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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:

PETITION TO REPEAL  
RULE 6. E. 4. e. 2. OF THE  
ARIZONA RULES OF PROTECTIVE  
ORDER PROCEDURE

Supreme Court No. R-10-\_\_\_\_\_

**Emergency Petition  
to Repeal Rule 6. E. 4. e. 2. of  
the Arizona Rules of  
Protective Order Procedure**

Pursuant to Rule 28, Rules of the Supreme Court, Michael Roth respectfully petitions this Court to immediately repeal Rule 6. E. 4. e. 2. of the Arizona Rules of Protective Order Procedure which criminalizes the possessing, purchasing or receiving firearms and ammunition by a defendant in a **civil** injunction. This Rule is unconstitutional at several points and has no statutory authority.

**I. Background and Purpose for repealing the Rule**

My name is Michael Roth. I am very politically active and very outspoken here in Quartzsite, Arizona. In fact, just before Christmas, the Arizona Court of Appeals overturned two convictions against me, where, like YouTube sensation

Jennifer Jones,<sup>1</sup> I had been falsely arrested by Quartzsite police chief Jeff Gilbert simply for speaking out at a public meeting. I am a citizen in good standing, a staunch defender of the Constitution and have been the La Paz County Precinct Chair for the Republican Party for one term and a Precinct Committeeman for two.

However, you may know me from when I made national news last summer. I'm the man from Quartzsite who lost his gun rights when I called Councilman Joe Winslow a "turd." (See Attachment A.) Here's what happened.

After my salutation, Councilman Winslow waited a few days until I was out of town and then ran to a local judge to silence me by seeking an ex parte civil Injunction against Harassment. Despite that mine was "protected speech" and only one act (not a "series of acts" required by law to grant an injunction) the judge granted an injunction anyway.

When Judge Karen Slaughter granted the ex parte injunction, she also revoked my Second Amendment (and Arizona) constitutional right to keep and bear arms. She ordered that I was a prohibited possessor of firearms and ordered I turn my firearms over to the La Paz County Sheriff's Office. (See Attachment B.)

The Sheriff, in turn, put my name on the FBI's National Crime Information Center's database, listing me as a criminal "Domestic Violence Offender."

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<sup>1</sup> See [youtu.be/YPY3BIsVQq8](https://youtu.be/YPY3BIsVQq8).

I assure you that Councilman Winslow and I have never been Domestic partners.

Luckily, the public spotlight was so strong on Quartzsite that Judge Slaughter vacated her Injunction before my hearing.<sup>2</sup> Nevertheless, I have learned that it is standard practice in Arizona to list defendants in civil injunctions as criminals. It's commonly known as a "Brady Disqualification." You can see in Exhibit C, where, after she vacated her order, she faxed the Sheriff so my name should be removed from the NCIC.

Since then, I have learned that there is no provision in A.R.S. Section 12-1809 that provides for prohibition of firearms in a civil injunction against harassment. The words "firearm" or "weapon" are not codified in the statute. Nor can the Legislature mandate a constitutional deprivation in law, as we know from SB 1070. As such, a deprivation of a constitutional right without criminality is a yet another violation of a constitutional right—due process. Further, as this court knows, now that the Arizona Legislature has amended A.R.S. Section 13-3102 to allow citizens to carry concealed without a permit, Arizona now fully recognizes that "the right of the people to keep and bear Arms shall not be infringed."

I am not a felon, but I found myself essentially listed as one, listed as a

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<sup>2</sup> Nevertheless, the incident cost me \$1000 in unrecoverable attorney fees.

prohibited possessor throughout the United States via Brady. It's unclear whether this record will harm me forever.

Based on the audio of the petition hearing, Judge Slaughter eventually used the Arizona Rules of Protective Order Procedure, instead of the law, to guide her. To her credit, at the petition hearing, she knew that, by law, she could only prohibit firearms in a Title 13 "Domestic Violence thing." It was only later when she learned of your Rule 6.E.4.e.2. that she revoked my constitutional rights to keep and bear arms, thus violating her oath to uphold the Second Amendment and Article 2, Section 26 of the Arizona constitution.

But Rule 6.E.4.e.2. does not cite any authority. Yet, under color of law, by putting my name on the FBI's Criminal database, a judicial officer listed me as a criminal via a civil action. (And an ex parte one at that, violating my Fourteenth Amendment right to due process. Also see Judge Ronan's comment about the inherent illegality of ex parte Brady in my End Note.)

Further, this Rule is enforced by the courts under threat of law—specifically A.R.S. Section 13-2810, "Interfering with judicial proceedings." That is, if I had refused to surrender my constitutional rights at the time, I could have been charged criminally for violating a (civil) court order, regardless whether it was a "lawful

order of a court" or not.<sup>3</sup>

But by this court's own documentation (in your Text of Rule 28, Rules of the Supreme Court, downloadable from your website), your Rules are "rules of **procedure** for the courts of this state." However, your Rule 6.E.4.e.2. is not limited to the courts. Because it is invoked by judicial officers on citizens under the color and threat of law, your procedural Rule has substantive legal effect on the citizens of Arizona. By making a procedural rule that has substantive legal effect on all citizens, this court is literally legislating from the bench, in violation of its oath to uphold the constitution. You have unlawfully made a law. This violates your enumerated powers, as stated in Article III of the Arizona Constitution (Distribution of Powers).

Given the above, the court must immediately repeal Rule 6.E.4.e.2. of the Arizona Rules of Protective Order Procedure on an emergency basis. The Rule is baseless, violates the constitutional rights of good citizens on its face and causes judges to violate their oath of office. As such, public confidence in the courts is eroded. I know it was by my national story when the public learned my gun rights had been revoked because I called someone a name. It makes judges look silly. What happened to me must not be allowed to happen to any Arizonan in the future.

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<sup>3</sup> I would then be forced to fight that in federal court. Filing this petition is a much better use of the State's resources.

## **II. End note**

I see this issue has been raised previously in this forum (before the U.S. Supreme Court further solidified our Second Amendment rights) and that Judge Ronan stated in a past comment that "Therefore, Brady cannot apply to an ex parte hearing."

I do not want to trivialize the violations of the U.S. and Arizona Constitutions by focusing on minutia. But even if it's correct in theory that "Brady cannot apply to an ex parte hearing," the fact is, in practice, Brady is applied and used all the time in ex parte hearings. It happened to me. I've since learned of others who have suffered, and are currently suffering, a criminal Brady Disqualification via a Section 12-1809 civil injunction. Whether intended by a judge or not, it is Standard Operating Procedure for sheriffs to list prohibited firearm possessors in the FBI's NCIC database as Criminal Domestic Violence offenders under Brady.

Think about it. How else could a sheriff put a name into a CRIMINAL database without listing us as a criminal? Even if the underlying judicial action is civil, a sheriff has no other avenue when told to list someone as a prohibited firearm possessor. Intended or not, this is a violation of due process, criminalizing Arizonans who aren't criminals!

Also, other commenters liberally interpreted the language in Section 12-1809(F)(3)—which says a judge may "grant relief necessary for the protection of an alleged victim"—to allow the deprivation of the Second Amendment constitutional right in a civil injunction.

But would these same commenters argue a judge could seize me, by putting me in jail, a Fourth Amendment deprivation, for the protection of an alleged victim in a civil matter? No. In fact, just before Christmas, a federal judge, citing the Fourth Amendment, recently ruled that the Maricopa County Sheriff could not even detain people suspected of civil violations. (Being in the country illegally.)

Or could a judge order that I not broadcast anything disparaging about Councilman Joe Winslow in the future, a deprivation of my First Amendment constitutional right? Clearly no. Even JP judges know that's irreparable harm.

The Second Amendment is no less a right than the First and Fourth, and therefore, this Rule fails.

RESPECTFULLY DATED this \_\_\_\_\_ day of January, 2012

By \_\_\_\_\_  
Michael Roth  
PO Box 422  
Quartzsite, AZ 85346

## **Appendix A**

## Escalation in Arizona: Firearms confiscated

by Joe KovacsEmail | Archive Joe Kovacs, executive news editor for WND, is an award-winning journalist and author of the No. 1 best-selling book "Shocked by the Bible: The Most Astonishing Facts You've Never Been Told."More ↓Less ↑

Residents of the Arizona town that has become a YouTube sensation after police forcibly removed a woman speaking at a recent public meeting are now experiencing firearms confiscation by the government.

The stunning action is taking place in Quartzsite, Ariz., where Town Councilman Joe Winslow has prompted the seizure of guns from local gem dealer and online entrepreneur Michael Roth because Roth allegedly glared at the councilman, blocked his entrance to Town Hall and called him a "turd."

Karen Slaughter, the elected justice of the peace for the region, issued a harassment injunction against Roth on behalf of Winslow, the lawmaker who called for the silencing of pet groomer and publisher Jennifer Jones in the infamous video.

That original video of the June 28 town-hall fiasco posted on YouTube has been viewed more than 120,000 times.

"I don't know the source of his animus towards me and at this point I don't care," Winslow said of Roth at a July 19 hearing.

"I know that I'm 71 years old. I don't want to be a statistic, I don't want to go to jail and I don't want to go in the hospital. But based on my history of 24 years in the service, I am more concerned about my reaction to his aggression than anything else, especially now that I believe that he is carrying a handgun. His actions have demonstrated in the past to me that he is not in full control of his emotions."

*Questions about guns? The ultimate searchable research guide to firearms and ammo is now on DVD ...*

Winslow told Slaughter what he wanted was that Roth and others with similar views "not be allowed to walk around armed. To me, I'm not a psychologist or psychiatrist, but I have been diagnosed with PTSD (post-traumatic stress disorder) ... that's what I'm concerned with, that he's gonna get so far into my personal space that I'm gonna react without thinking. I'm not making threats or anything like that. I'm not proud of that, but it's the way I am."

Winslow said he has been flooded with several hundred emails from Americans not happy about his demand for the removal of Jones from speaking, as he called her "disruptive."

"They're contacting people all over the country with similar political beliefs and that's why we had to declare a state of emergency, and Mr. Roth is involved in that," Winslow said.

As far as specific actions or threats from Roth that might warrant the restraining order, Winslow claimed on his official complaint form that on July 1, Roth blocked him from entering Town Hall and said, "Hey, Terd (sic), where's the keys to the arms locker?" Roth allegedly continued, saying, "Tell one of the other terds (sic) to bring out a key."



Councilman Joe Winslow of Quartzsite, Ariz., sparked the confiscation of firearms from town resident Michael Roth.

4. I need a Court Order because: (PRINT both the date(s) and briefly what happened):

Date(s)	Describe what happened (Attach additional paper if necessary - Do not write on back)
1 July	Roth blocked door To Town Hall and said "Hey, Terd Where's The Keys To The Arms Locker". As I entered

4. I need a Court Order because: (PRINT both the date(s) and briefly what happened):

Date(s)	Describe what happened (Attach additional paper if necessary – Do not write on back)
1 July	Roth blocked door to Town Hall and said "Hey, Terd
	Where's the keys to the Arms Locker?" As I entered
	Town Hall he said "Tell one of the other Texds to bring out a key."

Quartzsite Councilman Joe Winslow lists reasons he sought a restraining order against resident Michael Roth, claiming his entrance to town hall was blocked and that he was called a synonym for dog feces.

Additionally, Winslow told Judge Slaughter that after a meeting several months ago, "I was talking to someone and I saw [Roth] glaring at me, and I said something like, 'What's your problem?' ... It was very uncomfortable."

But Winslow indicated his biggest concern is the firearm issue.

"I don't like firearms," he said. "I have nothing against anyone who wants to own a gun for protection, hunting, recreation, whatever, that's their business. But you bring the two things together – the fixed-minded people who for whatever reason are aggressive and confrontational by nature and bring in firearms and it's a bad combination. As far as name-calling goes, that's sophomoric. I just ignore it."

Ironically, despite Winslow's self-expressed aversion to firearms and desire to confiscate Roth's weapons, the councilman admitted he had recently gone gun shopping for himself.

"I felt it necessary for me to go out and purchase a gun, and I did," Winslow said. "I went out and bought a 12-gauge shotgun. I don't like it. I don't like being in that position."

Judge Slaughter granted Winslow's request for the injunction, saying, "I will go ahead and issue the order. However, on the portion for [Roth] to stay away from the town council or the from the Town Hall, I don't think I can give a blanket order to do that. What it's going to say is that if he has to have specific personal business at the town, then he'll have to call and make an appointment. ... He can make an appointment if he wants to talk about his water bill or whatever the case may be, then that way you can leave or whatever so that you don't have to have a confrontation with him."

Her official order bans Roth from attending public meetings at Town Hall, precludes him from possessing or purchasing firearms and ammunition, and orders him to surrender his firearms to law enforcement.



Justice of the Peace Karen Slaughter ordered the confiscation of firearms from Michael Roth and banned him from public meetings at Town Hall in Quartzsite, Ariz.

July 19, 2011  
 HR2011-00019, Winslow, J. vs Roth, M.  
 Addition to Judge's Order  
 "Not to go on or Near Plaintiff/Protective Party's Employment"

1. Defendant will not go to Town Hall. If Defendant has personal business at Town Hall, he will first call and make an appointment to be seen by a specific department or party not to include the Plaintiff. Defendant will not attend public meetings at Town Hall. If he wants his opinions heard, Defendant must make individual appointments with the

## **Appendix B**

July 19, 2011

HR2011-00019, Winslow, J. vs Roth, M.

Addition to Judge's Order

"Not to go on or Near Plaintiff/Protective Party's Employment"

1. Defendant will not go to Town Hall. If Defendant has personal business at Town Hall, he will first call and make an appointment to be seen by a specific department or party not to include the Plaintiff. Defendant will not attend public meetings at Town Hall. If he wants his opinions heard, Defendant must make individual appointments with the board members excluding the Plaintiff.
2. Defendant is not to go to Mobile Station while Plaintiff is working there.
3. Not to possess and/or purchase firearms
4. Not to possess and/or purchase ammunition
5. Transfer firearms to law enforcement

So ordered this

19<sup>th</sup>

of July

2011



Honorable K. Slaughter  
Justice of the Peace

## **Appendix C**

IN THE QUARTZSITE JUSTICE COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF LA PAZ

JOE WINSLOW,

Plaintiff,

vs.

MICHAEL ROTH  
Defendant

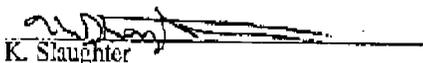
CASE NO: HR2011-00019

ORDER DISMISSING  
WITHOUT PREJUDICE

Upon further review by the Court of the above entitled case, it is determined that the Injunction against Harassment does not conform to Arizona statute or case opinion,

It is ORDERED DISMISSING the Injunction of Harassment issued the 19<sup>th</sup> day of July, 2011 and VACATING the HEARING scheduled for August 11, 2011 at 3:30 p.m. (Arizona time).

SO ORDERED THIS 11<sup>th</sup> day of August, 2011.

  
K. Slaughter  
Justice of the Peace

I certify that a copy of the foregoing was  
~~mailed/faxed~~ placed in attorney's box,  
or personally served this \_\_\_\_\_ of August, 2011:

Mailed  Plaintiff at last known address

Faxed  Defense Counsel: Atty. Julie LaBenz

Mailed  By: Pam, Court Clerk,

Faxed to SHF 8-11-11 by Pam

2011 AUG 11 AM 11:17

QUARTZSITE JUSTICE COURT  
CLERK'S OFFICE