

District Court, Division 02, County of Jefferson STATE OF COLORADO 100 Jefferson County Parkway Golden, Colorado 80401	<p style="text-align: center;">▲ Court Use Only ▲</p>
PEOPLE OF THE STATE OF COLORADO, <p style="text-align: right;">Plaintiff,</p> v. Steve Douglas Gartin, <p style="text-align: right;">Defendant.</p>	
Thomas C. "Doc" Miller, Reg. No. 22652 1026 Lincoln Place Boulder, Colorado 80302 303.484.8229	Case Number: 02 CR 3011 & 00 CR 3711 Division: 02
MOTION FOR FORGIVENESS AND PETITION TO SEAL	

Comes now, the Defendant, **Steve Douglas Gartin**, by and through his lawyer, Thomas C. "Doc" Miller, and moves this Honorable Court to grant the above captioned Motion for Forgiveness and Petition to Seal and as grounds therefore states as follows:

BACKGROUND

1. On April 8, 2002, Mr. Gartin entered into a plea of guilty in 00 CR 3011 to a felony charge of Extortion on Count I and a misdemeanor charge of Filing a False Instrument on Count II.
2. On Count I, Mr. Gartin was sentenced to two years deferred judgment.
3. On Count II he was sentenced to time served.
4. Mr. Gartin was also to attend an anger management course, and to provide urinalysis for one year.
5. Mr. Gartin completed anger management and provided urinalysis as ordered.
6. A charge of Carrying a Concealed Weapon was dismissed in 00 CR 3711 in order to protect Mr. Gartin's employment in cutlery sales, design, and distribution, in addition to his lifetime work as a martial arts teacher.
7. On November 23, 2002, Mr. Gartin was arrested, handcuffed, and jailed related to 02 CR 3011 on charges of Theft on Count I, First Degree Aggravated Motor Vehicle Theft on Count II, and Theft of Trade Secrets on Count III.
8. Investigating Officer Monique Gilstrap in 02 CR 3011 issued the Affidavit for Warrantless Arrest on November 11, 2002, after researching the National Crime Information Computer (NCIC) and the Colorado Crime Information Computer (CCIC).
9. The information provided in the NCIC and CCIC data bases states, "Approach with caution. Subject is a martial arts expert and is known to carry multiple knives concealed on his person. If contacted notify the Colorado Attorney General's Office Special Prosecutions Unit at 303.866.5622 or Inv. Clyman at 303.806.7479" (the Jacket).
10. Based upon the information in those data bases, Officer Gilstrap contacted investigator, Gary Clyman of the Colorado Attorney General's Office (AG Investigator Clyman).
11. Following a difficult criminal justice experience, all charges in 02 CR 3011 were dismissed by this Honorable Court on January 12, 2004, upon motion of the District Attorney's Office of Jefferson County.

12. On November 16, 2003, Mr. Gartin and two of his martial arts students returning from a martial arts training seminar in Los Angeles, California.
13. Mr. Gartin's vehicle was stopped near Flagstaff, Arizona by police officials.
14. After presenting his driver's license, the automobile was surrounded and all three occupants were accosted by police officers with drawn guns.
15. All three occupants of Mr. Gartin's automobile were then handcuffed, intimidated, and physically punished and threatened.
16. Further, these police officers insulted Mr. Gartin and his traveling companions with such derogatory statements as, "only a fool brings a knife to a gun fight."
17. Mr. Gartin and AG Investigator Clyman have a long and well-documented history resulting from the investigation and prosecution of Mr. Gartin in 00 CR 3711.
18. This history includes S.W.A.T. team arrests of Mr. Gartin when his life, and the lives of numerous other persons, were put at risk as they were thrown to the ground, ordered to remain motionless, and had numerous firearms, including automatic weapons, pointed to their heads.
19. Mr. Gartin has also named AG Investigator Clyman, and Special Prosecutor of the Colorado Attorney General Office's Marlene Langfield in numerous legal filings contesting their conduct in 00 CR 3011 as unconstitutional and illegal.
20. Mr. Gartin has named AG Investigator Clyman in a notice of intent to sue for his involvement in a S.W.A.T. team arrest.
21. Mr. Gartin has been menaced and threatened at every police encounter once he identifies himself and police officials search NCIC or CCIC data bases.

FORGIVENESS

22. Mr Gartin is the Elder Brother of the Y'shouan Assembly.
23. As such, it is Mr. Gartin's religious belief and duty to ask forgiveness from this Honorable Court, the Colorado Attorney General Office's Special Prosecutor, Marlene Langfield, and AG Investigator Clyman for any act of Mr. Gartin's that has incited these repeated life-threatening interactions and acts of intimidation against his person and the persons of any of his companions and/or fellow worshippers of the Y'shouan Assembly that stem from the data contained in NCIC and CCIC databases.

CONSTITUTIONAL ISSUES

24. AG Investigator Clyman has stated to Mr. Gartin's investigator that the information contained in NCIC and CCIC data bases is necessary for the safety of police officials.
25. AG Investigator Clyman has a vested interest in the continued intimidation resulting in life threatening actions of police officials by virtue of AG Investigator Clyman's potential defendant status in a law suit.
26. Since the encounter in Flagstaff, Arizona, Mr. Gartin has been so intimidated by the possibility of a police contact that he has put his automobile in storage.
27. Mr. Gartin is so intimidated by the repeated threats of death by armed police officials throughout the United States that he cannot leave his home.
28. Mr. Gartin's friends, associates, business contacts, and fellow worshippers of the Y'shouan Assembly fear for their lives should Mr. Gartin come into police contact in their presence.
29. Mr. Gartin's right to free association in the community has thus been jeopardized by the life-threatening interactions and acts of intimidation imposed upon his companions and fellow worshippers.

30. Mr. Gartin's right to travel throughout the United States of America has thus been jeopardized by these life-threatening interactions and acts of intimidation.
31. Mr. Gartin's right to employment has been jeopardized by these life-threatening interactions and acts of intimidation.
32. Mr. Gartin's right to life, liberty, and the pursuit of happiness has been jeopardized by these life-threatening interactions and acts of intimidation.
33. Mr. Gartin's right to practice his religion has been jeopardized by these life-threatening interactions and acts of intimidation.
34. Mr. Gartin's right to due process has been jeopardized by these life-threatening interactions and acts of intimidation.

PETITION TO SEAL

35. The RECORDS in 00 CR 3711 may not be sealed pursuant to C.R.S. 24-72-308(II)(B).
36. Nevertheless, pursuant to C.R.S. 24-72-308(1.5) this Honorable Court may protect the author of any correspondence (AG Investigator Clyman) through it's authority to issue an order "to seal any information, including but not limited to, basic identification information contained in said correspondence" in 00 CR 3711.
37. A plethora of Mr. Gartin's constitutional rights, as well his personal health and safety, as well as the constitutional rights and health and safety of his friends, associates, business contacts, and fellow worshippers of the Y'shouan Assembly, are jeopardized by the Jacket described in paragraph nine (9).
38. Pursuant to C.R.S. 24-72-308(c), the court may hold a hearing to determine if "the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences to the petitioner outweigh the public interest in retaining the records."
39. NCIC and CCIC records contain intimidating and life threatening information in the Jacket that this Honorable Court must order to seal.
40. Mr. Gartin does not object to the provisions of C.R.S. 24-72-308(II)(B) as regards the relevant and non intimidating and life threatening pertinent information regarding 00 CR 3711.
41. Mr. Gartin is filing a Petition to Seal in the District Court of Jefferson County pursuant to C.R.C. 24-72-308(I)(a)(I) in 02 CR 3011 concurrent with this Motion for Forgiveness and Petition to Seal.

Wherefore, in the interests of substantial justice and fundamental fairness, and under the protections of the Constitution of the United States of America, the Colorado Constitution, and pursuant to C.R.S. 24-72-308, Steve Gartin requests this Honorable Court to grant the foregoing Motion for Forgiveness and Petition to Seal.

Respectfully submitted this Wednesday, March 03, 2004,

Thomas C. "Doc" Miller, Reg. No. 22652
1026 Lincoln Place
Boulder, Colorado 80302
303.484.8229

Certificate of Service

I, Thomas C. "Doc" Miller, hereby certify that on Wednesday, March 03, 2004, a true and correct copy of the foregoing **Motion for Forgiveness and Petition to Seal** was placed in the United States Mail, postage prepaid, and addressed to the following parties:

Clerk of the District Court, Division 02
Jefferson County District Court
100 Jefferson County Parkway
Golden, Colorado 80401

Marlene Langfield, Esquire
Colorado Attorney General's Office
1525 Sherman Street, 6th Floor
Denver, Colorado 80202

Thomas C. "Doc" Miller

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 JEFFERSON COUNTY PARKWAY GOLDEN, COLORADO 80401 <hr/> PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. STEVE DOUGLAS GARTIN, Defendant.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
DAVID J. THOMAS, District Attorney MARLEEN M. LANGFIELD, Special Deputy District Attorney 1525 Sherman Street, 5 th Floor Denver, CO 80203 (303) 866-5773 Registration Number: 10355	Case No.: 00CR3371 Div.: 2
PEOPLE'S RESPONSE TO DEFENDANT'S MOTION FOR FORGIVENESS AND PETITION TO SEAL	

Come now the People of the State of Colorado, by and through the undersigned special deputy district attorney and respectfully submit the following in response to defendant's Motion for Forgiveness and Petition to Seal.

1. Under the authority of § 24-72-308, C.R.S. Steve Gartin seeks to have this court order the removal of the alert associated with his name from the CCIC and NCIC data bases. He claims, in essence that the above-referenced "caution" endangers his safety because it causes law enforcement agents who come into contact with him to respond with weapons more readily available.

2. Defendant acknowledges that he is not entitled to have his criminal justice records sealed pursuant to § 24-72-308(1)(a)(I)(II)(B), which protects persons in interest who are not charged, where charges are completely dismissed or who are acquitted. Rather, Mr. Gartin cites as authority for his requested relief § 24-72-308(1.5), C.R.S., the stated purpose of which is to protect the author of correspondence, which becomes a part of criminal justice records. He seeks to have the court hold a hearing pursuant to § 24-72-308(c), C.R.S. to determine if the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences to the petitioner outweigh the public interest in retaining the records.

3. Defendant's reliance upon § 24-72-308(1.5), C.R.S. is misplaced. No law enforcement author of the challenged alert is seeking the protection of this court.

4. Mr. Gartin is not entitled to the hearing he seeks or to have the court make the determination he requests. Section 24-72-308(II)(B), C.R.S. provides for a hearing if the court determines, based upon the petition, that petitioner may be entitled to have criminal justice records sealed under the authority of § 24-72-308(1)(a)(I), C.R.S. Once a court determines that the person in interest was not charged, the charges were completely dismissed or the person was acquitted, the court may order criminal justice records sealed. In determining whether to seal records in the above-referenced context the court is to determine whether the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences to the petitioner outweigh the public interest in retaining the records. **Defendant acknowledges that he is not entitled to have records sealed under the provisions of § 24-72-308(1)(a), C.R.S.**

5. Further, § 24-72-308, C.R.S. contemplates only that information contained in sealed records will not be available to the public. The alert, which defendant seeks to have removed is contained in CCIC, a data base, which is not available to the public. Rather, access is limited to law enforcement.

6. Section 24-72-308, C.R.S. authorizes only the sealing of records from public scrutiny. Section 24-72-308(g), C.R.S. specifically provides that nothing in this section shall be construed to authorize the destruction of any criminal justice records. The removal of the alert from CCIC is not relief authorized by the provisions cited by Mr. Gartin.

7. Section 24-72-308(3)(d), C.R.S. specifically provides that "this section shall not apply to arrest and criminal justice records in the possession and custody of a criminal justice agency when inquiry concerning the arrest and criminal justice information or criminal justice records is made by another criminal justice agency." All authorized inquiries to CCIC are made by criminal justice agencies. Hence, sealing the records would accomplish nothing.


8. Section 24-72-308 (1)(a)(II)(A), C.R.S. mandates that the court shall review the petition. If the court determines that the petition on its face is insufficient or if the court determines after taking judicial notice of matters outside the petition that the petitioner is not entitled to relief, the court shall enter an order denying the petition. The court shall mail a copy of the order to the petitioner, which order shall specify the reasons for the denial of the petition.

9. Finally, absent circumstances that bring a petition to seal within the purview of § 24-72-308, C.R.S., the People are unaware of any provision that authorizes defendant to request the relief he seeks within the context of his criminal case.

WHEREFORE, the People of the State of Colorado respectfully request that the court vacate the hearing in this matter and enter an order denying defendant's motion.

Respectfully submitted this 22nd day of March 2004.

DAVID J. THOMAS
District Attorney

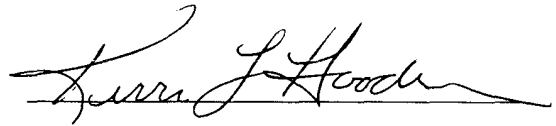


Marleen Langfield, #10355
Special Deputy District Attorney

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within People's Response to Defendant's Motion for Forgiveness and Petition to Seal upon all parties herein by mailing a copy of the same postage prepaid on the 22 day of March 2004 addressed to:

Attorney Thomas Miller
1026 Lincoln Place
Boulder, CO 80302

A handwritten signature in cursive script, reading "Laura J. Hood", written over a horizontal line.