District Court, 4th Judicial District 270 S. Tejon St. Colorado Springs, Colorado 80903 DOUGLAS BRUCE, Moving party v. Grand jury for the Fourth Judicial District, Respondent. Douglas Bruce Moving party Box 26018 Colo. Spgs. CO 80936	
MOTION TO QUASH ALLEGED SUBPOENA	Grand Jury No. 2010 CR 0001

NOTE: This Motion repeats continued defects in this alleged subpoena that were raised in the first motion to quash. That "subpoena" was silently withdrawn and conceded to be illegal. This Motion also raises new faults, such as defective service.

****

My best estimate is that this entire proceeding is a sick practical joke or gag, but in the off chance that it is sincere, and does emanate from a grand jury, and was issued through incompetence or ignorance of the law, I file this Motion to Quash.

I begin by noting that this is Case Number One, which seems highly unlikely in late June. Any persons abusing the subpoena process and impersonating a grand jury should be prosecuted. I will cooperate in that effort. Shame on them!

The "subpoena" says I may not speak to any person, except legal counsel, about receiving a Grand Jury subpoena. I have spoken out and intend to continue doing so. I cannot be prevented from filing a Motion to Quash, which requires a public filing with the court clerk so this may be reported to a judge. I also have a right to

tell the public, newspapers, friends, and anyone else I wish. If I find it to be true, I will say government has abused the legal process and we have a grand jury who doesn't know its duties or even how to serve a proper subpoena. Such a grand jury should be dismissed and their true bills questioned, and I have a right to say so. Shame on them!

Apparently, they believe two sheets of paper can bully any citizen into taking off from work and refusing to tell his boss why (at the risk of being fired), into canceling other appointments without an explanation, into refusing to tell a spouse where one is going and why, etc. Shame on them!

Anyone trying to deny any citizen his First Amendment rights to criticize the government by handing that citizen such a government form is unfit to be called an American. Arbitrary, capricious, and generic gag orders are unconstitutional. The First and Fourteenth Amendments to the U.S. Constitution apply to everyone, even me. Such blundering government "secrecy" shows people with something to hide, namely concrete evidence of their own incompetence. Shame on them!

On its face, the form in question looks like something anyone can print on his home computer. The only non-generic features are my name and the date I am allegedly "commanded to appear." Both items, in bold print, are a fill-in-the-blanks insertion in a boilerplate document of no evident authenticity. The form has been rewritten in the last week, possibly based on my prior criticism. The time is set for 6:00 p.m. This former county commissioner knows from personal experience the courthouse is then closed. Do you really think I will go downtown and tug on locked doors so they can watch me from a distance for their own amusement? It doesn't give a room number or even a statement of which wing I should enter when I get there. "Imagine him wandering around, even if he gets in! Ha, ha, ha." A promise this time that "Security" will escort me to a secret room does not offset the

childishly clandestine nature of this apparent gag. Shame on them!

Juvenile threats that I must cover up for this prank or face Contempt of Court and/or Obstruction Charges expose how amateurish this subpoena is. WHAT court? WHAT judge? WHAT obstruction? Even if this form came from a valid grand jury, which seems highly unlikely, it is no court. There is no evidence any court issued this subpoena. I obstruct no one by going about my business. Shame!

Apparently in response to my prior motion, this document bears a signature. Yet it has no seal, and anyone can write any name he wants. I do not recognize that as the true signature of Daniel H. May, whom I know. He knows me, too, and it is doubtful this matter would get to this point without any explanation, verification, or authentication. The Dan May I know doesn't treat people like dirt or dummies.

Further intimidation is tried by a recital from inept state law of the so-called Miranda warning. They shrivel "the right to remain silent," an absolute right in any law enforcement interrogation, into a right to be silent only based on a "feeling" that answers would tend to incriminate. If I am not "implicated" in illegal activity, even as a witness, I should not be called. Nor does it say that an attorney will be appointed "free of charge." It forgot to warn "can and will be used against you." It also missed that Miranda et al. applies only in custodial interrogations or when someone is the focus of a criminal investigation. Am I in custody? If I am to be arrested, or I am not free to leave, or not to show up at all, what is the charge? What is the bail? I have a right to know.

This former Deputy District Attorney knows illegal governmental activity when he sees it, and intends to expose it. Shame on them!

It cites sections of the C.R.S. and Rules of Criminal Procedure clearly unread . For example, Rule 6 (a) allows a judge to order a grand jury to be summoned. Did this document provide any proof it was legally convened? No. Any proof of

legitimacy? No.

The papers were handed to me from behind at City Hall by an anonymous man, who left the room before I could see his face. The date for an appearance was June 23rd. The service was on June 21st. The signature was dated June 16th, an implied acknowledgment subpoenas cannot routinely be served on short notice. C.R.Cr.P. 6.1 requires that personal service be effected "at least forty-eight hours before any appearance is required before the grand jury, unless waived by the witness." I do not waive that requirement; I insist on it.

Rule 6.1 also says "Subpoenas....shall be issued in accordance with the rules of criminal procedure..." Rule 49 (b) says, "Service upon the attorney or upon a party shall be made in the manner provided for civil actions..."

C,R,C,P. 6 (a) says the day of an "act" or "event" is not counted. Thus, the first day computed would be June 22, and the second would be the date of the appearance. So the service was too late to be valid. The "subpoena" here, and service thereof, is null and void and must be quashed.

Neither Rule 6.2 (a), nor any other rule, authorizes imposing an involuntary gag order on citizens subpoenaed by ambush as witnesses. Rule 6.2 says only persons "associated with a grand jury" (i.e. jurors, prosecutors, and judges) "should be aware that...the proceedings shall be secret." I am not associated with a grand jury; this tries to drag me into attendance and coerced interrogation. No one would call that an "association." The First Amendment make s clear I have a freedom of association right, and I choose not to associate with such people. If they wish to associate together, and take an oath to cover up government activities, that's their voluntary choice not to leak the results of proceedings prematurely. That rule does

not apply to non-associates like me. I do not know what these proceedings may be about, but my reporting these inept attempts to haul me in for interrogation clearly cannot be stopped. Further, saying the prosecutor has a right to disclose, but I do not, is a denial of equal protection of the law. I have the same freedom of speech as he does. This is an attempt to coerce me into participating in a cover up of these bully tactics towards witnesses. This patriot refuses to participate.

Rule 6.2 (b) says any attorney I retain may not object, argue, or speak to the grand jury. That makes a farce of the concept of due process of law. I refuse to join this fishing expedition about my private life, particularly when the subpoena reveals nothing of the subject of the inquiry. Franz Kafka is not the architect of our legal system. I shall never surrender my constitutional rights!

Since Rule 6.1 says the rules of criminal procedure apply to subpoenas, see C.R.Cr.P. 17 (a):

A subpoena shall be issued either by the clerk of the court in which case is filed or by one of counsel whose appearance has been entered in the particular case in which the subpoena is sought. (sic)

Unlike the first "subpoena," this one has a date of issuance and a signature of a purported prosecuting attorney (you're learning!), but no seal or other official evidence of legitimacy. Any nerd with a word processor could issue such a "subpoena" in his basement. Anyone can forge the name of the district attorney. I see no proof he has entered an appearance in this case, or that a court case has even been filed. A grand jury proceeding may not qualify as a "case" for this purpose.

Nor does this "subpoena" list the title of the proceedings for case 0001, nor the "place" where attendance is commanded. The judicial building is enormous and has many dozens of rooms; the subpoena is lacking in sufficient specificity to compel compliance. Am I expected to play the blindfold game? There is also no such person or entity as "Security," a truly Orwellian term. How do I know they

are sworn peace officers, not private goons bent on kidnapping or harming me?

Rule 17 (b) requires a defendant present an affidavit that a requested witness is "material and relevant." There was no such affidavit for this "subpoena" and I have no evidence that any testimony of mine would be material and relevant. There is an obvious double standard, to the detriment of alleged witnesses whose testimony may not be material or relevant, or is sought based on wrong or illegal information. Because I am not an eyewitness to a crime, I suspect that is my situation.

Rule 17 (h) confirms that the subpoena must be issued <u>from a court</u>. There is no evidence that any court issued this document. That rule contradicts the earlier rule allowing an attorney to issue a subpoena. There is no name of a judge or courtroom to which I may address a copy of this motion. There can be no contempt of court if there is on its face no court involved in issuing it. This rule allows persons to offer "adequate excuse" for non-compliance with an alleged "subpoena." I have. Of course, that adequate excuse would be offered in a public trial (I still have that right). I refuse to muzzle myself in advance of my defense. I refuse to waive my right to defend myself against the charge I would not agree to secrecy and would not surrender my free speech rights under duress. That is an absurd and un-American demand.

C.R.S. 16-5-204 (1)(a) refers to the process for a contempt of court:: "Whenever a witness in any proceeding before any grand jury refuses, without just cause shown, to comply with an order of the court to testify...."

Again, there is no order of any court that I must testify. There can be no contempt of court. There is no lawful court order, so there can be no contempt. There are only two loose sheets of paper that are legally void and factually preposterous on their face. I do not intend to give them credibility by appearing on June 23rd.

THEREFORE, based on the dubious possibility that this is a subpoena at all, I move that the "subpoena" served on me, attached as Exhibit A, be quashed. This motion must be decided by a legitimate district court judge, not by this rogue grand jury. I need not attend, and so I submit this issue based on this motion.

_____

Douglas Bruce
Box 26018
Colo. Spgs. CO 80936

Certificate of Service

I hereby certify and state that on June 23, 2010, this Motion to Quash was filed with the 4th Judicial District clerk of court and a copy mailed, postage prepaid, to:

4th Judicial District Grand Jury
270 S. Tejon Street.
Colo. Spgs. CO 80903

_____