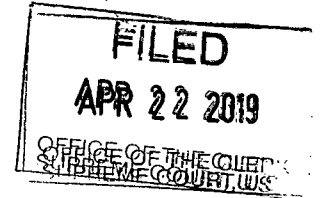


18-8986

No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

David E. Kelly _____ — PETITIONER
(Your Name)

vs.

Joseph M. Arpaio ; et al., _____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for The Ninth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David E. Kelly

(Your Name)

995 E. Green St., #439

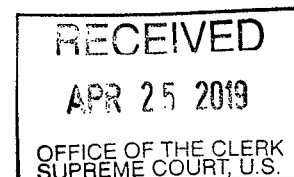
(Address)

Pasadena, CA, 91106

(City, State, Zip Code)

626-676-8227

(Phone Number)



QUESTION(S) PRESENTED

Under the 14th Amendment: Section 1 of the Constitution of the United States of America, are law enforcement officers allowed to violate the rights of United States Citizens at any time they choose and not enforce the constitutional laws that apply to citizens that were established to ensure that African Americans would receive equal treatment when seeking help because their property has been stolen and when other constitutional rights are violated and compromised by identified criminals and public officials? Are not the Chandler, AZ Police Department, Phoenix, AZ Police Department, Federal Bureau of Investigations Phoenix, AZ, the Arizona Attorney General, Maricopa County Attorney, Maricopa County Sheriff, Arizona State Police, New York City Police, New York State Police, Federal Trade Commission, Indianapolis Police Department, and the United States Federal District Attorney of Arizona supposed to investigate business identity theft and copyright infringement complaints and charges against defendants when they are accused of violating the victim's rights to property, business ownership and physical safety especially when these crimes happen within their jurisdictional cities, counties, and states? Should any complaints to these police authorities be ignored whether they be verbal or in writing when copyright infringement, fraud, business identity theft, and other associated crimes happen and occur? Did Sheriff Joseph M. Arpaio and his deputies have the right to receive my stolen property and sell it to benefit his selected charities under the 14th Amendment to the Constitution of The United States of America, when in fact he knew that the United States Federal Copyrighted product in question was a forgery and counterfeit item; and is a County Sheriff allowed to accept bribery gifts from prisoners that he has arrested and held in captivity before and have served time in the Arizona State Department of Corrections? Isn't it proper legal procedure for the defendants to be questioned under oath without any interference and obstruction of justice by the legal authorities who preside over the jurisdiction(s) that this legal matter of The Stolen Image - "Remembering September 11, 2001" have been contacted and when pending and associated legal cases have been filed and decided upon?

LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

David E. Kelly - Petitioner

Joseph M. Arpaio - Respondent

Maricopa County - Respondent

Paul Penzone - Respondent

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TABLE OF AUTHORITIES CITED

CASES

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David E. Kelly vs Joseph M. Arpaio; et, al.,
9th Circuit Court of Appeals, San Francisco CA, NO. 18-15046

David E. Kelly vs Young, Woods; et, al.,
Maricopa County Superior Court, Mesa AZ, CV2006-091932

Raymond C. Young & Zandrea D. Young
United States Bankruptcy Court, Phoenix, Arizona
Petition #: 2:12-bk-03247-SSC
Petition #: 2:10-bk-00375-CGC

David E. Kelly vs. Raymond C. Young & Zandrea D. Young
United States Bankruptcy Court
District of Arizona, Phoenix, Arizona
Adversary Proceeding #: 2:12-ap-01007-SSC

STATUTES AND RULES

17 U.S. Code § 101-122
17 U.S. Code § 201-205
17 U.S. Code § 301-305
17 U.S. Code § 401-412
17 U.S. Code § 501-513
18 U.S. Code § 201
18 U.S. Code § 201(c)
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OTHER

Arizona Revised Statutes

ARS Title 13-1802	ARS Title 13-2010	ARS Title 13-3705
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A & B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix D to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States Bankruptcy (Phoenix, AZ) court appears at Appendix E to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 22, 2019.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: September 12, 2018, and a copy of the order denying rehearing appears at Appendix A & B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

18 U.S. Code § 201. Bribery of public officials and witnesses

18 U.S.C. § 201 proscribes bribery and the acceptance of certain gratuities. The U.S. Supreme Court in *United States v. Sun-Diamond Growers of California*, 526 U.S. 398, 404-405 (1999), describes the two crimes as follows:

"The first crime, described in § 201(b)(1) as to the giver, and § 201(b)(2) as to the recipient, is bribery, which requires a showing that something of value was corruptly given, offered, or promised to a public official (as to the giver) or corruptly demanded, sought, received, accepted, or agreed to be received or accepted by a public official (as to the recipient) with intent *inter alia*, 'to influence any official act' (giver) or in return for 'being influenced in the performance of any official act' (recipient). The second crime, defined in § 201(c)(1)(A) as to the giver, and § 201(c)(1)(B) as to the recipient, is illegal gratuity, which requires a showing that something of value was given, offered, or promised to a public official (as to the giver), or demanded, sought, received, accepted, or agreed to be received or accepted by a public official (as to the recipient), 'for or because of any official act performed or to be performed by such public official.'

The distinguishing feature of each crime is its intent element. Bribery requires intent 'to influence' an official act or 'to be influenced' in an official act, while illegal gratuity requires only that the gratuity be given or accepted 'for or because of' an official act. In other words, for bribery there must be a *quid pro quo* a specific intent to give or receive something of value in exchange for an official act. An illegal gratuity, on the other hand, may constitute merely a reward for some future act that the public official will take (and may already have determined to take), or for a past act that he has already taken."

STATEMENT OF CASE

In December of 2015, I, David E. Kelly, filed a lawsuit for copyright infringement of my 2001 World Series Photo-poster "Remembering September 11, 2001" (The Stolen Image) in the United States Federal District Court of Phoenix, Arizona against former Sheriff Joseph M. Arpaio, who at the time, was still the presiding Sheriff of Maricopa County and who was employed by the Maricopa County Sheriff's Department, but was elected by the people of the State of Arizona. I am a professional sports and entertainment photographer and own the legal copyright to the photograph in The United States Library of Congress under the registration number and date of VA0001175518 / 2002-08-30. The reasons for filing the complaint against Sheriff Joseph M. Arpaio were several. In December of 2011, my then attorney John Parker's private investigator discovered a photograph of Sheriff Arpaio and Raymond C. Young, the original counterfeit infringer of my copyrighted photo-poster "Remembering September 11, 2001" holding one of the fake prints together outside during the daylight in an unknown location. The private investigator found the photograph on Young's Facebook page wall (<https://www.facebook.com/photo.phpfbid=174712062568921&set=a174710879235706.37349.100000903861720&type=3&theater>.) On the photograph, a caption read that Young admitted to have donated 3,000 counterfeit prints of my poster to Sheriff Joe Arpaio and the Maricopa County Sheriff's Department. So, I sought to find out what the Sheriff's department did with the bogus prints. In the related breach of contract lawsuit that I filed and won by default against Raymond C. Young in Maricopa County Superior Court on September 1, 2006, and where former Sheriff Joseph M. Arpaio's deputies and the current Sheriff Paul Penzone's deputies provided the security detail as an arm of the Maricopa County Superior Court system and who were

STATEMENT OF CASE

present during the entire court proceedings after Raymond C. Young had been released from the Maricopa County Tent City Jail where he was being held by Sheriff Arpaio for non-payment of child support and check fraud but finally appeared in court because he had evaded service for almost 3 years, there was an existing warrant from the Maricopa County Superior Court Judge for the arrest of Raymond Young that was issued on June 18, 2009 for failure to appear at his debtors exam hearing. The warrant was still open when Young was being held in the Tent City Jail in March of 2011. Even though, my attorney, Keith L. Knowlton had paid the Maricopa County Sheriff's Department \$1,500.00 to serve the warrant, the warrant remained opened for almost 2 years until Young appeared in court on March 31, 2011.

In December of 2002, my attorney Barry J Dale had sent Young a breach of contract notice, and a cease and desist notice to stop Young with his crimes against my business and property. It was served by certified mail and signed and received by his wife, Zandrea D. (Woods) Young. I then went back to the FBI, Chandler and Phoenix Police departments to have Young arrested for criminal copyright infringement because Young had committed 22 possible crimes under Arizona State Title 13, but no one, not one police authority in Arizona would help me stop Young from counterfeit printing, distributing and selling the fake print.

So, I personally had to become the private investigator and detective to find out where Young was selling the photographs. It took me almost 5 years to discover over 100 vendors, 4 printers, some investors of Young's and other witnesses of Young's fraudulent wrongdoings and activities. Since none of the named police agencies in my questions to the court would not help me, I decided to sue Raymond Young and his associates in Arizona Superior Court in September of 2006.

STATEMENT OF CASE

In June of 2003, I had contacted Sheriff Arpaio's office by telephone and email several times to file a complaint against Young. Sheriff Joe's secretary, Mary Reed exchanged emails with me where on one of them I included the thumbnail of the original photo-poster. However, Arpaio never took any action to stop him like he said that he would. Young has never stopped distributing the counterfeit print and ironically in 2012 and 2013 I discovered that Sheriff Arpaio by his own admittance had in fact received the posters and it was confirmed by his deputies that the Maricopa County Sheriff Department sold the posters at their charity auctions, and possibly elsewhere. Since, I literally begged the Sheriff and other police agencies to protect my 14th Amendment equal protection rights and they would not, and Arpaio got in bed with the defendant to distribute and sell 300,000 more of the counterfeit prints to the United States military, I felt like he had violated Title 17 Copyright law and Title 13 Arizona Law Code. The statute of limitations of 3 years is not up because it is an ongoing copyright violation and the posters have been found being sold on EBAY by vendors associated with Raymond C. Young and Sheriff Joseph M. Arpaio during 2015 through 2018, and the evidence was presented before and submitted into the court case record in the 9th Circuit Court of Appeals. This matter is absolutely an ongoing copyright violation.

REASONS FOR GRANTING THE PETITION

Judge Murray Snow failed to thoroughly examine the documents that my attorney Manotti Jenkins entered into the court record. If he had of read that it was actually June of 2003 when I first contacted Sheriff Arpaio, then he would have known that Arpaio knew that he counterfeit prints of my photo-poster were another forgery committed by the counterfeit thief Raymond C. Young who had previously been arrested in Maricopa County for counterfeiting money, and that Young was sentenced by the State of Arizona to serve 6 years in the Arizona Department of Corrections for forgery prior to 2002 when I entered the sales agreement with him. Sheriff Arpaio lied in his deposition, and said that he did not know Raymond Young, but actually, Young has a criminal rap sheet that is very long and he had been arrested and detained by Sheriff Arpaio's Department and his deputies on many occasions. The donation of the 3,000 counterfeit prints to The Maricopa County Sheriff's Department amounted to nothing but a get out of jail card and a bribe to keep Young from being arrested for the 22 possible crimes that were overlooked by all of the police agencies that I have named in this petition. Furthermore, it was not December of 2003 when Young delivered the posters to the Sheriff's office, it was sometime well after that, because in 2005 Young had contacted the United States Military in Houston to sell the poster to their purchasing department and offered them 300,000 counterfeit prints, but the military refused them at that time. However, in 2015 I found out that the posters ended up being sold to the military by Raymond Young because some military personnel told me in person and over the phone that they

continued

REASONS FOR GRANTING THE PETITION

distributed the fake prints on bases and that some soldiers bought them here in the United States and Abroad. In Sheriff Joe Arpaio's deposition in December of 2016 he admitted to doing business with the United States Military. This matter should be brought before the United States Supreme Court because an egregious violation and denial of my rights afforded under the 14th Amendment, Section 1 to the United States Constitution has been committed. Sheriff Joseph M. Arpaio had no right to receive the counterfeit prints from Raymond C. Young because Young did not own the rights to distribute them or donate them to anyone. I have filed no contact orders with the Chandler Municipal Court, assault complaints with the Phoenix and Marana Police departments, and filed copyright infringement complaints in Maricopa County Superior Court and The United States District Court in Phoenix. I have written letters to John Tuchi when he was Federal District Attorney for Phoenix, and filed lawsuits in the Chandler Municipal Court, The United States District Court Phoenix, The United States Bankruptcy Court and appealed this matter in the United States Court of Appeals. To no avail and real enforcement of the law, Raymond C. Young and Joseph M. Arpaio are still in bed together with a fake digital file while printing and distributing my United States copyrighted photo-poster around the globe and they must be supoenad and forced to testify under oath about why they both committed bribery and continue to violate the laws of Arizona and the United States. Sheriff Paul Penzone has a legal obligation to arrest Raymond C. Young and Sheriff Joseph M. Arpaio because the poster is still being sold in Maricopa

continued

REASONS FOR GRANTING THE PETITION

County at the Mesa Marketplace Swap Meet and I submitted the whereabouts to the 9th Circuit Court of Appeals and provided the website address and physical location of two more current vendors.

So, there is a material dispute, the statute of limitations is not up, and they are still in possession of a bogus digital file that allows them to print the counterfeit posters, tee shirts and other products that they may choose to create unless some law enforcement and court of law stops them. For almost 17 years, I have been defrauded, and have been fighting and litigating this legal matter and have not received the justice that is rightfully due when Young was allowed time to shift and hide assets, play a shell game and commit perjury in all 5 courts, lie in his written affidavit, travel the country under assumed aliases, and uses multiple social security numbers that was found to be true by the United States Trustee during his bankruptcy proceedings and deposition. Arpaio and Young should be forced to testify before this court under oath.

I timely filed the lawsuit in the Federal District Court in Phoenix and subsequently the appeal. I don't know what else to do to stop these criminals from violating my United States Copyrighted photo-poster "Remembering September 11, 2001." I have been praying to God Almighty that the United States Supreme Court will review this matter because the life of the copyright last for 99 years and Raymond C. Young, Sheriff Joseph M. Arpaio, nor any of the associate printers, vendors, investors, or anyone who they may have transferred the bogus digital file too should be able to violate my constitutional rights and copyright ownership any longer, or I risk losing millions of more dollars to them. Please review this matter!

CONCLUSION

I am not a lawyer, but I have a right to raise these questions that I have submitted in this petition because I have proven in many courts of law that my constitutional rights as afforded in the 14th Amendment have been egregiously violated in this matter and the defendants and all witnesses, including Sheriff Joseph M. Arpaio and the material witness Raymond C. Young should be brought to trial to answer about their association with one another and involvement in the illegal copyright infringement and distribution of The Stolen Image under oath. This matter has driven me to poverty and homelessness and has been extremely expensive. It is impossible for me to afford an attorney, because I have already hired 7 lawyers and they all failed to bring proper justice to this matter. The reason why I created the photo-poster "Remembering September 11, 2001" was to help raise funds for the widows and orphans of 9/11 in New York, New York and to donate to their charity. Sheriff Joseph M. Arpaio and Raymond C. Young had no right to steal the millions of dollars that were generated from their distribution of the counterfeit prints. This legal matter never should have taken almost 17 years to litigate in 5 different courts of law to settle the dispute because the mentioned law enforcement agencies and authorities in this petition all had the jurisdiction and obligation to protect my constitutional rights and intellectual property. They all had authority to arrest, charge, and bring Raymond C. Young and Sheriff Joseph M. Arpaio to court sooner for their crimes, but all of them denied my equal protection and due process rights. The petition for a writ of certiorari should be granted. Respectfully submitted this day of April 22, 2019

David E. Kelly