

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

**STATE OF NEW MEXICO ex rel KENNETH GOMEZ,**

Plaintiff,

vs.

**No. 1:10-cv-594 JAP/LFG**

**ELEVENTH JUDICIAL DISTRICT COURT,**

Defendant.

**TO: PRESIDENT OF THE UNITED STATES OF AMERICA  
VICE PRESIDENT, UNITED STATES OF AMERICA  
SPEAKER, UNITED STATES HOUSE OF REPRESENTATIVES  
PRESIDENT PRO TEMPORE, UNITED STATES SENATE  
CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT**

**VERIFIED FORMAL NOTICE FOR THE RECORD PROPER  
AND TO THE COURT AND ALL ADDRESSEES**

**COMES NOW** the State of New Mexico, Plaintiff, to inform the Court and all addressees that Kenneth Gomez is the only qualified candidate for the Office of Governor of the State of New Mexico who will be bonded<sup>1</sup>, who can enter and hold said office January 1, 2011 on grounds his opponents have falsified their Declarations of Candidacy indicating they were qualified to hold the office of New Mexico Governor when both of them have been embezzling state public funds while possessing the public trust for having taken the oath of office prescribed by Article XX. Section 1, Constitution of the State of New Mexico; his opponents cannot hold the office of governor.

a. Each of the Gomez opponents claim to hold position as state public officers when they, both of them, were unable to discharge the duties of the positions applicable to the office claimed during the past year for denying the power of Article XXII, Section 19, Constitution of the State of New Mexico and defying the authority of Section 10-2-5, 6, 7, and 9 NMSA(1978)

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<sup>1</sup> Defendant's counsel will oppose.

as adjudicated in *Board of Comm'rs v. District Court*, 29 N.M. 244, 223 P. 516 (1924): Section does not exempt officers elected subsequently to first election from giving bond.

b. A person in a position of public trust who acquires through embezzlement and subsequently uses the acquired public appropriated funds which does not belong to them embezzles those public funds as provided by Section 30-6-8 NMSA(1978); to wit:

30-16-8. Embezzlement. (2007)

Statute text

A. Embezzlement consists of a person embezzling or converting to the person's own use anything of value, with which the person has been entrusted, with fraudulent intent to deprive the owner thereof.

....

F. Whoever commits embezzlement when the value of the thing embezzled or converted exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony.

History

History: 1953 Comp., § 40A-16-7, enacted by Laws 1963, ch. 303, § 16-7; 1987, ch. 121, § 4; 1995, ch. 131, § 1; 2006, ch. 29, § 5; 2007, ch. 256, § 1.

Annotations

Defendant can be convicted of third-degree felony [second-degree felony] where series of takings totals more than \$2,500 [\$20,000], although each individual taking is less, if the takings are associated with a single, sustained criminal intent. *State v. Pedroncelli*, 100 N.M. 678, 675 P.2d 127 (1984).

c. Time limitation for commencing prosecution is provided by Section 30-1-8 (1978); to wit:

Section 30-1-8. Time limitations for commencing prosecution. (2009)

Statute text

A person shall not be prosecuted, tried or punished in any court of this state unless the indictment is found or information or complaint is filed within the time as provided:

A. for a second degree felony, within six years from the time the crime was committed; . . . .

History: 1953 Comp., § 40A-1-8, enacted by Laws 1963, ch. 303, § 1-8; 1979, ch. 5, § 1; 1980, ch. 50, § 1; 1997, ch. 157, § 1; 2005, ch. 108, § 7; 2009, ch. 95, § 2.

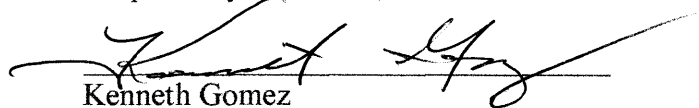
Annotations

Limitations against prosecution for conspiracy run from time last overt act in furtherance of the conspiracy was committed. *State v. Thoreen*, 91 N.M. 624, 578 P.2d 325 (Ct. App.), cert. denied, 91 N.M. 610, 577 P.2d 1256 (1978).

d. Since there are no persons lawfully able to discharge the duties of public office positions within the State of New Mexico, (said Article XXII, Section 19, and sections 10-2-5, 6, 7, and 9 NMSA(1978)), as prosecutors, there are no persons lawfully authorized to charge and prosecute the embezzlers in state courts; because, there are no competent courts of law within the State of New Mexico. See Orosco v. Cox<sup>2</sup>, 75 N.M. 431, 405 P.2d 668 (S. Ct. 1965).

e. To date, there has been no federal office, officer, or agency within the United States demonstrating any verifiable interest or activity sufficient to warrant that action is underway to stem the criminal activity reported.

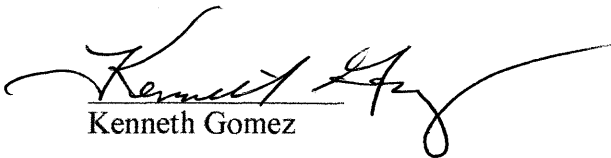
Respectfully submitted,



Kenneth Gomez  
4 CR 5095  
Bloomfield, New Mexico 87413  
(505)330-1239

**CERTIFICATE OF SERVICE**

I CERTIFY that a true and unaltered copy of the Verified Formal Notice For the Record Proper And To All Addressees was sent first class by U.S. Mail, postage prepaid to the vacant Office of the New Mexico Governor, State Capitol, Room 400, Santa Fe, New Mexico 87504; the vacant Office of the New Mexico Attorney General, Post Office Drawer 1508, Santa Fe 87504, New Mexico; and 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](mailto:luis@robelsrael.com) this \_\_\_ day of September, 2010.



Kenneth Gomez

<sup>2</sup> 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.

STATE OF NEW MEXICO         )  
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COUNTY OF SAN JUAN         )

**SUBSCRIBED AND SWORN TO** by Kenneth Gomez, representing the State of New Mexico, 4 CR 5095, Bloomfield, New Mexico 87413 this 28 day of September, 2010.

My Commission expires: Feb 24, 2013  
  DATE

*Lauree Smith*  
NOTARY PUBLIC

