

ANDREW P. THOMAS  
MARICOPA COUNTY ATTORNEY

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Attorney for Plaintiff

MICHAEL K. JEANES, CLERK  
BY *D. Maffei* DEF  
FILED

09 DEC -9 AM 9:48

DR 09-225204 MCSO  
DOWNTOWN JUSTICE COURT

CA2009055236

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA, RCC - Downtown

THE STATE OF ARIZONA,

Plaintiff,

vs.

GARY DONAHOE,

Defendant.

CR 2009 - 008332 - 001

DIRECT COMPLAINT

COUNT 1: HINDERING PROSECUTION, A  
CLASS 5 FELONY

COUNT 2: OBSTRUCTING CRIMINAL  
INVESTIGATION, A CLASS 5 FELONY

COUNT 3: BRIBERY OF A PUBLIC SERVANT,  
A CLASS 4 FELONY

The complainant herein personally appears and, being duly sworn, complains on information and belief against GARY DONAHOE, charging that in Maricopa County, Arizona:

**COUNT 1:**

GARY DONAHOE on or between December 15, 2008 and December 8, 2009, with intent to hinder the apprehension, prosecution, conviction, or punishment of Maricopa County employees, officials, judges or attorneys Tom Irvine and/or Ed Novak for Bribery A.R.S. 13-2602, Theft by Extortion A.R.S. 13-1804, or Fraudulent Schemes and Artifices 13-2310, a felony, rendered assistance to

DCO


Maricopa County employees, officials, judges or attorneys Tom Irvine and/or Ed Novak by knowingly providing Maricopa County employees, officials, judges or attorneys Tom Irvine and/or Ed Novak with money, transportation, weapon, disguise, or other means of avoiding discovery, apprehension, prosecution, or conviction, in violation of A.R.S. §§ 13-2510, 13-2512, 13-701, 13-702, and 13-801.

**COUNT 2:**

GARY DONAHOE on or about between December 15, 2008 and December 8, 2009, knowingly by means of bribery, misrepresentation, intimidation, force, or threats of force, attempted to obstruct, delay, or prevent the communication of information or testimony relating to a violation of Bribery A.R.S. 13-2602, Theft by Extortion A.R.S. 13-1804, or Fraudulent Schemes and Artifices 13-2310,, a criminal statute, to a peace officer, magistrate, prosecutor, or grand jury, in violation of A.R.S. §§ 13-2409, 13-701, 13-702, and 13-801.

**COUNT 3:**

GARY DONAHOE on or about between December 15, 2008 and December 8, 2009, with corrupt intent, while a public servant or party officer, solicited, accepted, or agreed to accept a benefit from Maricopa County employees, officials, judges or attorneys Tom Irvine and/or Ed Novak , upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action, as a public servant or party officer, might be influenced, in violation of A.R.S. §§ 13-2601, 13-2602, 13-2604, 13-701, 13-702, and 13-801.

  
Lisa M. Aubuchon  
Deputy County Attorney

**It is requested that a summons be issued.**  
**It is requested that Defendant appear for fingerprints and photograph.**

  
Complainant Agency: MCSO

Subscribed and sworn upon information and belief this 7 day of December, 2009.

LMA/AO

**COURT INFORMATION SHEET (CIS)**

**STATE v. GARY DONAHOE,**

**Defendant Sequence: 1**

Defendant's Address: GARY DONAHOE,  
8442 N. 17<sup>TH</sup> DRIVE  
PHOENIX, AZ 85021

Defendant's Employer: UNKNOWN

Defendant's Attorney:

CR 2009-008332-001  
09-008332-001

**DEFENDANT'S DESCRIPTION:**

Race: W Sex: M Hair: BROWN Eyes: BRN Hgt: 600  
Wgt: 180 DOB: 8/10/1948 Soc Sec #:

SID #: Unknown FBI #: Unknown Old LEJIS #: Unknown  
JMS Booking #: \_\_\_\_\_ JMS LEJIS #: Unknown

**FILING STATUS:**

Direct Complaint CR #: \_\_\_\_\_ Date Filed:  
Court Designation: RCC-Downtown  
Justice Court Precinct: DOWNTOWN JUSTICE COURT

**ATTORNEY:** LISA M. AUBUCHON Bar ID: 013141 Location: Downtown

**PRELIMINARY HEARING/GRAND JURY CHARGES:**

**COUNT 1:** HINDERING PROSECUTION, A CLASS 5 FELONY  
**COUNT 2:** OBSTRUCTING CRIMINAL INVESTIGATION, A CLASS 5 FELONY  
**COUNT 3:** BRIBERY OF A PUBLIC SERVANT, A CLASS 4 FELONY

<u>Count</u>	<u>ARS</u>	<u>Date of Crime</u>
1	13-2512	12/15/08 -12/08/09
2	13-2409	12/15/08 -12/08/09
3	13-2602	12/15/08 -12/08/09

**DEPARTMENTAL REPORTS:**

DR 09-225204 - Maricopa County Sheriff's Office

**EXTRADITE:** AO

**DWL**

IN THE **Downtown Justice Court**  
STATE OF ARIZONA, COUNTY OF MARICOPA

**RELEASE QUESTIONNAIRE**

Information to be supplied by a prosecutor or law enforcement officer.

STATE OF ARIZONA vs. **Gary E. Donahoe** DOB **8/10/1948** CASE/BK. NO. **09-225204**

**A. GENERAL INFORMATION**

1. Charge	Class	ARS Code
<b>Obstructing Justice</b>	<b>5F</b>	<b>13-2409</b>
<b>Bribery of a Public Servant</b>	<b>4F</b>	<b>13-2602</b>
<b>Hindering Prosecution</b>	<b>5F</b>	<b>13-2512</b>
_____	_____	_____
_____	_____	_____

2. Offense Location: **101 West Jefferson Phoenix, AZ 85003**  
Date: **12/15/2008** Time: \_\_\_\_\_
3. Arrest Location: **N/A**  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

**B. CIRCUMSTANCES OF THE OFFENSE**

1. Was a firearm or other weapon used?  
 YES  NO  
Type of weapon: \_\_\_\_\_
- Was anyone injured by the defendant?  
 YES  NO
- Was medical attention necessary?  
 YES  NO  
Nature of injuries: \_\_\_\_\_
2. Was anyone threatened by the defendant?  
 YES  NO  
Nature and extent of threats: \_\_\_\_\_

3. If property offense, value of property taken or damaged:  
  
Was the property recovered?  
 YES  NO

**C. CIRCUMSTANCES OF THE ARREST**

1. Did the defendant attempt to:  
Avoid arrest?  YES  NO  
Resist arrest?  YES  NO  
Explain: \_\_\_\_\_
2. Was the defendant armed when arrested?  
 YES  NO  
Type of weapon: \_\_\_\_\_
3. Was evidence of the offense found in the defendant's possession?  
 YES  NO  
Explain: \_\_\_\_\_
4. Was the defendant under the influence of alcohol or drugs at the time of the offense  
 YES  NO  UNK

**D. CRIMES OF VIOLENCE**

1. Relationship of defendant to victim:  
  
Do the victim and defendant reside together?  
 YES  NO
2. How was the situation brought to the attention of the police?  
 Victim  
 Third party  
 Officer observed
3. Have there been any previous incidents involving these same parties?  
 YES  NO  
Explain: \_\_\_\_\_
4. Is defendant currently the subject of:  
 An order of protection  
 Injunction against harassment  
 Any other court order  
Explain: \_\_\_\_\_

**E. OTHER INFORMATION**

1. Is the defendant presently on probation, parole or any other form of release involving other charges or convictions?  
 YES  NO  
Explain: \_\_\_\_\_
2. List any prior arrests, convictions, and/or F.T.A.'s:  
  
\_\_\_\_\_
3. Is there any indication the defendant is:  
 An alcoholic?  An addict?  
 Mentally disturbed?  Physically ill?
4. Is the defendant currently employed?  
 YES  NO  
With whom: **Superior Court of Arizona - Maricopa County**  
How long: **Over 20 years**  
Nature of employment: **Judge**
5. Where does the defendant currently reside?  
**8442 North 17th Drive**  
**Phoenix, AZ 85021**  
With whom:  
How long:
6. What facts indicate the defendant will flee if released?  
**None**
7. What facts does the State have to oppose an unsecured release?  
**None**

**E. DRUG OFFENSES**

1. Is the defendant considered a major drug dealer, please state the supporting facts?  
N/A

2. What quantities and types of illegal drugs are directly involved in this offense?  
N/A

Approximate monetary value:

3. Was any money seized?  
 YES  NO  
Amount:

4. Were any automatic weapons in the possession of the defendants at the time of the arrest?  
 YES  NO  
Quantity and type:

**F. SUMMARY**

1. Please include information which establishes probable cause for the arrest:  
**See Attached Addeundum.**

**MARICOPA COUNTY JUSTICE COURT PRECINCTS**

- |                      |                      |
|----------------------|----------------------|
| 1. Agua Fria         | 12. Manistee         |
| 2. Arcadia Biltmore  | 13. Maryvale         |
| 3. Downtown          | 14. McDowell         |
| 4. Dreamy Draw       | 15. Moon Valley      |
| 5. East Mesa         | 16. North Mesa       |
| 6. Encanto           | 17. North Valley     |
| 7. Estrella Mountain | 18. San Marcos       |
| 8. Hassayampa        | 19. San Tan          |
| 9. Ironwood          | 20. South Mountain   |
| 10. Kyrene           | 21. University Lakes |
| 11. Lake Pleasant    | 22. West McDowell    |
|                      | 23. West Mesa        |

Please refer to Precinct Map

**WARRANT INFORMATION**

Warrant Number:  
Bond Amount:  
Warr. Issuc Date:  
County:  
Iss. Court/Agency:  
Charges:  
Title Code(s):

**\*\*\*If a fugitive arrest, a form IVA must also be completed\*\*\***

I certify that the information presented is true to the best of my knowledge.

**B. Luth / S1375**

Arresting Officer/Serial Number

**Maricopa County Sheriff's Office 876-1000**

Agency/Duty Phone Number

**12/8/2009**

Date

Probable Cause Statement – 09-225204

From December 15, 2008 to December 08, 2009, Gary E. Donahoe did the following:

I.

Judge Donahoe failed to disclose his attorney-client relationship with attorneys appearing before him on a grand jury investigation into Maricopa County's new criminal court tower. The Maricopa County Board of Supervisors hired Attorneys Thomas Irvine and Edward Novak to quash a grand jury subpoena related to the criminal court tower investigation. The investigative subpoenas targeted Mr. Irvine, Mr. Novak, the court, and the Board, as all were under investigation for potential wrongdoing. However, Judge Donahoe refused to send the case to another county and also refused to remove Messrs. Irvine and Novak from the case. Instead, Judge Donahoe removed the Maricopa County Attorney's Office, finding a conflict existed because MCAO had assisted the Sheriff's Office the criminal investigation. Judge Donahoe never addressed the fact that the court itself had entered into a contract with Messrs. Irvine and Novak so that Mr. Irvine could serve as the "Space Planner" for the Superior Court's new criminal court tower. To make matters worse, Judge Donahoe failed to see that a conflict existed or that allowing Messrs. Irvine and Novak to appear before him could raise an appearance of impropriety.

The MCAO appealed Judge Donahoe's disqualification decision. The Arizona Court of Appeals refused to exercise jurisdiction over that Special Action (*See* 1 CA-SA 09-0056). After the Court of Appeals refused to hear the Special Action, the Sheriff's Office and the MCAO discovered the true relationship between the Court and Messrs. Irvine and Novak. A local news media investigation revealed that the Court hired Mr. Irvine to serve as more than a Space Planner. Instead, the Court hired Messrs. Irvine and Novak as attorneys for the court on the project under a contract approved by the Arizona Attorney General, who was also under investigation by the Sheriff's office. As the criminal presiding judge, Judge Donahoe surely knew what attorneys represented the Court in the criminal court tower project. Given this knowledge, Judge Donahoe acted improperly by quashing a subpoena at the request of his counsel on a matter involving their contractual, attorney-client relationship and never disclosing that attorney-client relationship to either the opposing party or the appellate courts. Prosecuting authorities appealed Judge Donahoe's astonishing decision to the Arizona Supreme Court, and that matter is currently pending (CV-09-0165-PR).

Similarly, Judge Donahoe failed to hold County Supervisor Donald Stapley in contempt for disclosing grand jury information to his personal criminal attorney. Mr. Stapley learned the grand jury information in his professional capacity as a County Supervisor, yet he disclosed this confidential information to his personal defense attorney for use in his personal criminal case. Mr. Stapley's disclosure stymied the investigation and clearly raised serious ethical and obstruction of justice concerns, yet Judge Donahoe took no action against Mr. Stapley.

II.

Probable Cause Statement – 09-225204

Earlier this year, County Supervisor Stapley faced pending criminal charges. After a Search Warrant was executed on the premises of one of his associates, Attorney Grant Woods filed a motion to controvert. Despite the clear statutory scheme requiring that the motion to controvert be filed in the court where the search warrant was obtained (here, the Justice Court), presiding criminal court Judge Donahoe picked up the case one day after Mr. Woods filed the motion and set the matter for a hearing (*See* CV2009-005990). The prosecuting authorities presented Judge Donahoe with the law, and Judge Donahoe even acknowledged that the Mr. Woods' motion should have been filed in the justice court. However, Judge Donahoe did not end his involvement in the Stapley matter. When Mr. Woods later appealed the justice court decision, Judge Donahoe, who is not the assigned lower court appeals judge, somehow assigned himself to the Stapley case and ruled against the Sheriff's Office (*See* LC2009-000701).

III.

On or about April 24, 2009, Judge Jonathan Schwartz wrote an e-mail to Judges Mundell, Judge Donahoe and Judge Ryan complaining that the Sheriff's Office and the Court Security Division failed to transport criminal defendants to court in a timely manner. Judge Schwartz indicated that the late arrivals might be due to "budget crisis." That same day, Judge Donahoe e-mailed Captain Bill Van Ausdale of the Sheriff's Office Court Security Division. Judge Donahoe informed Captain Van Ausdale that he had concluded defendants were more likely to arrive to court on time if they were not in the Sheriff's custody. Judge Donahoe further stated that according to that morning's newspaper, the "sheriff" had committed over 200 deputies to an operation. Judge Donahoe therefore concluded that the late arrival issue "doesn't appear to be a staff shortage issue but rather a 'staff allocation' issue." Judge Donahoe closed this e-mail by stating that he was inclined to begin reviewing release conditions and "getting the number of defendants under the control of the sheriff down."

Several days later, on or about April 28, 2009, Judge Donahoe e-mailed to Captain Van Ausdale noting that "things haven't improved." Judge Donahoe stated that the Sheriff's Office used "200 deputies and posse for a crime sweep [immigration detail] but insufficient deputies to carry out the mandated function of transporting defendants to court - something just isn't right here." Judge Donahoe told Captain Van Ausdale that his next step would be to advise defense agencies that due to MCSO's inability to transfer inmates, the court would review defendants' release conditions in an effort to "reduce" the number of inmates needing transport. Judge Donahoe concluded by asking Captain Van Ausdale to advise him (Judge Donahoe) if the Captain would get "permanent and sufficient staffing" in the "next few days." That same day, Deputy Chief David Trombi met with Judge Donahoe in an effort to clarify that the Sheriff's Office would do the best it could given the circumstances. Judge Donahoe, quickly and sharply stated that he would inform criminal defense counsel to file motions to release their in-custody clients and would then "blame the Sheriff [Arpaio]" for this to the media and citizens. Captain Van Ausdale, Sergeant Glenn Chapski, and Lieutenant Ken Colbert from the Sheriff's Office and Bob James, Marcus Rankensmeyer, and Phil Knox from the Superior Court all witnessed Judge Donahoe's threat. Judge Donahoe's unprofessional threat to use both



Probable Cause Statement – 09-225204

the Court's power and the media to embarrass Sheriff Arpaio clearly violates canons of judicial ethics.

IV

On information and belief, on July 17, 2009, Deputy Chief Trombi sent a letter to Chief Judge Mundell in which he complained about Judge Donahoe's April 2009 conduct, discussed above. Deputy Chief Trombi also complained about several statements that Judge Mundell made to the media and pointed out statistical figures compiled by the Sheriff's Office showing that the Court and other judicial office personnel - not the Sheriff's Office - caused late starts for court appointments roughly 65% of the time.

On information and belief, Judge Donahoe is biased against the Sheriff and Sheriff's office and working in concert with Chief Judge Mundell to publicly attack the Sheriff's Office for its role in pending investigation in Maricopa county. Several recent rulings demonstrate Judge Donahoe's bias. First, after the July 17 letter, Judge Donahoe charged Deputy Chief Trombi with contempt and fined him for his conduct. Second, Judge Donahoe held a detention officer in contempt over a security matter. Judge Donahoe also issued a bizarre and inappropriate ruling in the detention office matter requiring the detention officer to call a public press conference and apologize to the citizens or face jail. These issues place a serious cloud over the ethics and tactics currently employed in the Maricopa County Courts.

V

Finally, on information and belief Bob James, Judicial Services Administrator - Trial Courts of Arizona for Maricopa County Superior Court spoke in person with MCSO Court Security Division Sergeant Chapski in the Superior Court hallways. Because of his position within the Court system, Mr. James would have personal knowledge of the Court's strategy on various issues. During his conversation with Sergeant Chapski, Mr. James told Sergeant Chapski that "they" (referring to Judge Mundell and other judges) felt that they only going to get one shot at Sheriff Arpaio.

VI

Judge Donahoe has set a hearing to attempt to remove the Maricopa County Attorney's Office from prosecution of cases against the Maricopa County Board of Supervisors and County Management.



MICHAEL K. JEANES, CLERK  
BY *D. M. Johnson* DEP  
FILED

09 DEC -9 AM 9:48

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MARICOPA COUNTY ATTORNEY

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MCAO Firm #: 00032000  
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
COUNTY OF MARICOPA, RCC - DOWNTOWN

THE STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	CR 2009 - 008332 - 001
	)	
vs.	)	
GARY DONAHOE,	)	
	)	
Defendant.	)	DIRECT COMPLAINT
	)	
	)	SUMMONS
	)	

A Direct Complaint having been filed on December 9, 2009, in the Superior Court of Maricopa County, Arizona, charging you, GARY DONAHOE, with the crime(s) of **COUNT 1: HINDERING PROSECUTION, C5F; COUNT 2: OBSTRUCTING CRIMINAL INVESTIGATION, C5F; COUNT 3: BRIBERY OF A PUBLIC SERVANT, C4F;** you are

**HEREBY SUMMONED** to appear before this Court to answer the Direct Complaint at 101 West Jefferson, Room 813 Phoenix, AZ 85003, on Jan 11, 2010 at the hour of 10:00AM. Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least three judicial days in advance of a scheduled court proceeding and may be done by calling (602) 506-8575.

Failure to appear without good cause as summoned will place you in contempt of Court and a warrant will be issued for your arrest.

**YOU ARE FURTHER ORDERED** to appear to be photographed and fingerprinted by the Maricopa County Sheriff's Office, Records and Identification Division, 201 West Jefferson, Phoenix,  
**SUM**

AZ, telephone (602) 256-1070, any time between the hours of 7:30 a.m to 4:30 p.m, Monday through Friday before the date of your court appearance.

**TO BE PROCESSED YOU MUST BRING this summons, some form of identification (i.e., Arizona Drivers License, Arizona Social Services card, Arizona I.D. card, Resident Alien card, or Military I.D. card, AND if you are under eighteen (18) years of age, a copy of the minute entry remanding your case to adult court).**

GIVEN UNDER MY HAND AND SEAL of the said Court on Dec 9, 2009 by order of the Court.

MICHAEL K. JEANES  
CLERK OF THE SUPERIOR COURT

By [Signature]  
Deputy Clerk

GARY DONAHOE  
8442 N. 17<sup>th</sup> Drive  
Phoenix, AZ 85021  
Phone: Home

**OFFICER'S RETURN**

I CERTIFY that

- This summons was served by certified mail, receipt attached,
- I personally served this summons
- I personally attempted to serve this summons

on Gary Donahoe at \_\_\_\_\_ (Date/Time)  
(Defendant)

at 17th Ave Arizona.

If not served, reason: \_\_\_\_\_ 12/09/09 @ 1009 hrs

Officer Serving Summons [Signature]

**TO BE COMPLETED BY OFFICER TAKING FINGERPRINTS & PHOTOGRAPHS:**

Case No. \_\_\_\_\_ Date: \_\_\_\_\_ Time:  
Location: \_\_\_\_\_ Officer:

LMA/mt