

**IN THE FEDERAL DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Civil Case Number: **CIV-06-0350-ACT/LAM**

STEVE DOUGLAS GARTIN,
Plaintiff

v.

THOMAS C. MILLER
DENNIS HALL,
GARY CLYMAN,
DONALD L. ESTEP,
MARGIE ENQUIST,
JUDY ARCHULETA,
TINA OLSEN,
CRISSY SCHAUDT, and
COUNTY OF JEFFERSON,
STATE OF COLORADO,
FIRST JUDICIAL DISTRICT,
Defendants

Reply to Colorado State Defendant's Motion to Dismiss or Change of Venue

Plaintiff, Steve Douglas Gartin, *pro se by Necessity*, hereby provides reply to Colorado STATE Defendant's Motion tendered by Butt, Thornton & Baehr, P.C.

1. Defendant Colorado State Government actors' deliberate acts of oppression, *in conspiracy and by agreement*, failures to correct and omissions commenced in 1990 and continue to present. Please see Notice of Connected Cases, filed simultaneously with this reply. The issues addressed in this complaint encompass Colorado Case #04-CR-2541 and the cases connected therewith, to-wit: 95DR2718, 97M811, 97M812, 00CR2419, & 00CR3371 in the First Judicial District and 95B1747, 97S1523, 97N1501, 97D1036 & 01ES1145 in the 10th Federal District Court. A R.I.C.O. action, focusing on the Colorado CourtHouse Enterprise and accomplices in STATE and FEDERAL offices, enumerating predicate criminal acts dating back to 1990, is forthcoming.

2. Plaintiff was ordered by a COLORADO judicial agent to travel out of the State of New Mexico and to appear in Boulder County Court in the State of Colorado. On 7 June 2005, Plaintiff complied with the order of the Colorado Court and departed from New Mexico and traveled to Colorado.

Upon appearance in Boulder County Court, Plaintiff was immediately arrested and charged with three felonies directly resulting from Thomas Cecil “Doc” Miller, esquire’s unilateral filing of an unprecedented Motion for Forgiveness in the First Judicial District Court in Golden, Colorado on 15 March 2004 without Plaintiff’s knowledge or permission while Plaintiff was in New Mexico. Colorado statutes forbid luring people into the STATE in order to persecute or arrest them. The Rules of Professional Conduct forbid intentionally damaging a client in order to gain advantage in a civil suit, to-wit: Boulder County case # 04C1779, wherein Defendant Miller was sued by Plaintiff for Breach of Contract in a Fee-Splitting Agreement, which is also forbidden by the Ethical Rules.

3. Plaintiff seeks **Political Asylum** in the State of New Mexico from the on-going and well-documented persecution by Colorado State and Federal Agents. Colorado STATE and FEDERAL Defendants in connected Federal Civil Rights and R.I.C.O. cases have a long and well-documented history of selectively persecuting, imprisoning, threatening and assaulting Plaintiff, witnesses and innocent by-standers in order to conceal and cover-up criminal and tortuous acts perpetrated against the Plaintiff by themselves and the STATE Defendants represented by the COLORADO STATE ATTORNEY GENERAL’S OFFICE in 10th District Court Connected Cases.

There exists no evidence that Plaintiff could reasonably expect due process and equal application of the law in any Colorado Court, including the Federal District Court in Denver. Personal experience indicates Plaintiff can expect nothing but persecution, official misconduct and oppression from COLORADO STATE courts.

Several judicial officials in the Denver Federal Court, to-wit: *Zita Weinshank, O. Edward Schlatter, Patricia Coan and Lewis Babcock* have long been actively involved in a concerted effort to cover up and conceal the criminal activities of Colorado State Actors whenever Civil Rights cases are filed in Federal District Court, Denver. The court’s records stand as evidence. There is a long and well-documented history of judicial bias against any Plaintiff bringing charges against governmental criminals and tortfeasors in the Denver Federal Court. Plaintiff will provide specific cases if their tragic memory has faded in anyone’s recollection.

In this instant matter, Due Process has consistently been proven to fail in Colorado and therefore would fail in the second prong of the Defense’s venue theory. The first prong erroneously considers a “state” action in Federal court rather than the Federal Controversy founded in Diversity of Citizenship that it is and therefore must also fail. When STATE Actors violate clearly established Federal and State Laws, and STATE oversight agencies refuse to correct the Constitutional deprivations caused by their agents and STATE and FEDERAL courts within the STATE refuse to

provide a mechanism for redress of grievance, a Plaintiff must seek another venue in which to seek justice.

Purpose of § 1983 is to deter state actors from using badge of their authority to deprive individuals of their federally guaranteed rights and to provide relief to victims if such deterrence fails. [Wyatt v. Cole, U.S.Miss.1992, 112 S.Ct. 1827, 504 U.S. 158, 118 L.Ed.2d 504](#), on remand [994 F.2d 1113](#).

Deterrence of future abuses of power by persons acting under color of state law is an important purpose of this section. [City of Newport v. Fact Concerts, Inc., U.S.R.I.1981, 101 S.Ct. 2748, 453 U.S. 247, 69 L.Ed.2d 616](#).

4. This is a case of Diversity. The Federal District Court for the 10th District jurisdiction encompasses a “district” not a STATE. However, both Colorado and New Mexico fall within the 10th District Federal Court’s jurisdiction. A controversy between a STATE, such as Colorado, and a Citizen of another STATE, such as New Mexico falls within the purview of the Federal District Court, in either STATE. In this instant matter, Plaintiff has endeavored in five separate Civil Rights actions to seek redress of grievance in Colorado Federal District Court only to be subjected to increasingly greater persecution by Colorado STATE agents acting in concert and conspiracy to conceal and cover-up wrong-doings by other Colorado STATE Agents. No speedy and justicable remedy lies within Colorado’s venue. The Honorable Federal Court for the District of New Mexico provides the most obvious neutral ground for such a Federal controversy founded upon Diversity of Citizenship.

Further, Colorado State Attorney General Investigator Gary Clyman in conspiracy with other actors currently unknown to the Plaintiff, prior to the filing of case #04CR2541, placed an “inter-state fugitive warrant” on the N.C.I.C. that includes the State of New Mexico, as well as all other States in America, in an attempt to unlawfully arrest Plaintiff and impound Plaintiff’s automobile and property in an effort to prevent Plaintiff from seeking First Amendment redress of grievance for the continuing deprivations of Constitutionally secured Rights perpetrated upon Plaintiff by STATE and FEDERAL agents acting within the STATE OF COLORADO. To the end of obstructing justice and destroying evidence, Defendants have destroyed Jefferson County District Court Records and Transcripts in an effort to conceal and cover-up criminal and tortuous acts perpetrated upon Plaintiff by STATE and FEDERAL agents named in Connected 10th District Civil Rights and R.I.C.O. actions. It appears that now, the only records Defendant COLORADO STATE Actors think exist are those within Plaintiff’s possession and they seek through any nefarious means to eradicate those records also. Defendant STATE Actors do not realize that those records have been mass replicated and stored in several diverse locations as well as on-line. Although Defendant STATE Actors cannot succeed in their quest to destroy evidence, they intend to arrest and imprison Plaintiff in order to prevent Plaintiff’s Constitutionally secured Right to Access to the Courts, intimidate Plaintiff’s Witnesses and in as many

ways possible hamper and obstruct Plaintiff's quest for First Amendment Redress of Grievance. STATE/FEDERAL Defendants have a very well-documented history of obstructing justice, destroying evidence, threatening witnesses and unlawfully incarcerating Plaintiff in an effort to conceal, cover-up and prevent the exposure of epidemic Government corruption and rampant criminal activities of COLORADO STATE and FEDERAL actors named as Defendants in Connected Cases.

Main goal of this section was to override the corrupting influence of the Ku Klux Klan and its sympathizers on the government and law enforcement agencies of the southern states and one strong motive behind its enactment was great Congressional concern that the state courts had been deficient in protecting federal rights. [Allen v. McCurry, U.S.Mo.1980, 101 S.Ct. 411, 449 U.S. 90, 66 L.Ed.2d 308](#), on remand [647 F.2d 167](#).

It should be noted that COUNTY OF JEFFERSON, STATE OF COLORADO maintains a burning cross on the eastern facing foothills and is locally infamous for KKK activity. None-the-less, transferring this case to COLORADO would be tantamount to issuing Plaintiff a death-sentence.

The STATE OF COLORADO and the State of New Mexico have a long-standing criminal justice relationship and COLORADO conducts interstate commerce with New Mexico through the Office of the COLORADO STATE ATTORNEY GENERAL on a regular basis, including this instant matter. Defendant Gary Clyman, in conspiracy and by agreement with named Defendants issued a nationwide warrant for the arrest of Plaintiff in full knowledge that Plaintiff resides in Albuquerque, New Mexico.

Defendant Miller, in conspiracy with Defendant Clyman and other named Defendants deliberately lured Plaintiff into the STATE OF COLORADO by use of the U.S. Postal Service, in interstate commerce, knowing that the address to which they mailed the Boulder court's demand for Plaintiff's appearance was an address within the State of New Mexico, thus deliberately initiating tortuous and criminal acts upon a Citizen of the State of New Mexico.

5. Both STATE and FEDERAL statutes describe the criminal acts of the Defendants relative to Section 1979. Plaintiff has reported Government Defendant's criminal actions to every law enforcement entity, every judicial oversight entity, every judicial officer, every internal investigation entity, every Federal law enforcement agency sworn to enforce the Supreme Law of the Land in Colorado. The fact that none of these Defendants have been indicted on Federal Criminal Charges speaks volumes concerning clandestine, nepotistic conspiracies of Colorado's government agencies. These Government Agents would prefer that their "own" controlled courts would hear this complaint concerning the continuing criminal acts of their comrades.

Purposes of this section were to override certain kinds of state laws, to provide a remedy where state law was inadequate, to provide a federal remedy where state remedy, though adequate in theory, was not available in practice, and to provide a remedy in federal courts supplementary to any remedy any state might have. [McNeese v. Board of](#)

[Ed. for Community Unit School Dist. 187, Cahokia, Ill., U.S.Ill.1963, 83 S.Ct. 1433, 373 U.S. 668, 10 L.Ed.2d 622.](#)
See, also, [Madison v. Wood, C.A.6 \(Mich.\) 1969, 410 F.2d 564.](#)

COLORADO STATE Actors have developed a business consortium that can only be described as an “Enterprise” utilizing the power and emoluments of official office to conduct criminal activities forbidden by U.S. Laws as well as violative of Colorado Laws and Constitution. There appears to be no extremes of criminal activities STATE Actors named as Defendants herein will not undertake in order to protect their “Enterprise.” Allowing them and their cronies in the FEDERAL District Court to adjudicate this Constitutional Controversy would not serve the best interests of American Jurisprudence nor could justice prevail in such a foully tainted environment.

- Government entity may constitute "enterprise" within meaning of Racketeer Influenced and Corrupt Organization Act (RICO). U.S. v. Freeman, C.A.9 (Cal.) 1993,6F.3d 586
- Term "enterprise" as used in this chapter includes governmental agencies or offices. U.S. v. Clark, C.A.8 (Ark) 1981, 646 F.2d 1259.
- Enterprise under Racketeer Influenced and Corrupt Organizations Act need not be criminal in nature. but rather, all that is required is organization; thus, supreme court in Queens, New York was "enterprise" within meaning of RICO statute. U. & v. Brennan, E.D.N.Y. 1986, 629 F. Supp. 283, affirmed 789 F.2d 58 1, habeas corpus granted 685 F. Supp. 883, affirmed 867 F.2d 111.
- As creature of statute, Philadelphia traffic court was "legal entity" and was therefore "enterprise" for purposes of this chapter. U.S. v. Vignola. E.D.Pa. 1979,464 F.Supp. 1091, affirmed 605 F.2d 1199.
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6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, since there is diversity of citizenship and this is a civil action involving, exclusive of interest and costs, a sum in excess of \$75,000.00. COLORADO STATE Defendants initiated the criminal action giving rise to this controversy against a Citizen of the State of New Mexico who had no ties with COLORADO and committed no acts in COLORADO allowing COLORADO courts to properly found jurisdiction over a Citizen of New Mexico. The official court record reflects that the foundation of the frivolous criminal action against Plaintiff giving rise to this controversy was actually committed by Defendant Thomas

Cecil Miller and the COLORADO STATE Defendants are well aware of that fact. Plaintiff has never volunteered into the First Judicial District of Colorado's jurisdiction. All acts by Colorado STATE Actors have been void of lawful jurisdiction and an abuse of COLORADO public office as well as violative of Federal Law and Constitutional safeguards.

Purpose of § 1983 is to provide a remedy to parties deprived of constitutional rights by a state official's abuse of his position while acting under color of state law. [Haines v. Fisher, C.A.10 \(Wyo.\) 1996, 82 F.3d 1503.](#)

Underlying purpose of Congressional scheme for protection of constitutional rights are to permit victims of constitutional violations to obtain redress, to provide for federal criminal prosecutions of serious constitutional violations when state criminal proceedings are ineffective for purpose of deterring violations, and to strike appropriate balance between protection of individual rights from state infringement and protection of state and local governments from unnecessary federal interference. [U.S. v. City of Philadelphia, C.A.3 \(Pa.\) 1980, 644 F.2d 187.](#)

7. This action is founded solely upon Diversity of Citizenship. Supplemental jurisdiction was noted only in light of the character of the complaint as a Federal Controversy, not to establish jurisdiction. The fact that a New Mexico Citizen was deliberately **lured into the STATE of COLORADO solely** for the purpose of persecution in conspiracy by Colorado STATE actors in retaliation for seeking redress of grievance secured by the First Amendment to the United States Constitution states a claim ripe for adjudication in a neutral Federal District Court. The fact that Plaintiff has attempted in five cases (*see #1*) before the COLORADO District Court to find such relief and has been consistently denied precludes a reasonable belief that any such judicial relief can be found in COLORADO. The fox guarding the hen-house seems an appropriate simile.

8. Colorado STATE Defendants extended their influence into the State of New Mexico by official use of the U.S. Postal Service, *in interstate commerce*, in order to **lure Plaintiff into the STATE of COLORADO solely** for the purpose of persecuting, incarcerating, robbing and maliciously, vindictively, retaliatorily and selectively prosecuting Plaintiff in the very courts named as Defendants in several Federal Civil Rights actions before the 10th Federal District Court, Denver and this Honorable New Mexico court.

9. This complaint is filed in the 10th Federal District Court. This is the District in which the torts and crimes occurred and the very State in which **Defendants initiated their unlawful persecution** of Plaintiff in the matter giving rise to this complaint. Plaintiff was a New Mexico Citizen when **lured** by the Colorado STATE Defendants to appear in Boulder County Court in order to be arrested and charged on groundless, frivolous and vexatious charges and vindictively persecuted resulting in a void conviction, now on appeal in connected case #04-CR-2541.

The 10th Federal District encompasses both New Mexico and Colorado. Colorado has been proven to be tainted by cronyism and the courts controlled by the very Defendants to this action. Solid allegations of criminally culpable conduct by Colorado STATE Actors, *named as Defendants*, would cause a reasonable person to question if justice could be found in the STATE of Colorado. Plaintiff's documented experience has proven that no justice can be found in COLORADO for this persecuted Plaintiff. Conversely, STATE Defendants have been accused by many, as recently as during sworn testimony in the jury trial of case #04CR2541, of **attempting to murder Plaintiff**.

Therefore, lacking any hope of finding a neutral judicial official in the STATE of Colorado, it appears obvious that the New Mexico Federal Court for the 10th District is the only proper venue. Defendant's have obtained competent professional counsel within the State of New Mexico and Plaintiff has applied for **Political Asylum** within the State of New Mexico and can freely appear in court in New Mexico, where it would be tantamount to suicide to appear in a Colorado court. There is no better venue for this controversy than New Mexico.

10. Although the events giving rise to this controversy commenced in New Mexico, and most of the Defendants reside in Colorado, prosecution witnesses reside in New Mexico and those who do not will travel to New Mexico to offer eye-witness testimony against criminal Colorado Government Agents. Many of these prosecution witnesses have been threatened, harassed, intimidated and even prosecuted in the STATE of Colorado by the Defendants enumerated herein, in order to prevent their honest testimony in open court before an impartial jury. It has also been proven beyond repudiation that an "impartial jury" cannot be reliably found in the STATE of Colorado.

11. It would be most appropriate for Colorado STATE Actors named as Defendants to defend a lawsuit in New Mexico based upon their initiation of a groundless, frivolous and vexatious criminal prosecution against the Plaintiff, a New Mexico Citizen, in the STATE of Colorado. Plaintiff has traveled over 10,000 miles to and from the STATE of Colorado, paid motel bills and restaurants and all the associated costs of interstate travel at \$3.00 a gallon for gas in order to comply with the inordinate Colorado Court's demands during the course of the case giving rise to this complaint. It is only appropriate that the Defendants experience a similar discomfort, although we all understand that the American TaxPayer will pay the bill for their defense and no hardship will be imposed upon them.

Defendants rely upon their Color of Law and manipulation of the COLORADO courts in order to avoid culpability. Such an "Enterprise" (18 U.S.C. 1961) works well within the borders of the STATE of COLORADO, under the cover of conspiratorial cohorts, which is precisely why Plaintiff is

relying upon the neutral nature of the New Mexico Federal District Court to adjudicate this controversy in a venue providing safety for Plaintiff and Witnesses.

As a general matter, an applicant for asylum must demonstrate a "*well-founded fear* of persecution on account of race, religion, nationality, membership in a particular social group, or **political** opinion." 8 U.S.C. § 1101(a)(42)(A) (emphasis added).

Due to the exhaustively documented, everpresent, real and credible threat of death or imprisonment posed by Colorado STATE Defendants, it would be impossible for Plaintiff to appear before a Colorado court. No such danger presents to Colorado STATE Defendants in New Mexico.

The most important relief sought by Plaintiff, to-wit: **Political Asylum in the State of New Mexico** cannot be granted by any COLORADO court. COLORADO courts could indeed vacate all unlawful convictions and cease all persecution of Plaintiff, but it appears at present that their intent is to continue persecuting Plaintiff in revenge for exercising the First Amendment redress of grievance for the tortuous and criminal actions of COLORADO STATE Agents perpetrated against him.

C.A.7 1996. To be act of "persecution" for asylum eligibility, behavior in question must threaten death, imprisonment, or infliction of substantial harm or suffering. Immigration and Nationality Act §208 (a), as amended, 8 U.S.C.A. §1158 (a). – Sharif v. I.N.S., 87 F.3d 932 – Aliens 53.10(3).

C.A.7 1996 For purposes of asylum application "persecution" includes punishment or infliction of harm for political, religious or other reasons that this country does not recognize as legitimate. Immigration and Nationality Act, §§ 101 (a)(42)(A), 208 as amended, 8 U.S.C.A. §§ 1101 (a)(42)(A), 1158. – Gonzalez v. I.N.S., 77 F.3d 1015. – Aliens 53.10(3).

Wherefore, based upon the nature of this "David v. Goliath" controversy between persons of diverse states, *and the relief requested*, Plaintiff requests the Honorable New Mexico Federal District Court to maintain jurisdiction of this Constitutional Controversy based upon Diversity of Citizenship, and reliant upon the integrity of the neutral judicial officials of the State of New Mexico to adjudicate this controversy in a manner consistent with the American sense of Justice.

Respectfully Submitted,



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Certificate of Mailing via U.S. Postal Service and Notice of Electronic Filing

This Reply to STATE Defendant's Motion for Change of Venue was served upon the following parties via email and deposited in the United States Mail, first-class postage prepaid on this 10th day of June, 2006 addressed as follows:

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