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MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

)
State of Missouri ex inf.)
Andrew Bailey/Catherine L.)
Hanaway, Attorney General,) No. 2522-CC01380
)
Relator,) Division No. 17
)
vs.)
Alfred Montgomery,)
)
Respondent.

ORDER and JUDGMENT

Cause called. Parties appeared by and through attorneys.
Evidence adduced. Cause heard, argued, briefed and submitted.
The Court, after careful review and due consideration, now finds
and rules as follows:

Findings of Fact

1. Relator commenced this Quo Warranto petition in the Circuit Court pursuant to Chapter 531 of the Revised Statutes of Missouri and Rule 98 of the Missouri Supreme Court Rules. The Court grants the substitution of Attorney General Hanaway for Attorney General Bailey under Supreme Court Rule 52.13(d).
2. Respondent is the Sheriff for the City of St. Louis and was duly elected by the voters of the City of St. Louis in

November 2024 and commenced his first term in office on January 1, 2025.

3. The Twenty-Second Judicial Circuit recused itself from this cause through its Presiding Judge Christopher McGraugh and the Missouri Supreme Court appointed this Court, as Senior Judge, to hear this matter.
4. This Court conducted all preliminary matters including discovery and legal motions. The Court denied Motions for Summary Judgment by both parties and set this matter for a bench trial in accordance with Quo Warranto procedures.
5. This matter was duly tried before the Court in a bench trial over five(5) days. The Relator presented twenty-four(24) witnesses and some eighty(80) exhibits. The Respondent presented eleven(11) witnesses and some twenty(20) exhibits.
6. This Court has personal jurisdiction, subject matter jurisdiction and proper venue in this Quo Warranto action.
7. The Relator alleges six(6) claims of misconduct against Respondent for willful neglect or failure to perform his duties. These claims are:
 - (a) Unlawful detention of Tammy Ross, Deputy Commissioner of the St. Louis City Justice Center;
 - (b) Unlawful detention of Darryl Wilson, former employee and private security guard;
 - (c) Failure to transport prisoners from the City Justice Center for medical treatment;
 - (d) Misuse of public resources to transport his children;
 - (e) Failure to manage the office finances responsibly;
 - and (f) Failure to devote full time to his duties.
8. Respondent denies each and every claim.
9. Missouri law gives the Sheriff of the City of St. Louis the same duties and responsibilities as other sheriffs "...except that the Sheriff of the City of St. Louis shall not enforce the general criminal laws of the State of Missouri unless such enforcement shall be incidental to the duties customarily performed by the Sheriff of the City of St. Louis." RSMo. Section 57.450
10. Section 106.220 RSMo. governs the removal from office of certain elected officials including sheriffs. It provides:

"Any person elected or appointed to any county, city, town or township office in this state, except as may be subject to removal by impeachment, who shall fail personally to devote his time to performance of the duties of such office, or who shall be guilty of any

willful or fraudulent violation or neglect of any official duty or who shall knowingly or willfully fail or refuse to do or perform an official act or duty which by law is his duty to do or perform with respect to the execution or enforcement of the criminal laws of the state shall thereby forfeit his office and may be removed therefrom in the manner provided in section 106.230 to 106.290."

11. The Missouri Court of Appeals in State ex rel. Nixon v. Russell, 45 S.W. 3d 487(WD 2001) at page 493 expounded: "Under the statute, "the mere violation of an official duty...will not support a judgment of ouster." Foote, 903 S.W.2d at 538. The statute requires a "willful or fraudulent violation" or "willful neglect" of the official duty at issue." Id. "Willful or fraudulent violation" has been defined by the Supreme Court as "malfeasance, that is, misconduct in the performance of official duties." Id. "Willful neglect...is something more than mere mistake or thoughtless failure to act." Id. It is an "intentional[] failure to act, contrary to a known duty." Id. at 539. When a sheriff commits an act of official misconduct, the result is "automatic forfeiture of his office." State ex inf. Ashcroft v. Riley, 590 S.W.2d 903, 907(Mo. banc 1979). The court's role is simply to "establish[]...the facts in a proper proceeding" and make a "judicial declaration of forfeiture." Id.

12. The Court, supra at pages 493, 494 continued:

"The statutes of Missouri set forth certain duties and responsibilities of county sheriffs. In addition to those duties specifically set out in the statutes, the Supreme Court has recognized that the "official duties" of sheriff encompass "those duties lying fairly within its scope, those essential to the accomplishment of the main purpose for which the office was created, and those which ... serve to promote the accomplishment of the principal purposes." Foote, 903 S.W.2d at 538(quoted State ex inf. McKittrick v. Wymore, 345 Mo. 169, 132 S.W.2d 979.987(Mo. banc 1939))addressing term "official duty" in the ouster statutes).

13. While there are many hotly contested factual disputes in this case, the gravamen of the Relator's claims center on the Respondent's actions toward Tammy Ross at the St. Louis City Justice Center and Darryl Wilson at the Kaiser Convenience Store. Both of these key matters present little

- factual discrepancies but huge legal differential ramifications.
14. The claim for failure to transport prisoners from the St. Louis City Justice Center for medical treatment amounts to an ongoing political dispute between the City of St. Louis and the Sheriff. The exact legal duty of the Sheriff in this regard is unclear and contested. While custom and practice supports the obligation to so transport, the legal disputed duty remains unresolved. The Court finds the evidence in this regard unconvincing and insufficient for a quo warranto claim.
 15. The claim for misuse of public resources to transport Respondent's children is also unclear and unconvincing. While there may be some impropriety involved, this certainly fails to rise to the level of a quo warranto forfeiture of office.
 16. The claim for mismanagement of the Sheriff's office finances does reveal some questionable budgetary choices and maneuverings. Some of these issues evolved from a difficult transition of administrations. While these issues are certainly a concern for the City of St. Louis budgetary process along with ongoing audit reviews and ultimate appropriate checks and balances in the political sphere; once again, the evidence in this regard is unclear, unconvincing and insufficient to support a quo warranto claim of forfeiture.
 17. Importantly, where the law "...intrusts an officer with the performance of a certain governmental function and he proceeds to perform that function in a manner contrary to law, there is no usurpation and quo warranto will not lie, but where the officer steps entirely outside the scope of his authority to exercise a function which neither the constitution nor statute has entrusted to him, the remedy by quo warranto is available." State ex rel. McKittrick v. Murphy, 148 S.W.2d 527, 531 (Mo. 1941).
 18. Respondent's actions involving failure to transport, misuse of public resources, and mismanagement of finances clearly fall within this legal standard and such actions, while perturbing and deficient, will not support quo warranto.
 19. Relator's claim for failure to devote full time to the duties of Sheriff is troubling and perplexing. Clearly, as a result of the federal court action and current incarceration in connection thereto, Respondent's ability to devote full time to his Sheriff's duties is compromised and limited.

While this Court so recognized this reality in its preliminary and temporary order of removal, the Respondent has continually vehemently disputed the federal action and its effects on his ability to perform his duties as Sheriff. This Court makes no findings in regard to the federal cause of action in this matter. Importantly, this Court recognizes that Respondent has not willfully neglected his duties in this regard. The federal action does not prove itself and its resolution remains to be seen. Consequently, the claim of Respondent's failure to devote his full time to sheriff duties fails due to Respondent's unwillingness in this regard. As such, the evidence remains unconvincing and insufficient to support a quo warranto forfeiture and removal from office. The unique circumstances of this federal action excuse any limitation on the ability of the Sheriff to devote his full time to his duties.

20. In particular, the Missouri Supreme Court was instructive in this regard in State ex rel. McKittrick v. Wilson, 166 S.W.2d 499 (Mo. 1942), which held at page 501:

"The failure of an elected or appointed officer to perform the duties of his office may be excused and generally it is only a willful refusal to perform the duties which works a "forfeiture" of the office."

21. Finally, the Court will address the crux of this Quo Warranto Petition which lies in the claims involving Tammy Ross and Darryl Wilson. Relator claims these actions are a violation of his duties as his efforts to enforce the general criminal laws of the State of Missouri, tantamount to a willful or fraudulent violation or neglect of official duties under Section 57.450 RSMo. Respondent counters with the defense of an appropriate internal affairs investigation and good faith action in connection thereto by the Sheriff's office.
22. This Court finds that the actions by the Respondent in both of these instances to be a clear violation of his duties and responsibilities as Sheriff and an improper interference in the orderly enforcement of the criminal laws by the St. Louis Metropolitan Police Department. By interjecting himself into the criminal investigations of a police nature, Respondent willfully violated his official duties and thereby neglected to perform his actual duties as Sheriff. Respondent's initial presence and persistence at these two incidents under a guise of an internal affairs investigation does not justify his improper efforts to enforce the

general criminal laws.

23. These actions are not incidental to the Sheriff's ordinary duties and do not fairly fall within the scope of those essential duties. In fact, these actions impair and impede Respondent's ability to perform his actual duties and jeopardize the enforcement of the criminal laws.

Methodology of an internal affairs investigation should not, and need not, in any way impair, impede or interfere a separate criminal investigation as Respondent has done here.

24. Attempts to interview a victim and his actions in connection thereto in the face of an active criminal investigation are clearly beyond Respondent's duties and are a blatant effort to enforce the criminal laws of the State of Missouri in direct violation of his duties.

25. Confrontation of a former employee in the face of alleged criminal violations and Respondent's actions in connection thereto are clearly beyond Respondent's duties and again are a blatant effort to enforce the criminal laws of the State of Missouri in direct violation of his duties.

CONCLUSIONS OF LAW

1. Section 106.220 provides:

Any person elected ... who shall fail personally to devote his time to the performance of the duties of such office or who shall be guilty of any willful or fraudulent violation or neglect of any official duty or who shall knowingly or willfully ... fail or refuse to do or perform any official act or duty which by law is his duty to do or perform with respect to the execution or enforcement of the criminal laws of the state shall thereby forfeit his office.

2. Under Section 57.450 RSMo. there is a duty of the Sheriff of the City of St. Louis to not enforce the general criminal laws of Missouri:

"... except that the Sheriff of the City of St. Louis shall not enforce the general criminal laws of the State of Missouri unless such enforcement shall be incidental to the duties customarily performed by the Sheriff of the City of St. Louis."

3. While internal affairs investigations are incidental to the duties customarily performed by the Sheriff of the City of St. Louis, enforcement of the general criminal laws in relation thereto are not. Confronting Tammy Ross, Deputy Commissioner of the St. Louis Justice Center, in order to interview a victim is a direct effort to enforce the general criminal laws of Missouri in the face of an ongoing criminal investigation by the Metropolitan St. Louis Police Department. Further, the direct confrontation of a former employee, Darryl Wilson, of an alleged criminal violation, again is a direct effort to enforce the criminal laws of Missouri. The defense of an all-encompassing internal affairs investigation is baseless as is any good faith rationale in relation thereto.
4. Under Section 57.450 RSMo. Respondent had the duty not to enforce the criminal laws and his willful violation or neglect of this official duty has caused him to forfeit his office. Section 106.220 RSMo.
5. Respondent's interjection into the criminal law investigations and his actions therein involving both Tammy Ross at the City Justice Center and Darryl Wilson at the Kaiser Convenience Store are proof of this willful neglect of duty. This interference of appropriate police investigations are clearly an effort to enforce the criminal laws of Missouri in opposition to his lawful duties.
6. Respondent's defense that these investigations by the Sheriff are justified as internal affairs procedures rings hollow. It is imperative not to interfere in proper criminal law enforcement lest such actions jeopardize an appropriate investigation by the proper authorities. Simply stated, one should concentrate on one's actual duties and not perform other imagined duties.
7. This defense is akin to the justification on good faith. This effort to use an internal affairs investigation as justification is unpersuasive and not supported by the evidence. In State ex inf. McKittrick v. Russell, 45 S.W.3d 487, 497 (Mo. App. WD 2002) the court noted:

"No Missouri court has applied such a defense[good faith] in this context. When faced with a similar argument in Foote, 903 S.W.2d at 539, the Supreme Court declined to decide whether a good-faith defense was "a viable defense" in actions for ouster." The definition of "good faith" is the "state of mind denoting honesty

of purpose, freedom from intention to defraud, and, generally speaking, means being faithful to one's duty or obligation." Id. Black's Law Dictionary 701(7th ed. 1999), similarly defines "good faith" in part as "honesty in belief or purpose" and "faithfulness to one's duty or obligation." Id.

The court continued: "As defined above, "willful neglect" in the context of the ouster statute is an "intentional[] failure to act contrary to a known duty." Foot, 903 S.W.2d at 539. Id.

8. Such is the case herein. This court's finding of willful neglect is inconsistent with any concept of faithfulness of one's duty or obligation in the definition of good faith. Respondent's persistence in his enforcement of the criminal laws beyond any reasonable internal affairs investigation was willful neglect and as a result forfeiture and ouster must result.
9. Both actions by the Respondent speak loud and clear of an abuse of power beyond his actual duties in the face of clear lines of demarcation of police power. Failure to stay in his lane raises serious consequences for the trustworthiness and integrity of the overall criminal justice system.
10. In State ex inf. Taylor v. Cumpton, 362 Mo. 199, 214 (1951), the Court held that the removal of a public officer is indeed a drastic remedy and, in such circumstances, statutory provisions for forfeiture should be strictly construed. The court will not grant it unless some good purpose can be served by it or unless it is in the public interest. State ex rel. Worsham v. Ellis, 44 S.W.2d 129 (Mo. 1931). The functioning of the Sheriff's Office is of utmost public interest and urgency.
11. In State v. Kinder, 89 S.W.3d 454, 457 (Mo. banc 2002), the Court held that the sole purpose of a quo warranto proceeding is to "prevent an officer or a corporation or persons purporting to act as such from usurping a power which they do not have." Id. (quoting State ex inf. McKittrick v. Murphy, 148 S.W.2d 527, 530 (Mo. banc 1941)).
12. When a sheriff commits an act of official misconduct, the result is automatic forfeiture of his office. State ex rel. Nixon v. Russell, 45 S.W.3d 487 (Mo. 1995).
13. The voters of the City of St. Louis elected Respondent to be the Sheriff of the City of St. Louis, not more or less, and certainly not to be the Law Enforcement Officer of the

City of St. Louis. Respondent's actions to enforce the criminal laws of the State of Missouri must result in the forfeiture of the Sheriff's Office for the willful neglect of duties.

14. The preponderance standard of proof in this Quo Warranto action has been more than met. State v. Boykins, 779 S.W.2d 236.240 (Mo. banc 1989). The authority to oust an elected official holder must be used sparingly and only when compelling need occurs. The facts and circumstances of this case reveal the compelling need in order to insure the integrity and trustworthiness of the criminal justice system as a whole as a consequence of an abusive use of power.

15. Respondent's conduct in office constitute a complete disregard and refusal to perform the official acts and duties by law which Respondent was charged to do. State ex inf. McKittrick v. Murphy, 148 S.W.2d 527 (Mo. banc 1941). This in turn has negatively impacted Respondent's lawful administration and management duties in the operation of the Sheriff's Office. These actions are not incidental to nor fairly within such duties and lie clearly outside the scope of his authority.

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WHEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that Respondent has willfully neglected his official duties and as a result has forfeited the Office of Sheriff for the City of St. Louis. It is further ordered that the temporary order of removal is hereby made permanent and the Respondent is hereby ordered ousted from the Office of Sheriff for the City of St. Louis. Finally, it is ordered that the costs of this action be taxed to the Respondent upon approval by this Court.

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