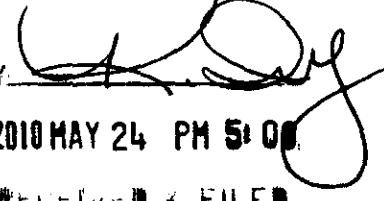


BY 
2010 MAY 24 PM 5:00
RECEIVED & FILED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMP
NYE COUNTY DISTRICT ATTORNEY

JUSTICE COURT FOR THE TOWNSHIP OF PAHRUMP
NYE COUNTY, STATE OF NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
vs.)
)
DAVID BORUCHOWITZ; and)
DOES 1-20, inclusive)
)
Defendants.)

CASE NO.: 10 CR 01831
DEPT. NO.:

CRIMINAL COMPLAINT

The undersigned, having been duly sworn, states the following to be a true and correct statement of facts constituting public offenses committed in the County of Nye, State of Nevada, by David Boruchowitz and DOES 1-20 and charged herein as follows:

COUNT I

CRIMINAL ASSAULT (NRS 200.471)

I

On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night, without search warrant, exigent circumstances or probable cause, demanded entry into a private residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as the "subject residence"). Defendant Boruchowitz and some DOE defendants are police officers employed by the Nye County Sheriff Department.

II

That the subject residence was lawfully occupied by children and young adults ranging in age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel (hereinafter referred to as "occupants.") That defendants knew Cobel was a candidate for the

1 Office of Nye County Sheriff.

2 III

3 That before any occupant could open the door, defendants Boruchowitz and DOES 1-20
4 unlawfully kicked open the front door and entered at the subject residence, with deadly weapons
5 and having the present ability to use a deadly weapon.

6 IV

7 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
8 with the intent of forcibly searching and seizing persons and property contained therein.

9 V

10 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 11 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
12 downstairs."
- 13 2. Screamed and yelled at the lawful occupants to raise their hands above their
14 heads.
- 15 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
16 outside of the subject residence and to provide their names and addresses to
17 defendants. Sheriff candidate Scott Cobel's daughter was specifically identified
18 by defendants.
- 19 4. While the occupants were forced to sit outside of the subject residence, defendants
20 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
21 unlawful search of the subject residence.
- 22 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced
23 the lawful occupants to re-enter the subject residence.
- 24 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful
25 occupants that they would "bring out the dogs" if they were not given "weed" or
26 marijuana by the occupants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. When asked by an lawful occupant if they had a search warrant, defendants Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a search warrant.
8. A female occupant went upstairs and returned with a small amount of marijuana believed to have been in her purse.
9. That when several of the female occupants began crying, the defendants began making fun of the girls and began singing "it's my party and I'll cry if I want to."
10. The occupants were unlawfully forced to undergo a physical examination by breathalyzer administered by the defendants.
11. That defendants failed to telephone the minor occupants' parents.
12. That a female minor asked to call her parents and defendants refused.

VI

That the aforementioned acts of defendants Boruchowitz and the DOES 1-20 intentionally placed the lawful occupants of the subject residence in reasonable apprehension of immediate bodily harm with the present ability to use deadly weapons in violation of NRS 200.471 (assault), a Category B felony by:

1. Kicking open the front door and entering the subject residence.
2. Entering the residence with the present ability ability to use deadly weapons in their possession.
3. Screaming and yelling at the lawful occupants.
4. Demanding that the lawful occupants assemble downstairs and raise their hands.
5. Repeatedly threatening to "bring out the dogs."
6. Refusing to allow minors to telephone their parents.
7. Causing the children to become so frightened as to cry and then taunting those children.

COUNT II

1 **CRIMINAL BATTERY (NRS 200.481)**

2 **VII**

3 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
4 without search warrant, exigent circumstances or probable cause, demanded entry into a private
5 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
6 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
7 officers by the Nye County Sheriff Department.

8 **VIII**

9 That the subject residence was lawfully occupied by children and young adults ranging in
10 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
11 (hereinafter referred to as "occupants.") That defendants knew Cobel was a candidate for the
12 office of Nye County Sheriff.

13 **IX**

14 That before any occupant could open the door, defendants Boruchowitz and DOES 1-20
15 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
16 and having the present ability to use a deadly weapon.

17 **X**

18 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
19 with the intent to forcibly search and seize persons and property contained therein.

20 **XI**

21 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 22 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
23 downstairs."
- 24 2. Screamed and yelled at the lawful occupants to raise their hands above their
25 heads.
- 26 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
27

1 outside of the subject residence and to provide their names and addresses to
2 defendants. Sheriff's candidate Scott Cobel's daughter was specifically identified
3 by defendants.

4 4. While the occupants were forced to sit outside of the subject residence, defendants
5 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
6 unlawful search of the subject residence.

7 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced
8 the lawful occupants to re-enter the subject residence.

9 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful
10 occupants that they would "bring out the dogs" if they were not given "weed" or
11 marijuana by the occupants.

12 7. When asked by an lawful occupant if they had a search warrant, defendants
13 Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a
14 search warrant.

15 8. A female occupant went upstairs and returned with a small amount of marijuana
16 believed to have been in her purse.

17 9. That when several of the female occupants began crying, the defendants began
18 making fun of the girls and began singing "its my party and I'll cry if I want to."

19 10. The occupants were unlawfully forced to undergo a physical examination by
20 breathalyzer administered by the defendants.

21 11. That defendants failed to telephone the minor occupants' parents.

22 12. That a female minor asked to call her parents and defendants refused.

23 XII

24 That defendants Boruchowitz and the DOES 1-20 used force and violence upon the
25 lawful occupants of the subject residence constituting a criminal battery in violation of NRS
26 200.481 by forcing the lawful occupants to submit to a physical examination by breathalyzer

1 administered by the defendants.

2 **COUNT III**

3 **FALSE IMPRISONMENT (NRS 200.460)**

4 **XIII**

5 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
6 without search warrant, exigent circumstances or probable cause, demanded entry into a private
7 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
8 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
9 officers by the Nye County Sheriff Department.

10 **XIV**

11 That the subject residence was lawfully occupied by children and young adults ranging in
12 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
13 (hereinafter referred to as "occupants.") That defendants knew Cobel was a candidate for the
14 office of Nye County Sheriff.

15 **XV**

16 That before any occupant could open the door, defendants Boruchowitz and DOES 1-20
17 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
18 and having the present ability to use a deadly weapon.

19 **XVI**

20 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
21 with the intent of forcibly searching and seizing persons and property contained therein.

22 **XVII**

23 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 24 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
25 downstairs."
26 2. Screamed and yelled at the lawful occupants to raise their hands above their
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

heads.

3. Forced the lawful occupants to walk out of the subject residence, sit on the ground outside of the subject residence and to provide their names and addresses to defendants. Sheriff candidate Scott Cobel's daughter was specifically identified by defendants.
4. While the occupants were forced to sit outside of the subject residence, defendant Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an unlawfully search of the subject residence.
5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced the lawful occupants to re-enter the subject residence.
6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful occupants that they would "bring out the dogs" if they were not given "weed" or marijuana by the occupants.
7. When asked by an lawful occupant if they had a search warrant, defendants Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a search warrant.
8. A female occupant went upstairs and returned with a small amount of marijuana believed to have been in her purse.
9. That when several of the female occupants began crying, the defendants began making fun of the girls and began singing "it's my party and I'll cry if I want to."
10. The occupants were unlawfully forced to undergo a physical examination by breathalyzer administered by the defendants.
11. That defendants failed to telephone the minor occupants' parents.
12. That a female minor asked to call her parents and defendants refused.

XVIII

That defendants Boruchowitz and the DOES 1-20 unlawfully confined and detained the

1 legal occupants of the subject residence in violation of NRS 200.460, a gross misdemeanor by:

- 2 1. Forcibly assembling them downstairs.
- 3 2. Forcibly causing them to leave the residence and sit outside while a search of the
- 4 residence was conducted.
- 5 3. Forcibly causing them to re-enter the subject residence.
- 6 4. Forcibly causing them to undergo a physical examination by breathalyzer.
- 7 5. Refusing to allow them to leave or move about the subject residence.
- 8 6. Refusing to let the occupants telephone parents or family.
- 9 7. Forcibly obtaining the occupants names and addresses.
- 10 8. Stating to the occupants they were under house arrest.

11 **COUNT IV**

12 **HOME INVASION (NRS 205.067)**

13 **XIX**

14 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
15 without search warrant, exigent circumstances or probable cause, demanded entry into a private
16 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
17 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
18 officers by Nye County Sheriff Department.

19 **XX**

20 That the subject residence was lawfully occupied by children and young adults ranging in
21 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
22 (hereinafter referred to as "lawful occupants.") That defendants knew Cobel was a candidate for
23 the office of Nye County Sheriff.

24 **XXI**

25 That before any occupant could open the door, defendants Boruchowitz and DOES 1-20
26 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
27

1 and having the present ability to use a deadly weapon.

2 **XXII**

3 That defendant Boruchowitz and DOES 1-20 broke and entered the subject residence
4 with the intent of forcibly searching and seizing persons and property contained therein.

5 **XXIII**

6 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 7 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
8 downstairs."
- 9 2. Screamed and yelled at the lawful occupants to raise their hands above their
10 heads.
- 11 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
12 outside of the subject residence and to provide their names and addresses to
13 defendants. Sheriff candidate Scott Cobel's daughter was specifically identified
14 by defendants.
- 15 4. While the occupants were forced to sit outside of the subject residence, defendant
16 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
17 unlawful search of the subject residence.
- 18 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced
19 the lawful occupants to re-enter the subject residence.
- 20 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful
21 occupants that they would "bring out the dogs" if they were not given "weed" or
22 marijuana by the occupants.
- 23 7. When asked by an lawful occupant if they had a search warrant, defendants
24 Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a
25 search warrant.
- 26 8. A female occupant went upstairs and returned with a small amount of marijuana
27

1 believed to have been in her purse.

2 9. That when several of the female occupants began crying, the defendants began
3 making fun of the girls and began singing "it's my party and I'll cry if I want to."

4 10. The occupants were unlawfully forced to undergo a physical examination by
5 breathalyzer administered by the defendants.

6 11. That defendants failed to telephone the minor occupants' parents.

7 12. That a female minor asked to call her parents and defendants refused.

8 **XXIV**

9 That defendants Boruchowitz and the DOES 1-20 forcibly entered the subject residence
10 without permission of the lawful occupants constituting a home invasion in violation of NRS
11 205.067, a Category B felony.

12
13 **COUNT V**

14 **COERCION (NRS 207.190)**

15 **XXV**

16 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
17 without search warrant, exigent circumstances or probable cause, demanded entry into a private
18 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
19 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
20 officers by Nye County Sheriff Department.

21 **XXVI**

22 That the subject residence was lawfully occupied by children and young adults ranging in
23 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
24 (hereinafter referred to as "lawful occupants.") That defendants knew Cobel was a candidate for
25 the office of Nye County Sheriff.

26 **XXVII**

27

1 That before any occupant could open the door, defendant Boruchowitz and DOES 1-20
2 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
3 and having the present ability to use a deadly weapon.

4 **XXVIII**

5 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
6 with the intent of forcibly searching and seizing persons and property contained therein.

7 **XXIX**

8 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 9 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
10 downstairs."
- 11 2. Screamed and yelled at the lawful occupants to raise their hands above their
12 heads.
- 13 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
14 outside of the subject residence and to provide their names and addresses to
15 defendants. Sheriff candidate Scott Cobel's daughter was specifically identified
16 by defendants.
- 17 4. While the occupants were forced to sit outside of the subject residence, defendant
18 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
19 unlawful search of the subject residence.
- 20 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced
21 the lawful occupants to re-enter the subject residence.
- 22 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful
23 occupants that they would "bring out the dogs" if they were not given "weed" or
24 marijuana by the occupants.
- 25 7. When asked by an lawful occupant if they had a search warrant, defendants
26 Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

search warrant.

8. A female occupant went upstairs and returned with a small amount of marijuana believed to have been in her purse.
9. That when several of the female occupants began crying, the defendants began making fun of the girls and began singing "it's my party and I'll cry if I want to."
10. The occupants were unlawfully forced to undergo a physical examination by breathalyzer administered by the defendants.
11. That defendants failed to telephone the minor occupants' parents.
12. That a female minor asked to call her parents and defendants refused.

XXX

That defendants Boruchowitz and DOES 1-20 intended to compel the lawful occupants of the subject residence to submit to an unlawful search and seizure of their person and property, by the use or threats of violence and force constituting a criminal coercion in violation of NRS 207.190, a Category B felony, by:

1. Committing an assault upon the occupants (Count I).
2. Committing a battery upon the occupants (Count II).
3. Falsely arresting the legal occupants (Count III).
4. Forcibly breaking and entering into the subject residence (Count IV).
5. Kidnapping the occupants (Count VII).

COUNT VI

OPPRESSION (NRS 197.200)

XXXI

On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night, without search warrant, exigent circumstances or probable cause, demanded entry into a private residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as the "subject residence"). Defendants Boruchowitz and some DOES are employed by police

1 officers by Nye County Sheriff Department.

2 **XXXII**

3 That the subject residence was lawfully occupied by children and young adults ranging in
4 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
5 (hereinafter referred to as "lawful occupants.") That defendants knew Cobel was a candidate for
6 the office of Nye County Department.

7 **XXXIII**

8 That before any occupant could open the door, defendant Boruchowitz and DOES 1-20
9 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
10 and having the present ability to use a deadly weapon.

11 **XXXIV**

12 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
13 with the intent of forcibly searching and seizing persons and property contained therein.

14 **XXXV**

15 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

- 16 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
17 downstairs."
- 18 2. Screamed and yelled at the lawful occupants to raise their hands above their
19 heads.
- 20 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
21 outside of the subject residence and to provide their names and addresses to
22 defendants. Sheriff candidate Scott Cobel's daughter was specifically identified
23 by defendants.
- 24 4. While the occupants were forced to sit outside of the subject residence, defendant
25 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
26 unlawfully search of the subject residence.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced the lawful occupants to re-enter the subject residence.
6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful occupants that they would “bring out the dogs” if they were not given “weed” or marijuana by the occupants.
7. When asked by an lawful occupant if they had a search warrant, defendants Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a search warrant.
8. A female occupant went upstairs and returned with a small amount of marijuana believed to have been in her purse.
9. That when several of the female occupants began crying, the defendants began making fun of the girls and began singing “it’s my party and I’ll cry if I want to.”
10. The occupants were unlawfully forced to undergo a physical examination by breathalyzer administered by the defendants.
11. That defendants failed to telephone the minor occupants’ parents.
12. That a female minor asked to call her parents and defendants refused.

XXXVI

That defendants Boruchowitz and DOES 1-20 used physical force and the immediate threat of physical force and violence, to unlawfully, maliciously and under pretense or color of official authority to detain the legal occupants of the subject residence against their will, injuring and depriving them of their rights to privacy and freedom from unlawful search and arrest as guaranteed by the Nevada Constitution, constituting an unlawful oppression under color of law in violation of NRS 197.200, a felony, by:

1. Committing an assault upon the occupants (Count I).
2. Committing a battery upon the occupants (Count II).
3. Falsely arresting the legal occupants (Count III).

1 4. Forcibly breaking and entering into the subject residence (Count IV).

2 5. Kidnapping the occupants (Count VII).

3 **COUNT VII**

4 **KIDNAPPING (NRS 200.300(2))**

5 **XXXVII**

6 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
7 without search warrant, exigent circumstances or probable cause, demanded entry into a private
8 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
9 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
10 officers by the Nye County Sheriff Department.

11 **XXXVIII**

12 That the subject residence was lawfully occupied by children and young adults ranging in
13 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
14 (hereinafter referred to as "lawful occupants.") That defendants knew Cobel was a candidate for
15 the office of Nye County Sheriff.

16 **XXXIX**

17 That before any occupant could open the door, defendant Boruchowitz and DOES 1-20
18 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
19 and having the present ability to use a deadly weapon.

20
21 **XL**

22 That defendants Boruchowitz and DOES 1-20 broke and entered the subject residence
23 with the intent of forcibly searching and seizing persons and property contained therein.

24 **XLI**

25 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:

26 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- downstairs.”
2. Screamed and yelled at the lawful occupants to raise their hands above their heads.
 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground outside of the subject residence and to provide their names and addresses to defendants. Sheriff candidate Scott Cobel’s daughter was specifically identified by defendants.
 4. While the occupants were forced to sit outside of the subject residence, defendant Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an unlawfully search of the subject residence.
 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced the lawful occupants to re-enter the subject residence.
 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful occupants that they would “bring out the dogs” if they were not given “weed” or marijuana by the occupants.
 7. When asked by an lawful occupant if they had a search warrant, defendants Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a search warrant.
 8. A female occupant went upstairs and returned with a small amount of marijuana believed to have been in her purse.
 9. That when several of the female occupants began crying, the defendants began making fun of the girls and began singing “it’s my party and I’ll cry if I want to.”
 10. The occupants were unlawfully forced to undergo a physical examination by breathalyzer administered by the defendants.
 11. That defendants failed to telephone the minor occupants’ parents.
 12. That a female minor asked to call her parents and defendants refused.

1 **XLII**

2 That defendants Boruchowitz and DOES 1-20 willfully and without authority, seized,
3 investigated, took, carried away the legal occupants of the subject residence with the intent to
4 hold and detain them against their will, constituting in kidnapping in violation of NRS
5 200.310(2), a Category B felony.

6 **COUNT VIII**

7 **BURGLARY (NRS 205.060)**

8 **XLIII**

9 On April 17, 2010, defendants Boruchowitz and DOES 1-20 after 7:00 p.m. at night,
10 without search warrant, exigent circumstances or probable cause, demanded entry into a private
11 residence located at 550 East Bourbon Street, Unit 4, Pahrump, Nevada (hereinafter referred to as
12 the "subject residence"). Defendants Boruchowitz and some DOES are employed as police
13 officers by Nye County Sheriff Department.

14 **XLIV**

15 That the subject residence was lawfully occupied by children and young adults ranging in
16 age 14 to 18 years, including the daughter of a candidate for Nye County Sheriff Scott Cobel
17 (hereinafter referred to as "lawful occupants.") That defendants knew Cobel was a candidate for
18 the office of Nye County Sheriff.

19 **XLV**

20 That before any occupant could open the door, defendant Boruchowitz and DOES 1-20
21 unlawfully kicked open the front door and entered at the subject residence with deadly weapons
22 and having the present ability to use a deadly weapon..

23 **XLVI**

24 That defendant Boruchowitz and DOES 1-20 broke and entered the subject residence
25 with the intent of forcibly searching and seizing persons and property contained therein.

26 **XLVII**

- 1 That upon entry into the subject residence, defendants Boruchowitz and DOES 1-20:
- 2 1. Screamed and yelled at the lawful occupants located upstairs to "get the fuck
 - 3 downstairs."
 - 4 2. Screamed and yelled at the lawful occupants to raise their hands above their
 - 5 heads.
 - 6 3. Forced the lawful occupants to walk out of the subject residence, sit on the ground
 - 7 outside of the subject residence and to provide their names and addresses to
 - 8 defendants. Sheriff candidate Scott Cobel's daughter was specifically identified by
 - 9 defendants.
 - 10 4. While the occupants were forced to sit outside of the subject residence, defendant
 - 11 Boruchowitz and DOES 1-20 re-entered the subject residence and conducted an
 - 12 unlawfully search of the subject residence.
 - 13 5. Upon completion of the search, defendants Boruchowitz and DOES 1-20 forced
 - 14 the lawful occupants to re-enter the subject residence.
 - 15 6. Upon re-entry, defendant Boruchowitz and DOES 1-20 threatened the lawful
 - 16 occupants that they would "bring out the dogs" if they were not given "weed" or
 - 17 marijuana by the occupants.
 - 18 7. When asked by an lawful occupant if they had a search warrant, defendants
 - 19 Boruchowitz or DOES 1-20 held up a piece of paper and falsely stated it was a
 - 20 search warrant.
 - 21 8. A female occupant went upstairs and returned with a small amount of marijuana
 - 22 believed to have been in her purse.
 - 23 9. That when several of the female occupants began crying, the defendants began
 - 24 making fun of the girls and began singing "it's my party and I'll cry if I want to."
 - 25 10. The occupants were unlawfully forced to undergo a physical examination by
 - 26 breathalyzer administered by the defendants.
 - 27
 - 28

1 11. That defendants failed to telephone the minor occupants' parents.

2 12. That a female minor asked to call her parents and defendants refused.

3 **XLVIII**

4 That defendants Boruchowitz and the DOES 1-20 entered the subject residence with the
5 intent to commit an assault (Count I), battery (Count II), false imprisonment (Count III), coercion
6 (Count V), kidnapping (Count VII) and home invasion (Count IV), thereby committing a
7 burglary in violation of NRS 205.060, a Category B felony.

8 **COUNT IX**

9 **FALSE AFFIDAVIT TO EFFECT ARREST AND SEARCH**
10 **(NRS 199.130)**

11 **XLIX**

12 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
13 Nye County Sheriff.

14 **L**

15 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
16 County Sheriff.

17 **LI**

18 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
19 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

20 **LII**

21 Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

22 **LIII**

23 Schiller disagreed and "at some point in this conversation, I don't remember when he
24 pulled out his billfold....", "He flipped that open" and "I observed a five-part gold star with a
25 blue circle ..."

26 **LIV**

27 Schiller then asked why Holmes was being an asshole and harassing him and Holmes

1 became extremely irritated and said he was going to contact the authorities.

2 **LV**

3 Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't
4 even know if Holmes was a law enforcement agent.

5 **LVI**

6 A witness stated that Schiller became obnoxious and loud, and observed Holmes show
7 Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

8 **LVII**

9 On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a
10 search warrant to the Pahrump Justice Court which contained the following false statements:

- 11 1. Probable cause existed that Holmes impersonated a peace officer in violation of
12 NRS 199.430.
- 13 2. Schiller stated there was no question that this man was intending for him to
14 believe that he was a law enforcement officer and had some authority to detain
15 him and question him relating to the situation and, in fact, stated he felt like he
16 was being interrogated.
- 17 3. That the badge and wallet will aid in the investigation and prosecution of Robert
18 T. Holmes for the crime above.

19 **LVIII**

20 That on or about March 12, 2010, defendant Boruchowitz received the following search
21 warrants:

- 22 1. 10-sw-00019: The person of Robert T. Holmes
23 - Badge(s) to include but not limited to a five point badge with a blue circle
24 in the middle with the scales of justice.
25 - Badge wallet, with velvet badge cover within.
- 26 2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN

- 1 - Badge(s) to include but not limited to a five point badge with a blue circle
2 in the middle with the scales of justice.
3 - Badge wallet, with velvet badge cover within.
4 3. 10-sw-00017: 1021 China Street, Pahrump, NV
5 - Badge(s) to include but not limited to a five point badge with a blue circle
6 in the middle with the scales of justice.
7 - Badge wallet, with velvet badge cover within.

8 **LIX**

9 That on March 12, 2010, defendants Boruchowitz and defendants DOES 11-20, using a
10 ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump,
11 Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-
12 0019.

13 **LX**

14 That defendant Boruchowitz, after admitting gained entry into Holmes property by ruse,
15 told Holmes he had a search warrant for Holmes' badge and commenced an aggressive
16 interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

17 **LXI**

18 That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search
19 warrant to Holmes.

20 **LXII**

21 During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly
22 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.
23 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

24
25 **LXIII**

26 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
27

1 demand of Holmes.

2 **LXIV**

3 That defendants Boruchowitz and DOES 11-20 then falsely stated that Holmes was going
4 for a gun and without probable cause or warrant, arrested Holmes.

5 **LXV**

6 That defendant Boruchowitz made a false affidavit with the intent of obtaining search
7 warrants for the unlawful search of the premises, vehicle and person of Holmes and to effect the
8 unlawful arrest of Holmes in violation of NRS 199.130, a Category D felony.

9 **COUNT X**

10 **PERJURY (NRS 199.120)**

11 **LXVI**

12 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
13 Nye County Sheriff.

14 **LXVII**

15 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
16 County Sheriff.

17 **LVIII**

18 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
19 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

20 **LIX**

21 Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

22 **LX**

23 Schiller disagreed and "at some point in this conversation, I don't remember when he
24 pulled out his billfold...", "He flipped that open" and "I observed a five-part gold star with a
25 blue circle ..."

26 **LXI**

27

28

1 Schiller then asked why Holmes was being an asshole and harassing him and Holmes
2 became extremely irritated and said he was going to contact the authorities.

3 **LXII**

4 Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't
5 even know if Holmes was a law enforcement agent.

6 **LXIII**

7 A witness stated that Schiller became obnoxious and loud and observed Holmes show
8 Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

9 **LXIV**

10 On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a
11 search warrant to the Pahrump Justice Court which contained the following false statements:

- 12 1. Probable cause existed that Holmes impersonated a peace officer in violation of
13 NRS 199.430.
- 14 2. Schiller stated there was no question that this man was intending for him to
15 believe that he was a law enforcement officer and had some authority to detain
16 him and question him relating to the situation and, in fact, stated he felt like he
17 was being interrogated.
- 18 3. That the badge and wallet will aid in the investigation and prosecution of Robert
19 T. Holmes for the crime above.

20 **LXV**

21 That on or about March 12, 2010, defendant Boruchowitz received the following search
22 warrants:

- 23 1. 10-sw-00019: The person of Robert T. Holmes
- 24 - Badge(s) to include but not limited to a five point badge with a blue circle
25 in the middle with the scales of justice.
- 26 - Badge wallet, with velvet badge cover within.

1 demand of Holmes.

2 **LXXI**

3 That defendants Boruchowitz and DOES 11-20 then falsely stated that Holmes was going
4 for a gun and without probable cause or warrant, arrested Holmes.

5 **LXXII**

6 That defendant Boruchowitz willfully made an unjustified statement of that which he did
7 not know to be true, or swore and affirmed willfully and falsely in a matter material to the facts
8 upon which search warrants were obtained, and the arrest of Holmes was based constituting
9 perjury in violation of NRS 199.120, a Category D felony.

10 **COUNT XI**

11 **SEARCH WARRANT MALICIOUSLY PROCURED**

12 **(NRS 199.440)**

13 **LXXIII**

14 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
15 Nye County Sheriff.

16 **LXXIV**

17 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
18 County Sheriff.

19 **LXXV**

20 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
21 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

22 **LXXVI**

23 Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

24 **LXXVII**

25 Schiller disagreed and "at some point in this conversation, I don't remember when he
26
27

1 pulled out his billfold....". "He flipped that open." and " I observed a five-part gold star with a
2 blue circle ..."

3 **LXXVIII**

4 Schiller then asked why Holmes was being an asshole and harassing him and Holmes
5 became extremely irritated and said he was going to contact the authorities.

6 **LXXIX**

7 Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't
8 even know if Holmes was a law enforcement agent.

9 **LXXX**

10 A witness stated that Schiller became obnoxious and loud and observed Holmes show
11 Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

12 **LXXXI**

13 On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a
14 search warrant to the Pahrump Justice Court which contained the following false statements:

- 15 1. Probable cause existed that Holmes impersonated a peace officer in violation of
16 NRS 199.430.
- 17 2. Schiller stated there was no question that this man was intending for him to
18 believe that he was a law enforcement officer and had some authority to detain
19 him and question him relating to the situation and, in fact, stated he felt like he
20 was being interrogated.
- 21 3. That the badge and wallet will aid in the investigation and prosecution of Robert
22 T. Holmes for the crime above.

23 **LXXXII**

24 That on or about March 12, 2010, defendant Boruchowitz received the following search
25 warrants:

- 26 1. 10-sw-00019: The person of Robert T. Holmes

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
- Badge wallet, with velvet badge cover within.
- 2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
- 3. 10-sw-00017: 1021 China Street, Pahrump, NV
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.

LXXXIII

That on March 12, 2010, defendant Boruchowitz and defendants DOES 11-20, using a ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump, Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-0019.

LXXXIV

That defendant Boruchowitz, after admitting he gained entry into Holmes property by ruse, told Holmes he had a search warrant for Holmes' badge and commenced an aggressive interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

LXXXV

That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search warrant to Holmes.

LXXXVI

During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly

1 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.

2 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

3 **LXXXVII**

4 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
5 demand of Holmes.

6 **LXXXVIII**

7 That defendants Boruchowitz and DOES 11-20 falsely stated that Holmes was going for a
8 gun and without probable cause or warrant,

9 **LXXXIX**

10 That defendant Boruchowitz maliciously and without probable cause procured a search
11 warrant and used the same as a pretext to arrest Holmes thereby violating NRS 199.440, a gross
12 misdemeanor.

13 **COUNT XII**

14 **PEACE OFFICER EXCEEDING AUTHORITY IN EXECUTION OF WARRANT**

15 **(NRS 199.450)**

16 **XC**

17 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
18 Nye County Sheriff.

19 **XCI**

20 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
21 County Sheriff.

22 **XCII**

23 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a foreign
24 police badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget
25 Casino.

26 **XCIII**

1 Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

2 **XCIV**

3 Schiller disagreed and "at some point in this conversation, I don't remember when he
4 pulled out his billfold....", "He flipped that open" and "I observed a five-part gold star with a
5 blue circle ..."

6 **XCV**

7 Schiller then asked why Holmes was being an asshole and harassing him and Holmes
8 became extremely irritated and said he was going to contact the authorities.

9
10 **XCVI**

11 Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't
12 even know if Holmes was a law enforcement agent.

13 **XCVII**

14 A witness stated that Schiller became obnoxious and loud and observed Holmes show
15 Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

16 **XCVIII**

17 On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a
18 search warrant to the Pahrump Justice Court which contained the following false statements:

- 19 1. Probable cause existed that Holmes impersonated a peace officer in violation of
20 NRS 199.430.
- 21 2. Schiller stated there was no question that this man was intending for him to
22 believe that he was a law enforcement officer and had some authority to detain
23 him and question him relating to the situation and, in fact, stated he felt like he
24 was being interrogated.
- 25 3. That the badge and wallet will aid in the investigation and prosecution of Robert
26 T. Holmes for the crime above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XCIX

That on or about March 12, 2010, defendants Boruchowitz received the following search warrants:

1. 10-sw-00019: The person of Robert T. Holmes
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
3. 10-sw-00017: 1021 China Street, Pahrump, NV
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.

C

That on March 12, 2010, defendants Boruchowitz and defendants DOES 11-20, using a ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump, Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-0019.

CI

That defendant Boruchowitz, after admitting he gained entry into Holmes property by ruse, told Holmes he had a search warrant for Holmes' badge and commenced an aggressive interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

CII

That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search

1 warrant to Holmes.

2 **CIII**

3 During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly
4 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.
5 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

6 **CIV**

7 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
8 demand of Holmes.

9 **CV**

10 That defendants Boruchowitz and DOES 11-20 then falsely stated that Holmes was going
11 for a gun and without probable cause or warrant, arrested Holmes.

12 **CVI**

13 That defendant Boruchowitz, in executing the search warrant, willfully exceeded his
14 authority and exercised it with unnecessary severity in violation of NRS 199.450, a gross
15 misdemeanor.

16 **COUNT XIII**

17 **MALICIOUS PROSECUTION (NRS 199.310)**

18 **CVII**

19 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
20 Nye County Sheriff.

21 **CVIII**

22 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
23 County Sheriff.

24 **CIX**

25 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
26 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CX

Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

CXI

Schiller disagreed and “at some point in this conversation, I don’t remember when he pulled out his billfold...”, “He flipped that open.” and “I observed a five-part gold star with a blue circle ...”

CXII

Schiller then asked why Holmes was being an asshole and harassing him and Holmes became extremely irritated and said he was going to contact the authorities.

CXIII

Schiller admitted he did not recall if Holmes ever identified himself, and that he didn’t even know if Holmes was a law enforcement agent.

CXIV

A witness stated that Schiller became obnoxious and loud and observed Holmes show Schiller his badge, and say, “Well, I’m a retired deputy from Riverside, California.”

CXV

On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a search warrant to the Pahrump Justice Court which contained the following false statements:

1. Probable cause existed that Holmes impersonated a peace officer in violation of NRS 199.430.
2. Schiller stated there was no question that this man was intending for him to believe that he was a law enforcement officer and had some authority to detain him and question him relating to the situation and, in fact, stated he felt like he was being interrogated.
3. That the badge and wallet will aid in the investigation and prosecution of Robert T. Holmes for the crime above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CXVI

That on or about March 12, 2010, defendant Boruchowitz received the following search warrants:

1. 10-sw-00019: The person of Robert T. Holmes
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
3. 10-sw-00017: 1021 China Street, Pahrump, NV
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.

CXVII

That on March 12, 2010, defendants Boruchowitz and defendants DOES 11-20, using a ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump, Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-0019.

CXVIII

That defendant Boruchowitz, after admitting he gained entry into Holmes property by ruse, told Holmes he had a search warrant for Holmes' badge and commenced an aggressive interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

CXIX

That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search

1 warrant to Holmes.

2 **CXX**

3 During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly
4 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.
5 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

6 **CXXI**

7 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
8 demand of Holmes.

9 **CXXII**

10 That defendants Boruchowitz and DOES 11-20 then falsely stated that Holmes was going
11 for a gun and without probable cause or warrant, arrested Holmes.

12 **CXXIII**

13 That defendants Boruchowitz and DOES 11-20 maliciously and without probable cause
14 therefor, caused Holmes to be arrested and prosecuted for a crime of which he is innocent,
15 thereby violating NRS 199.310(1), a Category D felony.

16 **COUNT XIV**

17 **OPPRESSION UNDER COLOR OF OFFICE (NRS 197.200)**

18 **CXXIV**

19 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
20 Nye County Sheriff.

21 **CXXV**

22 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
23 County Sheriff.

24 **CXXVI**

25 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
26 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CXXVII

Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

CXXVIII

Schiller disagreed and "at some point in this conversation, I don't remember when he pulled out his billfold...", "He flipped that open" and "I observed a five-part gold star with a blue circle ..."

CXXIX

Schiller then asked why Holmes was being an asshole and harassing him and Holmes became extremely irritated and said he was going to contact the authorities.

CXXX

Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't even know if Holmes was a law enforcement agent.

CXXXI

A witness stated that Schiller became obnoxious and loud and observed Holmes show Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

CXXXII

On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a search warrant to the Pahrump Justice Court which contained the following false statements:

1. Probable cause existed that Holmes impersonated a peace officer in violation of NRS 199.430.
2. Schiller stated there was no question that this man was intending for him to believe that he was a law enforcement officer and had some authority to detain him and question him relating to the situation and, in fact, stated he felt like he was being interrogated.
3. That the badge and wallet will aid in the investigation and prosecution of Robert T. Holmes for the crime above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CXXXIII

That on or about March 12, 2010, defendant Boruchowitz received the following search warrants:

1. 10-sw-00019: The person of Robert T. Holmes
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
3. 10-sw-00017: 1021 China Street, Pahrump, NV
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.

CXXXIV

That on March 12, 2010, defendants Boruchowitz and defendants DOES 11-20, using a ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump, Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-0019.

CXXXV

That defendant Boruchowitz, after admitting he gained entry into Holmes property by ruse, told Holmes he had a search warrant for Holmes' badge and commenced an aggressive interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

CXXXVI

That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search

1 warrant to Holmes.

2 **CXXXVII**

3 During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly
4 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.
5 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

6 **CXXXVIII**

7 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
8 demand of Holmes.

9 **CXXXIX**

10 That defendants Boruchowitz and DOES 11-20 then falsely stated that Holmes was going
11 for a gun and without probable cause or warrant, arrested Holmes.

12 **CXL**

13 That defendants Boruchowitz and DOES 11-20 unlawfully, maliciously, and under color
14 of official authority, arrested Holmes in violation of NRS 197.200(2)(a), a Category D felony.

15 **COUNT XV**

16 **STATEMENT MADE IN DECLARATION UNDER PENALTY OF PERJURY**

17 **(NRS 199.145)**

18 **CXLI**

19 In March, 2010, Ted Holmes declared himself a candidate for election to the Office of
20 Nye County Sheriff.

21 **CXLII**

22 That defendants Boruchowitz and DOES 11-20 knew Holmes was a candidate for Nye
23 County Sheriff.

24 **CXLIII**

25 That on March 12, 2010, Holmes approached Josh Schiller who was wearing a police
26 badge from a foreign jurisdiction and pistol while standing outside the Pahrump Nugget Casino.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CXLIV

Holmes stated to Schiller that it was unlawful for him to wear a badge in public.

CXLV

Schiller disagreed and "at some point in this conversation, I don't remember when he pulled out his billfold....", "He flipped that open" and "I observed a five-part gold star with a blue circle ..."

CXLVI

Schiller then asked why Holmes was being an asshole and harassing him and Holmes became extremely irritated and said he was going to contact the authorities.

CXLVII

Schiller admitted he did not recall if Holmes ever identified himself, and that he didn't even know if Holmes was a law enforcement agent.

CXLVIII

A witness heard Schiller became obnoxious and loud, observed Holmes show Schiller his badge, and say, "Well, I'm a retired deputy from Riverside, California."

CXLIX

On March 12, 2010, defendant Boruchowitz submitted an affidavit and application for a search warrant to the Pahrump Justice Court which contained the following false statements:

1. Probable cause existed that Holmes impersonated a peace officer in violation of NRS 199.430.
2. Schiller stated there was no question that this man was intending for him to believe that he was a law enforcement officer and had some authority to detain him and question him relating to the situation and, in fact, stated he felt like he was being interrogated.
3. That the badge and wallet will aid in the investigation and prosecution of Robert T. Holmes for the crime above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CL

That on or about March 12, 2010, defendant Boruchowitz received the following search warrants:

1. 10-sw-00019: The person of Robert T. Holmes
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
2. 10-sw-00018: 2005 Dodge 4DSD bearing NV 196SSN
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.
3. 10-sw-00017: 1021 China Street, Pahrump, NV
 - Badge(s) to include but not limited to a five point badge with a blue circle in the middle with the scales of justice.
 - Badge wallet, with velvet badge cover within.

CLII

That on March 12, 2010, defendants Boruchowitz and defendants DOES 11-20, using a ruse, gained entrance to Ted Holmes' airplane hanger, located at 1200 Mitchell Place, Pahrump, Nevada, an address not authorized for search under warrant 10-sw-0017, 10-sw-0018 or 10-sw-0019.

CLII

That defendant Boruchowitz, after admitting he gained entry into Holmes property by ruse, told Holmes he had a search warrant for Holmes' badge and commenced an aggressive interrogation of Holmes without serving a search warrant and affidavit upon Holmes.

CLIII

That defendant Boruchowitz, prior to arresting Holmes, did not serve or hand any search

1 warrant to Holmes.

2 **CLIV**

3 During the interrogation at 1200 Mitchell Place, and prior to his arrest, Holmes clearly
4 and unequivocally told defendants Boruchowitz and DOES 11-20 to leave the premises.
5 Specifically, Mr. Holmes stated: "I'll tell you what. Get the fuck out of here."

6 **CLV**

7 That defendants Boruchowitz and DOES 11-20 refused to leave the premises upon the
8 demand of Holmes, and then falsely stated that Holmes was going for a gun and without probable
9 cause or warrant, arrested Holmes.

10 **CLVI**

11 That defendants Boruchowitz and DOES 11-20 made a willful and false statements in
12 obtaining search warrants, the arrest of Holmes, in the return of search warrants and reporting of
13 the arrest of Holmes in violation of NRS 199.145, a Category D felony.

14 **COUNT XVI**

15 **CRIMINAL LIBEL(NRS210.510)**

16 **CLVII**

17 That defendants Burochowitz and DOES 1-20 have made, reported and published false
18 statements regarding Holmes in violation of NRS 197.130 to the Nye County Sheriff Department
19 and the public, to wit:

- 20 1. Holmes was impersonating a police officer.
21 2. Holmes resisted arrest.

22 **CLVIII**

23 That defendants Boruchowitz and DOES 1-20 made and published these false statements
24 maliciously and intentionally to impeach the honesty, integrity, virtue or reputation of Holmes
25 and thereby expose them to public hatred, contempt or ridicule.

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CLIX

That defendants Boruchowitz and DOES 1-20 made and published these false statements maliciously and intentionally to cause individual voters in Nye County to not vote for Holmes in the primary election scheduled for June 8, 2010 and early primary voting commencing May 23, 2010.

CLX

That the making and publishing by defendants Boruchowitz and DOES 1-20 of false statements about Holmes constituted a criminal libel in violation of NRS 210.510, a gross misdemeanor.

COUNT XVII

CRIMINAL CONSPIRACY (NRS 199.480)

CLXI

That Holmes and Cobel are candidates for public office in Nye County having registered for his candidacy in February or March, 2010.

CLXII

That within one month of registration as a candidate for public office, Holmes was unlawfully searched and arrested without probable cause, and candidate Cobel's daughter was the subject of an unlawful search.

CLXIII

Within one month of his registration as a candidate for public office, defendant Boruchowitz and DOES 1-20 through the Nye County Sheriff's Office published false and defamatory statements regarding Holmes.

CLXIV

That defendant Boruchowitz was the principal investigator or arresting officer of the Nye County Sheriff Department involved in the Holmes and Cobel matters acting at the direction, approval, consent of DOES 1-20 in a conspiracy to unlawfully cause voters of Nye County to not

1 vote for Holmes and Cobel in the primary and general election.


2 CLXV

3 That defendants Boruchowitz and DOES 1-20 in furtherance of their criminal conspiracy
4 committed one or more felonies, in violation of NRS 199.480(1), a Category B felony.

5 CLXVI

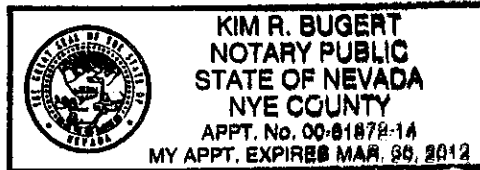
6 That defendants Boruchowitz and DOES 1-20 in furtherance of their criminal conspiracy,
7 procured malicious arrests or other acts for the perversion or corruption of public justice and
8 administration of the law, in violation of NRS 199.480(3)(b), (f) and (g), a gross misdemeanor.

9
10
11 DATED this 24th day of May, 2010.

12
13 
14 , ESQ.

15
16 SUBSCRIBED and SWORN to before me
17 this 24th day of May, 2010.

18 
19 NOTARY PUBLIC in and for said
20 County and State



[Handwritten Signature]

2010 MAY 24 PM 5:00

RECEIVED & FILED

1 COMP
2 NYE COUNTY DISTRICT ATTORNEY

3
4 JUSTICE COURT FOR THE TOWNSHIP OF PAHRUMP
5 NYE COUNTY, STATE OF NEVADA

6 THE STATE OF NEVADA,)
7 Plaintiff,)
8 vs.)
9 DAVID BORUCHOWITZ; and)
10 DOES 1-10, inclusive)
11 Defendants.)

CASE NO.: 10 CR 01832
DEPT. NO.:

12 CRIMINAL COMPLAINT

13 The undersigned, having been duly sworn, states the following to be a true and correct
14 statement of facts constituting public offenses committed in the County of Nye, State of Nevada,
15 by David Boruchowitz and DOES 1-10 and charged herein as follows:

16 **COUNT I**

17 PERJURY (NRS 199.120)

18 **I**

19 That Robert Beckett is presently the District Attorney for Nye County and the incumbent
20 candidate for the 2010 election for the office of District Attorney of Nye County.

21 **II**

22 That defendants David Boruchowitz and some of DOES 1-10 are employed as police
23 officers by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

24 **III**

25 That on or about April 21, 2010, defendants Boruchowitz and DOES 1-10 submitted an
26 application and affidavit under oath for search warrant to Justice of the Peace Tina Brisbell
27 which falsely states that:

- 1 1. Probable caused existed of a violation of NRS 197.190 (obstructing a public
2 officer);
- 3 2. The "Bad Check" program's bank account is not a legitimate Nye County bank
4 account as it is held at Bank of America;
- 5 3. Nye County District Attorney Robert Beckett refused to participate in an audit of
6 the "Bad Check" program;
- 7 4. Affiant believes records reported with the search warrant will allow Nye County
8 Treasurer's Office to complete their task of auditing.

9 IV

10 Pursuant to NRS 199.200, every unqualified statement of that which defendant does not
11 know to be true is equivalent to a statement of that which the person knows to be false.

12 V

13 That defendant Boruchowitz knew, or should have known, that the statements made in
14 the application and affidavit for search warrant were false.

15 VI

16 That based upon these false statements, defendant Boruchowitz obtained a search warrant
17 to search, seize property, conduct an investigation and subsequently arrested Beckett.

18 VII

19 That defendants Boruchowitz and DOES 1-10 having taken a lawful oath and made
20 affirmation in a judicial proceeding, made the false statements for the purpose or with the intent
21 of securing a warrant for the searching of the premises, goods, chattels or effects, or of seizing
22 the goods, chattels or effects, or of seizing anything in the possession of any other person, in
23 violation of NRS 199.120, a Category D felony.

24 COUNT II

25 **STATEMENT MADE IN DECLARATION UNDER PENALTY OF PERJURY**

26 (NRS 199.145)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VIII

That Robert Beckett is presently the District Attorney for Nye County and the incumbent candidate for the 2010 election for the office of District Attorney of Nye County.

IX

That defendants David Boruchowitz and SOME DOES 1-10 are employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

X

That by submitting an application and affidavit for search warrant to Justice of the Peace Tina Brisbell, defendant Boruchowitz made a declaration under the penalty of perjury.

XI

That the application and affidavit falsely states that:

1. Probable caused existed of a violation of NRS 197.190 (obstructing a public officer);
2. The "Bad Check" program's bank account is not a legitimate Nye County bank account as it is held at Bank of America;
3. Nye County District Attorney Robert Beckett refused to participate in an audit of the "Bad Check" program;
4. Affiant believes records reported with the search warrant will allow Nye County Treasurer's Office to complete their task of auditing.

XII

Pursuant to NRS 199.200, every unqualified statement of that which defendant does not know to be true is equivalent to a statement of that which the person knows to be false.

XIII

That defendants Boruchowitz and DOES 1-10 knew, or should have known, that the statements made in the application and affidavit for search warrant were false.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XIV

That the above-referenced statements contained in the application and affidavit for search warrant were, in fact, false.

XV

That defendants Boruchowitz and DOES 1-10 made a willful and false statements in a matter for the purpose or with the intent of securing a warrant for the searching of the premises, goods, chattels or effects, or of seizing the goods, chattels or effects, or of seizing anything in the possession of another, in violation of NRS 199.145, a Category D felony.

COUNT III

FALSE AFFIDAVIT OR COMPLAINT TO EFFECT ARREST OR SEARCH

(NRS 199.130)

XVI

That Robert Beckett is presently the District Attorney for Nye County and the incumbent candidate for the 2010 election for the office of District Attorney of Nye County.

XVII

That defendants Boruchowitz and some DOES 1-10 are employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125. XIII.

XVIII

That on or about April 21, 2010, defendants Boruchowitz and DOES 1-10 submitted an application and affidavit for search warrant to Justice of the Peace Tina Brisbell which falsely states that:

1. Probable caused existed of a violation of NRS 197.190 (obstructing a public officer);
2. The "Bad Check" program's bank account is not a legitimate Nye County bank account as it is held at Bank of America;
3. Nye County District Attorney Robert Beckett refused to participate in an audit of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the "Bad Check" program;

4. Affiant believes records reported with the search warrant will allow Nye County Treasurer's Office to complete their task of auditing.

XIX

That defendants Boruchowitz and DOES 1-10 knew, or should have known, that the statements made in the application and affidavit for search warrant were false.

XX

That the above-referenced statements contained in the application and affidavit for search warrant were, in fact, false.

XXI

That defendant Boruchowitz and DOES 1-10 made the false statements for the purpose or with the intent of securing a warrant for the searching of the premises, goods, chattels or effects, or of seizing the goods, chattels or effects, or of seizing anything in the possession of Beckett and as a pretext for the arrest of Beckett, in violation of NRS 199.130, a Category D felony.

COUNT IV

SEARCH WARRANT MALICIOUSLY PROCURED (NRS 199.440)

XXII

That Robert Beckett is presently the District Attorney for Nye County and the incumbent candidate for the 2010 election for the office of District Attorney of Nye County.

XXIII

That defendants David Boruchowitz and some DOES 1-10 are employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

XXIV

That on or about April 21, 2010, defendants Boruchowitz and DOES 1-10 did procure a warrant to search the Nye County District Attorney's office without probable cause as the following allegations were false:

- 1 1. Probable caused existed of a violation of NRS 197.190 (obstructing a public
2 officer);
- 3 2. The "Bad Check" program's bank account is not a legitimate Nye County bank
4 account as it is held at Bank of America;
- 5 3. Nye County District Attorney Robert Beckett refused to participate in an audit of
6 the "Bad Check" program;
- 7 4. Affiant believes records reported with the search warrant will allow Nye County
8 Treasurer's Office to complete their task of auditing.

9 **XXV**

10 That contrary to the application and affidavit which stated: "Affiant believes records
11 requested with this search warrant will allow the Nye County Treasurer's Office to complete its
12 task of auditing the "Bad Check Program," Boruchowitz initiated an investigation of Nye County
13 District Attorney Bob Beckett's use of the fees collected by the Bad Check Program.

14 **XXVI**

15 That by submitting an application and affidavit for search warrant while knowing that it
16 contained false statements, defendants Boruchowitz and DOES 1-10 acted with malice,
17 undertook obtaining a search warrant, investigation of Beckett, and arrest of Beckett without
18 probable cause.

19 **XXVII**

20 That defendants Boruchowitz and DOES 1-10 made a false affidavit and other writings
21 with the intent and purpose to obtain a search warrant, investigation and arrest of Beckett without
22 probable cause, in violation of NRS 199.130, a Category D felony.

23 **COUNT V**

24 **PEACE OFFICER EXCEEDING AUTHORITY IN EXECUTION OF WARRANT**

25 **(NRS 199.450)CLXXXIV**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XXVIII

That Robert Beckett is presently the District Attorney for Nye County and the incumbent candidate for the 2010 election for the office of District Attorney of Nye County.

XXIX

That defendants David Boruchowitz and DOES 1-10 are employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

XXX

That on or about April 21, 2010 defendants Boruchowitz and DOES 1-10 did procure a warrant to search the Nye County District Attorney's office without probable cause as the following allegations were false:

1. Probable caused existed of a violation of NRS 197.190 (obstructing a public officer);
2. The "Bad Check" program's bank account is not a legitimate Nye County bank account as it is held at Bank of America;
3. Nye County District Attorney Robert Beckett refused to participate in an audit of the "Bad Check" program;
4. Affiant believes records reported with the search warrant will allow Nye County Treasurer's Office to complete their task of auditing.

XXXI

That on April 21, 2010, defendants Boruchowitz and DOES 1-10 appeared at the office of the Nye County District Attorney to execute the search warrant and John Marotta, an investigator employed by the Nye County District Attorney, asked to review that search warrant and accompanying affidavit before its execution.

XXXII

That defendants David Boruchowitz and DOES 1-10 knowingly, willfully, and falsely stated to Marotta that the application and affidavit for search warrant was sealed pursuant to

1 court order.

2 **XXXIII**

3 That defendants Boruchowitz and DOES 1-10 maliciously and without probable cause
4 procured a search warrant and executed that search in violation of NRS 199.440, a gross
5 misdemeanor.

6 **COUNT VI**

7 **PEACE OFFICER EXCEEDING AUTHORITY IN EXECUTION OF WARRANT**

8 **(NRS 199.450)**

9 **XXXIV**

10 That Robert Beckett is presently the District Attorney for Nye County and the incumbent
11 candidate for the 2010 election for the office of District Attorney of Nye County.

12 **XXXV**

13 That defendants David Boruchowitz and DOES 1-10 are employed by the Nye County
14 Sheriff's Department and "peace officer" as defined in NRS 169.125.

15 **XXXVI**

16 That on or about April 21, 2010 defendants Boruchowitz and DOES 1-10 did procure a
17 warrant to search the Nye County District Attorney's office without probable cause as the
18 following allegations were false:

- 19 1. Probable caused existed of a violation of NRS 197.190 (obstructing a public
20 officer);
- 21 2. The "Bad Check" program's bank account is not a legitimate Nye County bank
22 account as it is held at Bank of America;
- 23 3. Nye County District Attorney Robert Beckett refused to participate in an audit of
24 the "Bad Check" program;
- 25 4. Affiant believes records reported with the search warrant will allow Nye County
26 Treasurer's Office to complete their task of auditing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XXXVII

That on April 21, 2010, defendants Boruchowitz and DOES 1-10 appeared at the office of the Nye County District Attorney to execute the search warrant.

XXXVIII

That defendants David Boruchowitz and DOES 1-10, as affiants to the search warrant, stated that the purpose of the search warrant would be to allow the Nye County Treasurer's Office to complete their task of auditing the Bad Check Program, when in fact defendants undertook an investigation of Beckett and pretextually arrested Beckett.

XXXIX

That defendants David Boruchowitz and DOES 1-10 knowingly and willfully exceeded the authority contained in the search warrant and exercised it with unnecessary severity in violation of NRS 199.450, a gross misdemeanor.

COUNT VII

MALICIOUS PROSECUTION (NRS 199.310)

XL

That Robert Beckett is presently the District Attorney for Nye County and the incumbent candidate for the 2010 election for the office of District Attorney of Nye County.

XLI

That defendant David Boruchowitz is a detective employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

XLII

That some of the DOES 1-10 are employees of the Nye County Sheriff's Department and "peace officers" as defined in NRS 169.125.

XLIII

That on or about May 5, 2010, Nye County District Attorney Bob Beckett agreed to an interview with defendants Boruchowitz and some DOES 1-10 of the Nye County Sheriff's

1 regarding the Bad Check Program bank account.

2 **XLIV**

3 That during the interrogation, defendants Boruchowitz and some DOES 1-10 stated that
4 District Attorney Beckett was not authorized by statute to spend money on various educational
5 programs nor assistance of victims of crimes and spent public money on a personal friend.

6 **XLV**

7 That when confronted and accused by defendants, Beckett denied any wrongdoing and
8 was arrested by defendants without probable cause.

9 **XLVI**

10 That, pursuant to NRS 205.466 et seq., District Attorney Beckett had express statutory
11 authority to collect fees and fund programs of education and assist victims of crimes.

12 **XLVII**

13 That, pursuant to NRS 252.150, the Nye County Treasurer would have to bring a civil
14 action for all monies that the District Attorney had not accounted for; not a criminal action.

15 **XLVIII**

16 That defendants knew that they did not have probable cause to arrest Beckett for any
17 crime.

18 **L**

19 That defendants Boruchowitz and DOES 1-10 maliciously and without probable cause,
20 arrested Beckett for a charge that was a mere pretext and of which Beckett was innocent in
21 violation of NRS 199.310, a Category D felony.

22 **COUNT VIII**

23 **OPPRESSION UNDER THE COLOR OF OFFICE (NRS 197.200)**

24 **LI**

25 That Robert Beckett is presently the District Attorney for Nye County and the incumbent
26 candidate for the 2010 election for the office of District Attorney of Nye County.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LII

That defendants David Boruchowitz and some DOES 1-10 are employed by the Nye County Sheriff's Department and "peace officer" as defined in NRS 169.125.

LIII

That defendants Boruchowitz and DOES 1-10 maliciously procured a search warrant, based upon a false statement in an affidavit, and without probable cause, and executed this search warrant to obtain records from the Bad Check Program to investigate Beckett contrary to the stated purpose of the search warrant and affidavit.

LIV

That on or about May 5, 2010, Nye County District Attorney Bob Beckett agreed to an interview with defendants Boruchowitz and some DOES 1-10 of the Nye County Sheriff's regarding the Bad Check Program bank account.

LV

That during the interrogation, defendants Boruchowitz and some DOES 1-10 falsely stated that District Attorney Beckett was not authorized by statute to spend money on various educational programs, assistance of victims of crimes, and spent money on a personal friend.

LVI

That when confronted and accused by defendant Boruchowitz and Lt. Howard, Beckett denied any wrongdoing and was arrested against his will by defendants without probable cause.

LVII

That, pursuant to NRS 205.466 et seq., District Attorney Beckett had express statutory authority to collect fees and fund programs of education and assist victims of crimes.

LVIII

That, pursuant to NRS 252.150, the Nye County Treasurer would have to bring a civil action for all monies that the District Attorney had not accounted for; not a criminal action.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LIX

That defendants knew that they did not have probable cause to arrest Beckett for any crime.

LX

That defendants Boruchowitz and DOES 1-10 used physical force and violence to handcuff Beckett, and detained him against his will and without probable cause.

LXI

That defendants Boruchowitz and DOES 1-10 unlawfully and maliciously, and under color of law, with use of force and violence, arrested and detained Beckett, in violation of NRS 197.200, a Category D felony.

COUNT IX

CRIMINAL LIBEL(NRS210.510)

LXII

That defendants Burochowitz and DOES 1-10 have made, reported and published false statements regarding Beckett in violation of NRS 197.130 to the Nye County Sheriff Department and the public, to wit:

1. Beckett refused to allow the audit of the Bad Check Program.
2. The Bad Check Program bank account is not a legitimate Nye County bank account.
3. That the seizure of Bad Check records was for the purpose of allowing Nye County Treasurer's Office to complete the audit.
4. That anyone committing a crime even Beckett will be arrested.
5. That Beckett was charged with 42 counts of embezzlement and fraud.
6. That Beckett paid money to a family friend from the Bad Check Program or otherwise misused funds from the Bad Check Program.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LXIII

That defendants Boruchowitz and DOES 1-10 made and published these false statements maliciously and intentionally to impeach the honesty, integrity, virtue or reputation of Beckett and thereby expose him to public hatred, contempt or ridicule.

LXIV

That defendants Boruchowitz and DOES 1-10 made and published these false statements maliciously and intentionally to cause individual voters in Nye County to not vote for Beckett in the primary election scheduled for June 8, 2010 and early primary voting commencing May 23, 2010.

LXV

That the making and publishing by defendants Boruchowitz and DOES 1-10 of false statements about Beckett constituted a criminal libel in violation of NRS 210.510, a gross misdemeanor.

COUNT X

CRIMINAL CONSPIRACY (NRS 199.480)

LXVI

That Beckett is a candidate for public office in Nye County having registered for his candidacy in February or March, 2010.

LXVII

That within one month of registration as a candidate for public office, Beckett's office was unlawfully searched and he was subsequently arrested without probable cause.

LXVIII

Within one month of his registration as a candidate for public office, the Nye County Sheriff's Office published false and defamatory statements regarding Beckett.

LXIX

That defendant Boruchowitz was the principal investigator or arresting officer of the Nye

1 County Sheriff Department involved in the Beckett matter acting at the direction, approval,
2 consent of DOES 1-10 in a conspiracy to unlawfully cause voters of Nye County to not vote for
3 Beckett in the primary and general election.


4 LXX

5 That defendants Boruchowitz and DOES 1-10 in furtherance of their criminal conspiracy
6 committed one or more felonies, in violation of NRS 199.480(1), a Category B felony.

7 LXXI

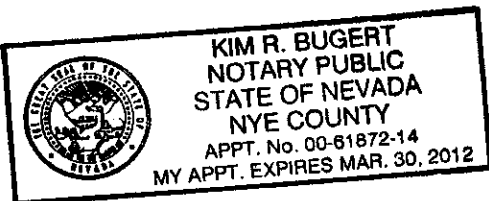
8 That defendants Boruchowitz and DOES 1-10 in furtherance of their criminal conspiracy,
9 procured malicious arrests or other acts for the perversion or corruption of public justice and
10 administration of the law, in violation of NRS 199.480(3)(b), (f) and (g), a gross misdemeanor.

11
12 DATED this 29th day of May, 2010.

13
14
15 
16 _____, ESQ.

17
18 SUBSCRIBED and SWORN to before me
19 this 29th day of May, 2010.

20 
21 _____
22 NOTARY PUBLIC in and for said
23 County and State



BY: Alper

2010 MAY 25 AM 7:28

RECEIVED & FILED

1 Case No. 10 CR 01831
2 Case No. 10 CR 01832

3 **IN THE JUSTICE COURT OF PAHRUMP TOWNSHIP**
4 **COUNTY OF NYE, STATE OF NEVADA**

5
6
7
8
9 **THE STATE OF NEVADA,**)

10 **Plaintiff,**)
11 **vs.**)

AFFIDAVIT

12)
13 **DAVID BORUCHOWITZ,**)
14 **Defendant.**)

15 **STATE OF NEVADA**)
16 **: ss.**
17 **COUNTY OF NYE**)

18
19 I, ROBERT P. BETTINGER, being first duly sworn under oath, deposes
20 and says:

21 That I am employed by the Nye County Office of District Attorney as a
22 Deputy District Attorney; that in my official capacity, I handle Juvenile, Misdemeanor
23 cases and answer many of the petitions for post conviction relief.

24 Upon the request of the District Attorney, ROBERT BECKETT, for
25 whom I serve at his pleasure, I have signed two complaints against Detective David
Boruchowitz.

NYE COUNTY DISTRICT ATTORNEY
ROBERT S. BECKETT
P.O. BOX 593
TONOPAH, NEVADA 89049-0593



NYE COUNTY DISTRICT ATTORNEY
ROBERT S. BECKETT
P.O. BOX 593
TONOPAH, NEVADA 89049-0593



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case No. 10 CR 01831
Case No. 10 CR 01832


I would like to have seen this done by an attorney under the Special
Prosecutor, if it was to be done.

Further your Affiant sayeth naught.


ROBERT P. BETTINGER

SUBSCRIBED AND SWORN to before me
this 27 day of May, 2010.


NOTARY PUBLIC

 KIM R. BUGERT
NOTARY PUBLIC
STATE OF NEVADA
NYE COUNTY
APPT. No. 00-61872-14
MY APPT. EXPIRES MAR. 30, 2012