

March 21, 2007

*Laws or ordinances unobserved, or partially attended to,  
had better never have been made.*

-- George Washington, 1787

Mr. Mitchell Morrissey, District Attorney  
Second Judicial District  
201 W. Colfax Avenue  
Denver, Colorado 80202

DDA: A Diseased Organism?

(Re: *People v. Bender, et al.* and my C.R.S. § 16-5-209 filing)

Dear Mr. Morrissey:

You don't always need DNA to solve a crime. Sometimes, all you need is honor, integrity, and professionalism. *And a legal education from the University of Denver shouldn't hurt.* Now, it seems to me that

- When other judges are authorized by law to hear a case, and a judge decides that case in her own favor as a defendant, she is "acting with intent to benefit" herself;
- The issuance of a court decision is "an act relating to [a judge's] office," and
- When a state judge defies the law as established by the United States Supreme Court, it is by definition an "unauthorized exercise of her official function."

Where every fact required for a conviction is an indelible part of the public record, and knowledge is established by the suspects' own published statements, you would expect a competent district attorney to prosecute a case of first-degree official misconduct under C.R.S. § 18-8-404 without even the slightest prodding. Yet, your office has, owing to a combination of flagrant dishonesty and deliberate foot-dragging, forced me to file for relief under C.R.S. § 16-5-209.

As you know, that statute entitles me to hale you into court for an hour and cross-examine you, and I should very much like an explanation as to why your office considers our high and mighty public officials to be beyond the reach of Colorado criminal law, while the rest of us have to pay our traffic tickets. But while I am looking forward to that confrontation should it become necessary, I would prefer to preserve valuable court time. Accordingly, I ask that you commit to filing an information in the matter of *People v. Bender, et al.*, so that the need for a formal hearing will no longer exist.

Thank you for your prompt and diligent attention to this matter.

Kind regards,

Ken Smith (Class of '88/'95)  
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