

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 520 W. Colfax Ave. Denver, Colorado 80204	DATE FILED: October 31, 2017 1:39 PM
PEOPLE OF THE STATE OF COLORADO vs. LAURENCE GOODMAN,  Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
BETH MCCANN, District Attorney Robert S. Shapiro, #26869 Special Deputy District Attorney 1300 Broadway, 9 <sup>th</sup> Floor Denver, CO 80203 720-508-6000 robert.shapiro@coag.gov	Case No: 17CR10088  Courtroom:

**PEOPLE'S MOTION *IN LIMINE* AS A RESPONSE TO DEFENDANT'S NOTICE AND MEMORANDUM OF LAW RE: FIDUCIARY BOND OR RECOGNIZANCE**

Denver District Attorney, Beth McCann, by and through her Special Deputy District Attorney, Robert S. Shapiro, hereby files a Motion *in Limine* while also responding to the Defendant's Notice and Memorandum of Law Re: Fiduciary Bond or Recognizance ("Notice and Memorandum"). It is important to note in the Defendant's Notice that there is no obvious relief being requested by the Defendant, and as the title suggests, appears to only be notice of what the Defendant intends to argue during trial. As a result the People respectfully request of the Court that this response to the Defendant's Notice and Memorandum serve as a Motion *in Limine*, and the Court issue a pre-trial Order which would limit the presentation of evidence concerning the issues raise in the "Notice and Memorandum of Law Re: Fiduciary Bond and Recognizance" at the upcoming trial.

**ARGUMENT**

**I. Bond Requirements for Officials**

While the defendant does not expressly argue that the named victims are illegally serving in said position, he is presumably asserting that because bonds have not been posted, the witnesses do not have authority in their respective positons. Defendant attempts to do so by piecing together several different legal authorities, creating a block of non-controlling law. Defendant cites to the General Laws of the State of Colorado (1877), multiple volumes of Mill's Annotated Statues of the State of Colorado (1883), and multiple codified versions of the Colorado Revised States, ranging from 1953-2017. Defendant provides no context for the numerous citations, and instead lays out his incorrect theory of case law and ideology regarding bond requirements for certain officials in the State of Colorado. The majority of the law provided by the defendant has evolved over the last 100 plus years, which was not properly reflected in his Notice and Memorandum. As a result the Defendant has established

a falsehood that bonds are a requirement for all elected officials to act in their elected capacities- even though that is not the case. Viewed in the context of this case, the elected District Attorneys in Colorado are one of the few public officials that must post a bond.

#### **A. District Attorney**

Pursuant to C.R.S. § 20-1-101, every district attorney shall “execute to the people of the state of Colorado a bond in the sum of five thousand dollars....” This statute is current and good law.

#### **B. Judges**

Bonds are not applicable to judges. C.R.S. § 13-6-207, a bond requirement applicable to a county judge or associate county judge when they were to act as their own clerk, was repealed in 1979. District Court judges have never had bond requirements placed on them.

#### **C. County Officers**

In contrast, pursuant to C.R.S. § 30-10-110, for every county officer named in C.R.S. § 30-10-101 [sheriff, county clerk and recorder, and county treasurer], in lieu of the bond requirement, a county may purchase crime insurance coverage on behalf of the county officer and county employees. This is what counties often opt to do, therefore no longer placing the burden on county officials to acquire and post a bond.

#### **D. Sheriff**

Similarly, pursuant to C.R.S. § 30-10-501, for sheriffs, a county may also purchase crime insurance coverage in an amount not less than ten thousand dollars on behalf of the sheriff. Again, thus is the course that counties often take, the burden has now been removed for the elected sheriffs to have to acquire and post a bond.

The defendant refers to the county purchasing crime insurance as a fidelity bond. He makes the claim that a “fidelity bond is a guaranty of personal honesty of state and county employees furnishing indemnity against his defalcation or negligence and therefore cannot take the place of a fiduciary bond.” Defendants Notice and Motion, p.4. The defendant’s statement is not legally supported, as was observed by the current statutes cited above.

## **II. Oaths of Office**

Again, while the defendant does not expressly argue that the named victims are illegally serving in their said position, he is presumably asserting that because the official did not file his or her oath before or immediately after being sworn in, the witness thereby does not have the authority to serve in their respective positions. As mentioned above, the defendant

attempts to do this by stringing together legal authority, most of which is outdated. The defendant makes no attempt to follow the development of law through the 100 plus years of amendments, or possible repealing.

Pursuant to Art. 12. § 9 of the Colorado Constitution, “[o]fficers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath with county clerk of the county wherein he shall have been elected.”

The Colorado Court of Appeals has also addressed the defendant’s presumed argument, holding, even if a district attorney failed to file requisite paperwork [oath], no permanent vacancy in office was created. *People v. Scott*, 116 P.3d 1231 (Colo.App.2004). The defendant in *Scott* argued that the District Attorney was not authorized to prosecute the offenses because he failed to file his oath with the Secretary of State, and failed to pay the requisite bond. The court noted evidence of his oath and surety bond was sufficient. Additionally, the court explains that the District Attorney was acting as a “de facto” officer. The Court further discussed that in the case of an elected official if one receives a majority of the legal votes cast, is declared by the proper canvassing board to be duly elected, is inducted, and proceeds with the performance of the duties connected, he is a de facto officer. *Id.* at 1232.

In this case, all the named public servants were either duly elected, or appointed, with all of them having been inducted, followed by them performing the duties of their respective positions, and culminating with all of their oaths having been filed with an appropriate receiving office such as the Secretary of State or a County Clerk and Recorder. As a result there is no viable issue for the Court to resolve pertaining to the legitimacy of these public servants occupying their offices. Therefore, the Defendant’s Notice and Memorandum arguably appears to be a red herring with no applicable legal support to justify the proposition that the officials are occupying their offices illegally.

## CONCLUSION

It is the People’s position that the Defendant’s Notice and Memorandum is simply a confusing and distracting filing with no discernable purpose in terms of addressing the relevant legal and factual issues in this pending case. It is important to note that the defendant (1) failed to request any cognizable relief; (2) failed to properly cite relevant or current legal authority, and (3) is trying to insert his skewed ideology into the case in an effort to create undue confusion for the jury. Assuming arguendo that the defendant’s argument is even accurate, let alone relevant, which it is not, such evidence would still be subject to an objection pursuant to Rule 403 of the Colorado Rules of Evidence. For these reasons, the People move this Court to also treat this response as a Motion *in Limine*, and issue a further Order precluding the defendant from presenting evidence concerning the topics raised in the “Notice and Memorandum of Law Re: Fiduciary Bond and Recognizance” at trial.

Respectfully submitted this 31<sup>st</sup> day of October, 2017.

BETH MCCANN  
District Attorney

/s/ Robert S. Shapiro  
Robert S. Shapiro #26869

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the **PEOPLE'S MOTION IN LIMINE AS A RESPONSE TO DEFENDANT'S NOTICE AND MEMORANDUM OF LAW RE: FIDUCIARY BOND OR RECOGNIZANCE** was placed in the United States Mail, postage prepaid and correctly addressed, to the following Pro Se Defendant on this 31<sup>st</sup> day of **October**, 2017:

Laurence Goodman  
PO Box 3792  
Boulder, CO 80307