

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO ex rel KENNETH GOMEZ,

Plaintiffs,

vs.

1:10-cv-594 JAP/LFG

ELEVENTH JUDICIAL DISTRICT COURT,

Defendant.

MOTION FOR JUDICIAL NOTICE OF CRIMINAL ACTS

COMES NOW the Plaintiff State¹ appearing before the Court and being held there involuntarily in furtherance of a criminal environment under authority of Court Document Number 49 contrary to the civil provisions of 28 U.S.C. § 1446 and 42 U.S.C. §§ 1986 and 1994; Plaintiff State hereby proceeds under provisions of Rule of Evidence 201 to state the following:

I. AUTHORITY FOR JUDICIAL NOTICE

(a) The facts to be judicially noticed are not subject to reasonable dispute in that:

(1) They are an integral part of the proceedings in Documents No. 49 and 50 among the records before the honorable Court and capable of accurate and ready determination. *Hobby v. State*, (W.D. Mich. 2007); *U.S. v. Pelletier*, 469 F. 3d 194 (1st Cir. 2006); *MacMillon Bloedel Ltd. v Flintkote Co.*, 760 F.2d 580 (5th Cir. 1985).

(2) They are known within the territorial jurisdiction of the honorable Court when it becomes competent.

(b) The Court is under mandate to judicially notice the undisputed facts contained in Document 50 and is requested to do so by Plaintiff State grounded upon the information supplied herein. Rule 201(d).

¹ Defendant's counsel will oppose

(c) Plaintiff State waives the opportunity to be heard as to the propriety and tenor of matters to be noticed which is provided and grounded upon the information recorded for posterity in the record proper of the Court as Document Number 49 of a proceeding adversely influencing the objectivity and administration of justice. Supra ¶ I(a)(1) above and Rule 201(e).

(d) Judicial notice may be taken at any stage of the proceedings especially when discovery practice is denied the Plaintiff State under authority of Document No. 49. Rule 201(f).

(e) The Court has a mandate to instruct the jury in a civil cause to accept as conclusive the facts judicially noticed when it becomes competent to act. Rule 201(g).

II. FACTS ENTITLED TO BE JUDICIALLY NOTICED

(a) There are no persons lawfully holding public office as state public officers within the State of New Mexico for failure to be bound by their oath of office under power mandated by Article VI, Clause 3, Constitution of the United States of America, for failure to acquire a penal bond from an authorized insurer binding them to the oath of office under the power mandated by Article XXII, Section 19, Constitution of the State of New Mexico, for failure to comply with the authority of NMSA 1978 Sections 10-2-5, 6, 7, and 9 which give effect to the aforementioned constitutional powers, and for embezzling state appropriated funds on a monthly basis as salaries while under the public trust *not* to do so. The Court has refused to consider the foregoing in all of Plaintiff State's pleadings to date and has simultaneously denied Plaintiff State discovery practice out of fear the legality of the foregoing could be demonstrated beyond reasonable doubt. See *Bowman Bank and Trust Co. v. First National Bank of Albuquerque, et al.*, 18 N.M. 589, 139 P. 148; *Board of Comm'rs v. District Court*, 29 N.M. 244, 223 P. 516 (1924); and Document No. 8-1, Second Amended Complaint.

(b) Four persons assigned to the Court are holding federal commissions as district judges under false pretenses and *those with lawful commissions* support the said four's illegality by allowing the said four persons to sit in judgment of parties appearing before the court, as though the Court was competent to act, by rendering court orders with abandon while the Court lacks competence and thus competent jurisdiction. See Title III, Financial Disclosure, Portion 3, Falsifying Reports, Public Law 95-521; and *Orosco v. Cox*², 75 N.M. 431, 405 P.2d 668 (S. Ct. 1965).

(c) Federal judges of the Court are exercising jurisdiction and rendering orders when the Court is not competent to act and when the jurisdiction exercised is done in furtherance of criminal acts. *Cohens v. Virginia*, 6 Wheat. 264, 5 L. Ed. 257 (1821) regarding competent jurisdiction, a citation more fully contained in Doc. No. 8-1, ¶ f, Section II, Jurisdiction.

(d) Conditions of involuntary servitude in denial of Thirteenth Amendment power and in defiance of 28 U.S.C. § 1446, 42 U.S.C. §§1986 and 1994 authority - the latter statutes enacted under Thirteenth Amendment power - is imposed without recourse upon a pro se litigant, Kenneth Gomez, who currently and lawfully exercises Plaintiff State's power. Gomez is forbidden by state statute to practice law sufficient to be held by courts of law, both state and federal, to the same standards and compliance requirements as are attorneys who are authorized to practice law for the profit motive. Being so held by the said courts of law becomes an artificial obligation involuntarily imposed upon pro se litigants, Kenneth Gomez for one, who must proceed under the said constraint and restraint absent the profit motive incentive. When an individual is held to satisfy an artificial obligation involuntarily by a court not competent to act,

² We note that the word "competent" which modifies "court" in both § 22-11-2, supra, and § 22-11-16, supra, has been defined by Webster's Third New International Dictionary as follows:

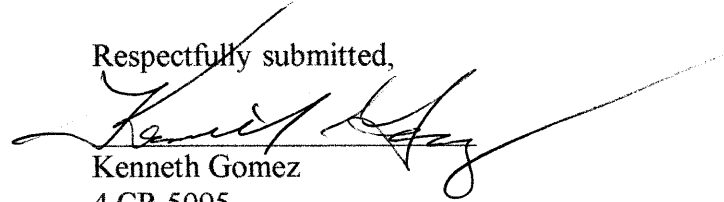
"* * * legally qualified or capable: as (a) authorized to act or possessed of jurisdiction [a competent court] [a competent judge] b: * * * c: meeting legal requirements as to validity [competent evidence] * * *."

These sections then require that for a court to be competent, jurisdiction must be present, and that jurisdiction clearly may be lost. When certain constitutional guaranties are denied, overlooked, or omitted, the conviction or sentence is not by a "competent" court. See *Johnson v. Zerbst*, 304 U.S. 458, 82 L. Ed. 1461, 58 S. Ct. 1019, 146 A.L.R. 357.

the individual is held to conditions of involuntary servitude without recourse, without benefit of constitutional power, and without benefit of applicable statutes.

WHEREFORE, Plaintiff State requests the Court judicially notice the foregoing legal facts of criminal acts and act accordingly to seek criminal indictments of those committing criminal acts, either state or federal.

Respectfully submitted,



Kenneth Gomez

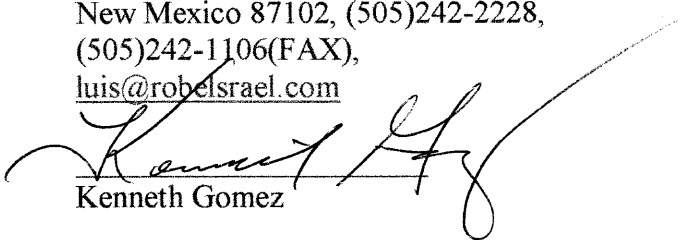
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I certify that on the 6th day of September, 2010, the foregoing was electronically served through the CM/ECF to Luis Robles, Attorney for Defendant, 500 Marquette Ave., N.W., Suite 700, Albuquerque, New Mexico 87102, (505)242-2228, (505)242-1106(FAX), luis@robelsrael.com



Kenneth Gomez