardly expect that they should have been deterred. . . . There is little to recommend incarcerating those who would obey the law if only they knew of its existence.*" *United States v. Mancuso*, 420 F.2d 556, 559 (2d Cir. 1970).

The Defense asserts that the acts alleged in this matter does not rise to the level of proscribed conduct, that **no notice of proscribed conduct was provided as required by law**, and that the conduct alleged in this matter is statutorily and constitutionally protected; and righteous by any standard of ethics.

- 📖 A district court may exercise its supervisory powers to dismiss an indictment to remedy the violation of recognized rights, to deter illegal conduct and "to preserve judicial integrity by ensuring that a conviction rests on appropriate considerations validly before the jury." *U.S. v. Hasting*, 461 U.S. 499, 505, 103 S.Ct. 1974, 1978, 76 L.Ed.2d 96 (1983).

Wherefore, the Defendant petitions the Honorable Court to declare C.R.S. § 18-8-306 VOID for vagueness and overbroad both on its face and as applied in this matter and to order the immediate Dismissal of all charges, with prejudice and to Order the Immediate Release of the Accused's Bond.

- 📖 Trial courts have jurisdiction to determine Federal Constitutional questions, and it is their duty to do so by virtue of paragraph 2 of article VI of the United States Constitution, which provides that the constitution of the United States and all laws made in pursuance thereof shall be the supreme law of the land and the judges of every state shall be bound thereby and by §8 of Article XII of the Colorado Constitution requiring officers to take an oath to support the constitution of the united States and of the state of Colorado, notwithstanding the provisions of the 1913 amendment to this section which provided that the supreme court should have exclusive jurisdiction to determine such matters. *People v. Western Union Tel. Co.* 70 Colo. 90, 198 P.146 (1921).
- 📖 And **any attempt to take away this jurisdiction is null and void**. When a federal constitutional question is raised in any of the trial courts of Colorado the **right is given and the duty is imposed** upon those courts, by that instrument itself, to adjudicate and determine it. **That right so given can neither be taken away nor that duty abrogated by the state of Colorado**, by constitutional provision or otherwise, and any attempt to do so is null and void. Such pretended constitutional inhibition is no part of the constitution of the state of Colorado, and the judge's oath binding him to

the support and enforcement of that instrument has no relation to such void provisions. People v. Western Union Tel. Co. 70 Colo. 90, 198 P.146 (1921).

📖 A state constitutional provision prohibiting trial courts from passing on constitutional questions takes from a defendant the right of interposing the defense that the act under which he is prosecuted is unconstitutional, and is invalid as violating the “due process of law” clause. People v. Max, 70 Colo. 100, 198 P.150 (1921).

The Honorable Court has cognizance of its affirmative duty to protect and defend all person’s constitutional rights and thereby has judicial power to dismiss the above captioned matter in the interest of due process and fundamental fairness.

In good faith,

Tuesday, November 22, 2005

Non-voluntary ~ Under Threat, Duress & Coercion ~ All Rights Reserved

Steve Douglas, Gartin – *First Secured Party in Interest* - In Propria Persona

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CERTIFICATE OF SERVICE BY U.S. MAIL

I, Steve Gartin, oversigned, do hereby certify that a true and correct copy of the foregoing, MOTION TO DISMISS DUE TO UNCONSTITUTIONALITY OF STATUTE ON ITS FACE AND AS APPLIED was deposited in U.S. Mail and addressed to the Honorable Court and the Prosecution on the Twenty Second day of the Eleventh month in the Year of our Lord Two Thousand and Two.

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