

1 COUNTY COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO

2 CASE NO. B04C4421

3 **TRANSCRIPT OF TAPE RECORDED PROCEEDINGS**

4
5 DAM EAST HOMEOWNERS ASSOCIATION INC.,

6 Plaintiff,

7 Vs

8 JAMES W. BURNESON,

9 Defendant.

10
11 THIS MATTER came on for a Hearing that was held on
12 April 29, 2005 before THE HONORABLE LEOPOLD. The following
13 is a complete record of the proceedings from that date.

14 The correct title of this judge is the Chief Judge of 18th
15 District of Arapahoe County. In this hearing he is
16 moonlighting as a County Judge as set up by Mr. Jeffrey
17 Lane esq.

18 No time of day is stated but this hearing was scheduled for
19 1:30 pm.

20 **APPEARANCES**

21
22 FOR THE PLAINTIFF:

JEFFREY LANE

23
24 FOR THE DEFENDANT:

NOT PRESENT

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APRIL 29, 2005

HEARING

THE COURT: Good afternoon everyone. The Court calls 2004C204421, The Dam East Homeowners Association, Plaintiff, versus James W. Burneson, Defendant. Counsel?

MR. LANE: Good afternoon Judge, my name is Jeffrey Lane, L-A-N-E. My registration number is 11256. I am the Attorney today on behalf of The Dam East Homeowners Association (inaudible) Plaintiff. The Defendant has failed to appear. He was, I know that you're new on this case, he was here when the matter was set, and a citation was continued over on that date.

Mr. Lane and Chief Judge Leopold both know Respondent Jim Burneson will not be present because he was not advised who Leopold would appoint as judge for this hearing.

Respondent had requested this information by a letter sent to Leopold on April -----Because of Judge Cross's quote from his hearing on March 9th 2005, which is as follows:

Judge Cross

"We have, it's been kind of a blessing, but we have a new Judge down in Douglas County who is fairly new to the area, and she has been willing to take some of these cases, and we've had her appointed as a County Court Judge in

1 Arapahoe County, and Judge Marker might be a person who
2 might be able to take this. But she's been able to take a
3 number of cases where there's been pretty much a blanket
4 recusal by the County Court Judges. Because she's fairly
5 new to the community and new to the bench she's been able
6 to assist on these. So if I feel that there's a need, I
7 may just ship the case to Judge Marker and ask Chief Judge
8 Leopold to issue an order making her a, for the purposes of
9 this case, an Arapahoe County District Court, or County
10 Court Judge."

7 THE COURT: All right. So...

8 MR. LANE: (Inaudible) also Judge Cross issued an
9 order a week or so ago recusing himself, and the last line
10 of that order indicates that everybody should be here
11 today.

12 Wrong. The last line states "The Court requests that Chief
13 Judge Leopold appoint a judge to hear the pending matter,
14 which is currently set for April 29, 2005 in Division A-2.

15
16 Until a new judge is appointed publicly the hearing set for
17 April 29th is just a setting and not an official court date
18 without the appointment of a new judge. Lane intentionally
19 misrepresents the facts about the hearing being ordered.

20 THE COURT: Well the purpose today from my
21 perspective is that because the County Court is recused I
22 am here simply to get a transition to a senior Judge who
23 will be assigned. I have spoken with the folks at State
24 Court Administrators, and they will assign someone.

25

1 They've ask for about 45 days to get an assignment in place
2 so that she or he can be here.

3 MR. LANE: Judge in the meantime Mr. Burneson is
4 subject to a citation that was issued, we would ask that a
5 bench warrant issue.

6
7 Had the Chief Judge of Arapahoe County responded to
8 Defendant's written request to be advised as to the status
9 of this hearing he would have been in attendance. But had
10 notice been given this sham hearing could not have
11 succeeded by his appearance. Now Lane is granted a bench
12 warrant to be issued showing his vindicate side when both
13 lawyers involved knows Burneson's appearance at any hearing
14 doesn't need his arrest to make him appear. The only reason
15 he was not present at this hearing was the information
16 provide by Judge Cross that no county judge could hear this
17 case and his request that the Chief Judge of Arapahoe
18 County assign a new judge which was suggested to be a
19 Douglas County Judge named Marker.

20 THE COURT: All right. We'll address with that in
21 just a second. Let me first say here, and I need a little
22 bit of help from A-2 staff, 45 days from now would put us
23 roughly in the middle of June. And is there a day that
24 would be convenient for this division to set a pretrial
25 conference?

1 MR. LANE: If I might suggest, Judge, since we
2 don't know that Mr. Burneson is going to be there, since
3 he's failed to appear today, to issue a bench warrant, and
4 then at the return, if he's arrested on the bench warrant
5 then set a date for the hearing of the return of the bench
6 warrant like you would on a criminal case.

7 THE COURT: But the problem, Mr. Lane, is I have
8 to get a specific person assigned, and the senior Judge
9 calendar is such that we have to get a date to give to the
10 folks at SCAO. Now, in the event that we have that issue
11 that arises, there are other ways to address that,
12 including perhaps moving this matter over to the Justice
13 Center for the question of the warrant when we get there.
14 But what I have to do still is address the question that
15 there's a, I gather a case pending that needs to be tried.

16 MR. LANE: That's correct, contempt case that
17 needs to be tried. And it's, of course it's up to you
18 Judge. I just see this more like a criminal case where the
19 Defendant fails to appear you wouldn't set a trial date
20 until he's arrested on the bench warrant.

21

22 Lane's hatred of Burneson is exposed here and he wants jail
23 time for Burneson and because he has a law license he
24 intends to get this punishment against the defendant.

25

1 THE COURT: I understand that. Let's at least
2 clear a date. That's entirely possible that Mr. Burneson
3 suffered some kind of an inability to show up here, and
4 would have cause. So let's first get a date for pretrial
5 conference.

6 COURT CLERK: June 17th.

7 MR. LANE: That date I know is fine.

8 THE COURT: At what time?

9 COURT CLERK: 8:30.

10 MR. LANE: That's fine.

11 THE COURT: June 17 at 8:30 for pretrial. Now,
12 the Court would note that the contempt citation, and I need
13 to see this a moment. What is the date of that Counsel? I
14 think I see it here. Is this the citation and order to
15 show cause where he was asked to, or directed to appear on
16 March 9th at 1:30?

17 MR. LANE: That's right. That was (inaudible).

18 THE COURT: Okay. And he was advised on that
19 matter?

20 MR. LANE: Yes he was.

21 THE COURT: All right. He has failed to appear,
22 is that correct? It is now 1:48. And I would ask staff
23 who is familiar with Mr. Burneson to take one more look and
24 see if he is approaching the building.

25

1 While that's going on Mr. Lane, are there damages
2 owing in this case?

3 MR. LANE: No. Punitive contempt. How was
4 Punitive Contempt proven at this hearing? It wasn't but
5 when you have two lawyers working together anything is
6 possible. This action by Lane for an arrest of Burneson
7 hasn't happened as of June 3, 2005.

8 THE COURT: Punitive contempt.

9 **Language of court imposing jail term for punitive contempt complies with rule.** Language of
10 trial court imposing jail term for **punitive contempt** that: "The reason for the punitive finding or
11 punitive order of the court was to vindicate the dignity of this court and I think that vindication is
long overdue in this case" was sufficient to comply with the requirements of this rule. In re
Joseph, 44 Colo. App. 128, 613 P.2d 344 (1980).

12 MR. LANE: (Inaudible) ask if Attorney's Fees
13 (inaudible). Why are these two words inaudible?

14 THE COURT: All right.

15 MR. LANE: If the Court's considering the issue of
16 bond I'd like to address that.

17 THE COURT: Well that's what I was thinking about,
18 but I'll wait until staff comes back. Any sign?

19 COURT CLERK: No sign Judge.

20 The charade goes on when by ex parte communication between
21 Lane and Leopold they knew Burneson would not attend until
22 he received a response who will be the judge and where will
23 the hearing be held? So Chief Judge Leopold refused to
24 advise Defendant he Chief Judge of Arapahoe Court would
25 preside at the April 29th hearing and thus the Hearing will
be held as scheduled.

1 THE COURT: No sign, all right. Bench warrant
2 will issue for the arrest of the restrained party
3 Defendant/Respondent James W. Burneson. Mr. Lane?

4 MR. LANE: Judge, and in all honesty Mr. Burneson,
5 I've (inaudible) for several years and he always shows up
6 in court. I don't know why he's not here today. Which is
7 on the one hand I can't tell the Court that he has a
8 history of flagrantly failing to appear for court
9 appearances, because that's not true, he does appear for
10 them.

11 Isn't that cute Mr. Burneson when advised of a court
12 hearing with a judge appointed hasn't missed any trials or
13 hearings.

14 But he does have a history of flouting the authority of
15 the Court, and that's why one of the reasons we're here,
16 and one of the reasons Judge Cross isn't here.

17 Where is there any evidence that Jim Burneson has FLOUTED
18 THE AUTHORITY OF THE COURT? Name when that has happened.
19 Recusing an incompetent judge is not flouting the authority
20 of the court it's his right to do so under the law. Both
21 Chief Judge Leopold and Lane are extremely upset and
22 prejudice against Burneson because he got Judge Cross to
23 recuse himself and cause this delay in getting him in Jail.

24

25

1 I'm suggesting to the Court that the bond be
2 substantial. We would ask that the bond be \$10,000.00. I
3 think it would assure his appearance, not punish him, but
4 assure that he appears to take care of this matter.

5
6 Lane is really pissed and wants a pound of flesh and
7 usually gets his punishment if this would have been Judge
8 Ruddick, Rafferty, Hansen or Cross.

9 THE COURT: Well Mr. Lane, \$10,000.00 is the
10 schedule bond for a class three felony in the criminal
11 side. And with due respect I find that excessive under the
12 circumstances. I agree that more than the customary
13 \$1,000.00 bond is due under the circumstances of the case.

14 This case is about the claim that Jim Burneson has
15 violated a Permanente Protection Order against the Board of
16 Directors of the Dam East Homeowner Association. It can't
17 be proven unless the Judge is in on it like Judge Cross
18 was. The charged violations claimed will have to be denied
19 by the court because the First Amendment Freedom of Speech
20 permits all of Mr. Burneson's emails and letters. But had
21 Judge Cross not recused himself he would have found Jim
22 Burneson guilty and sentenced to a jail term for his good
23 friend Lane. Now Cross is gone and Lane has picked another
24 judge to hear the charges against Burneson. Maybe this
25 judge can be manipulated like Ruddick, Hansen, Rafferty and

1 Cross. That's why it took Lane till May 16, to advise
2 Burneson he has a bench warrant issued for his arrest and
3 he notified him of the hearing date of June 17, 2005. In
4 these notices Lane never mentioned whom the Judge was that
5 presided at the April 29th hearing. It was a little secret
6 between the Chief Judge of Arapahoe County and Mr. Lane.
7 Jim Burneson finally got a copy of he Bench Warrant and it
8 is unsigned by any magistrate or Judge. The Deputy Clerk
9 Sherry Westman signed it as notice it has been filed with
10 the court. She has no authority to issue any bench warrant
11 against anyone.

12 The Court will set bond at \$5,000.00 cash, property
13 or surety, as is the custom I believe if the Arapahoe
14 County Court to allow property bonds, is that correct?

15 COURT CLERK: (Inaudible).

16 THE COURT: Cash, surety then. So be it, I just
17 wanted to be sure. \$5,000.00 cash, surety. The Court will
18 stay that until 2:00 this afternoon. It's ten minutes of.
19 If he shows I will wait, I'm prepared to be here.

20 MR. LANE: Thank you Judge.

21
22 The reason this bench warrant has not be served is Lane
23 wants it served at the next Board of Directors meeting of
24 the HOA to prove how much power he has against Jim
25 Burneson. Police comes in arrest Burneson handcuffs him and

1 takes him to jail. Now the Board of Directors feel safe
2 and Lane is in charge of the HOA with more legal fees
3 coming. Chief Judge Leopold has been had by Lane to satisfy
4 Lane's need to show power to the directors who are all
5 ready to quit the board and run. The next board meeting
6 will be held June 14, 2005 at the clubhouse and Lane will
7 have the police there to arrest Jim Burneson. Lane is
8 running the 18th District Court of Arapahoe County with the
9 approval of Chief Judge Leopold. This power will be worth
10 another \$20,000 for Lane's legal fees. And the peasants of
11 Colorado continue to be feed upon by the superior citizen
12 licensed tort twisters of Colorado (lawyers).

13 THE COURT: All right. Judge Cross will be back
14 shortly to handle the docket for the remaining issues for
15 this afternoon. I will remain as I've said until 2:00.
16 And if he appears and has a decent and respectable and
17 appropriate explanation, of course I will quash the
18 warrant. In the meantime we have the pretrial on all
19 remaining issues on June the 17th, is that what you said?

20 COURT CLERK: Yes.

21 THE COURT: All right. At 8:30 am. If he posts
22 bond I suppose it would be returnable on that date.

23 MR. LANE: That certainly makes sense Judge.
24
25

1 THE COURT: All right. So I would ask that the
2 minutes reflect that any bond posted be returnable in this
3 division before a senior Judge at 8:30 am on that date.

4 MR. LANE: It also makes sense that to the extent
5 that I'll note to be here, because something will happen on
6 these civil warrants when they get arrested, and I did not
7 get notice of a return date (inaudible).

8 THE COURT: And on the other hand if he's picked
9 up on an arrest situation, we'll try to get a hold of you,
10 but if not I'll take any argument, and then I will make
11 sure that any bond that is posted is returnable at that
12 date and time.

13 MR. LANE: Absolutely. Thank you.

14 THE COURT: All right. Anything else?

15 MR. LANE: Nothing further.

16 THE COURT: Thank you. We'll stand in recess.

17 There was no evidence presented at this kangaroo court that
18 Mr. Burneson would not appear if notified of the time and
19 date of the hearing. Lane got Judge Ruddick to throw
20 Burneson in jail for a night because Lane wanted it and
21 Ruddick like Judge Leopold does what he is told to do by
22 Lane.

23
24 I am filing a new motion for Change of Venue with this sham
25 hearing as evidence Jim Burneson cannot get a fair trial in

1 the 18th District Court so long as Lane is running the
2 system and Chief Judge Leopold is in power.

3 I have requested a copy of this audio record on CD Rom and
4 it has been refused by Ms. McKegeer Administrator of
5 Arapahoe County. The reason for this refusal is this entire
6 transcript was created to cover everyone's A-- since they
7 forgot to turn on the recorder. All Chief Judge Leopold has
8 to do is allow me a copy of this hearing on a cdrom as he
9 has allowed of the hearing March 9, 2004 of Judge Cross's
10 hearing. Oh what a web we weave when we practices to
11 deceive.

12
13 I have just been notified that my motions filed May 16th
14 2005 have been found and are being forwarded to the senior
15 judge for his decision. May 16th to June 2, 2005 my motions
16 were not filed with the court. I asked Ms. McKegeer
17 Administrator of Arapahoe County Court what happened to my
18 motions and she said it is none of my business. Just
19 received copies of my missing motions from Clerk of County
20 Court back dated May 17th 2005. Funny thing my motion was
21 not include in the copies sent me by JoAnn Thomas as being
22 in the file from May 16th to 5/27/05. He who owns the stamp
23 can backdate anything. If my motions were in the file
24 between May 16th and 5/27/05 they would have been included
25 with the other files sent me by Deputy Clerk Joann Thomas.

1 Thank you for the blunder but this is a lie my motion was
2 not in the file on May 17th other wise a copy would have
3 been returned to me in the stamp self addressed envelope.
4 The fax date when these missing motions were sent to me is
5 5/31/05 and today when I received them it is June 2, 2005.

6 **CERTIFICATE**

7
8 I, Dawn Heaton hereby certify that I transcribed this
9 record from the tape recording of the above-entitled
10 matter, which was heard on April 29, 2005, before JUDGE
11 LEOPOLD in Division A-2 of the Arapahoe County Court in
12 Littleton, Colorado.

13
14 I further certify that the aforementioned transcript
15 is a complete and accurate transcript of the proceedings
16 based on the audio facilities of these tapes and my ability
17 to understand them. Inaudibles are due to microphones not
18 working properly, excessive noises or muffled voices.

19
20 Signed this 31st day of May 2005 in Douglas
21 County, Colorado.

22
23
24
25 Dawn Heaton