

Subj: **Resolution to Criminal Charges (Jon Spera)**
Date: 4/4/2011 10:06:29 A.M. US Mountain Standard Time
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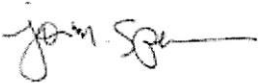
Good morning Doug!

I am putting away my folder from my defense and saw your card there. I wanted to let you know that **Tom Gorman**, who represented me in my case, did an excellent job preparing for and arguing my case to the judge. Though it surprises me that you've never met Tom, I thought you'd like to know the outcome of my ordeal since my wife and I came to your office back in December seeking advice and insight about this uncharted ground for us.

It is good to know that the system works. Thank you for your good advice and counsel during our time of need.

Again thank you!

FYI: The Judge's Ruling is attached below.



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Leadership Development and Organizational Effectiveness

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1 At approximately 3:00 p.m. on November 30, 2010, Ms. Miller tried to return the
2 keys to the guest house to the defendant after having vacated the property. Defendant
3 refused to accept the keys from Ms. Miller without the walk-through, and Ms. Miller
4 refused to have the walk-through with defendant. Defendant called the Sedona Police
5 Department 9-1-1 dispatcher and requested that a police officer be sent to his residence
6 in Sedona for a "civil standby" because he did not want Ms. Miller to leave the property
7 without a walk-through to determine if there was any damage or theft. He indicated that
8 he had reason to believe this was a possibility. No violent behavior, threats or physical
9 force was involved. Three officers were dispatched to the scene, and the first of those
10 arrived within about three minutes and separated the parties without incident.

11 The remaining evidence regarding this landlord-tenant dispute was conflicting.
12 Ms. Miller testified that defendant at one point stood in front of her and stated she was
13 not leaving. However, she walked away and got into her car and then defendant stood
14 directly in front of her car, touching the front bumper, and wouldn't allow her leave.
15 Defendant denied that he blocked her path when she walked to her car, and that he
16 stood no closer than three or four car lengths from the front of Ms. Miller's car with his
17 hand raised as he called 9-1-1 to request the civil standby. Two police officers testified
18 that the only information Ms. Miller gave them was that the defendant stood in front of
19 her car.

20 The crime of unlawful imprisonment requires proof that the defendant knowingly
21 restrained another person. "Restrain," as it relates to an adult victim, is defined at ARS
22 §13-1301(2). The definition requires the Court to find – beyond a reasonable doubt –
23 that the victim's movement was restricted 1) without consent, 2) without legal authority
24 and, 3) in a manner that interferes substantially with the person's liberty by either
25 moving such person from place to another or by confining such person.

1 The ordinary definition of "confine" is to enclose within bounds; limit or restrict; to
2 shut or keep in; prevent from leaving a place because of imprisonment, illness,
3 discipline, etc.

4 While it is clear from the record that neither consent nor legal authority¹ existed in
5 this case, the Court does not believe the evidence proved, beyond a reasonable doubt,
6 that there was a substantial interference with Ms. Miller's liberty.

7 Defendant is also charged with violating ARS §13-2904(A)(1), which states:
8 "A person commits disorderly conduct if, with intent to disturb the peace or quiet of a
9 neighborhood, family or person, or with knowledge of doing so, such person: 1.
10 Engages in fighting, violent or seriously disruptive behavior."

11 The Court cannot find, beyond a reasonable doubt, that the defendant's intent
12 was to disturb Ms. Miller's peace and quiet or that he engaged in seriously disruptive
13 behavior under the circumstances revealed by the evidence in this case.

14 The Court finds the defendant Not Guilty of both charges.

15 Done in chambers this 25th day of March, 2011.

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17 

18 Hon. Rodger E. Overholser
19 Judge of the Municipal Court

20 **Copies:**

21 Jennifer Paetkau, Esq.
22 Sedona City Attorney's Office

23 Thomas Gorman, Esq.
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¹ "Legal authority" relates to the relationship between the person being restrained and the person doing the restraining. *State v. Lawrence*, 135 Ariz. 549 (1983).