

IN THE CIRCUIT COURT OF IRON COUNTY
STATE OF MISSOURI

STATE OF MISSOURI, ex inf.)	
ANDREW BAILEY)	
ATTORNEY GENERAL OF THE)	
STATE OF MISSOURI)	
)	
Relator,)	
)	
v.)	Case No.
)	
JEFFERY L. BURKETT,)	
)	
Respondent.)	

PETITION IN QUO WARRANTO

Andrew Bailey, Attorney General of the State of Missouri, upon his own information, Relator herein, and, in support of his application for judgment in quo warranto against Respondent, states as follows:

Parties:

1. Relator is Andrew Bailey, Attorney General of the State of Missouri, and Relator prosecutes this cause for and on behalf of the State of Missouri upon his own information.
2. Respondent Jeffery Burkett is the Sheriff of Iron County, Missouri, and has held that office continuously since January 1, 2021. The position of Sheriff of Iron County, Missouri, is an elective county office.

Authority and Jurisdiction

3. This cause of action is governed by Chapter 531. RSMo, and Rule 98 of the Missouri Rules of Civil Procedure.
4. Relator is authorized to bring this action under § 531.010, RSMo, which provides that “in case any person shall . . . unlawfully hold or execute any office ... the attorney general of the state . . . shall exhibit to the circuit court, or other court having concurrent jurisdiction therewith in civil cases, an information in the nature of a quo warranto”
5. Relator is also authorized to bring such action under Rule 98.02(b)(1), which provides that “the attorney general of this state, upon personal information” may proceed as Relator in quo warranto.
6. This Court has jurisdiction over this matter under § 531.010, RSMo, and Article VII, § 4, and Article V, § 4 of the Constitution of Missouri.

Introduction

7. The office of Sheriff of Iron County, Missouri, is an elective office of great trust in the administration of public justice.
8. On or about December 31, 2020, Respondent took the following oath of office:

I, Jeffery Burkett, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Missouri, and I will faithfully demean myself in the office of Sheriff of Iron County, Missouri.

9. As the elected Sheriff of Iron County, Missouri, Respondent is subject to the provisions of Section 57.010, RSMo., which describes a sheriff's qualifications, in pertinent part:

Such person shall be ... a person capable of efficient law enforcement ... such person shall enter upon the discharge of the duties of such person's office as chief law enforcement officer of that county ... [and] 2. No person shall be eligible for the office of sheriff who does not hold a valid peace officer license pursuant to chapter 590. This subsection shall not apply to the sheriff of any county of the first classification with a charter form of government with a population over nine hundred thousand or of any city not within a county.

10. Iron County is a third class county with a population of 9,408.¹
11. As elected Sheriff of Iron County, Missouri, Respondent can only operate as a law enforcement officer outside of Iron County when authorized by Sections 57.111, 544.100, and 544.157, RSMo, which require an arrest warrant issued by an associate judge in Iron County, fresh pursuit, or an express request for assistance from another county's elected sheriff.
12. Respondent has knowingly or willfully acted outside his jurisdiction as chief law enforcement officer of Iron County granted

¹ This is according to the most recent Missouri Roster that the Missouri Secretary of State published at the following web address:
<https://www.sos.mo.gov/CMSImages/Publications/2023GARoster.pdf>.

by Section 57.010, RSMo, and no exceptions under Missouri law apply to the conduct more fully alleged herein.

13. Further, as an elected official of Iron County, Missouri, Respondent is subject to the provisions of Section 106.220, RSMo., which states, in pertinent part:

[a]ny person elected ... to any county ... office in this state ... 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 it 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 ...

14. Respondent has knowingly or willfully failed and refused to perform official acts and duties with respect to the execution or enforcement of criminal laws of the State, and has engaged in willful acts of misconduct, malfeasance, misfeasance, and nonfeasance in office as more fully alleged herein.
15. As a result of the conduct described more fully herein, the Director of the Department of Public Safety issued an emergency order of suspension against Respondent's peace officer license. A copy of that suspension order is attached to this petition as Exhibit 1.

Allegations

Count I

Respondent's Willful Acts of Misconduct, Malfeasance, and Misfeasance with Respect to Adrienne Henry

16. As Sheriff of Iron County, Missouri, Respondent has a duty to enforce the criminal laws of the State.
17. Contrary to Respondent's duties to enforce the criminal laws of the State and a result of Respondent's conduct described below, the Washington County Prosecuting Attorney has charged Respondent with three felonies and six misdemeanors.² A copy of the Washington County Prosecuting Attorney's Complaint against Respondent is attached to this petition as Exhibit 2.
18. On February 8, 2023, Respondent, along with Iron County Sheriff Deputy Chase Bresnahan and two other deputies, responded to a report of a disturbance in Iron County.
19. Emergency 911 dispatchers documented that an individual involved in the disturbance, Rick Gaston, was physically aggressive, although emergency medical services were not requested.

²The case number for Respondent's underlying criminal case in Washington County, Missouri, is 23WA-CR00123.

20. Upon arriving, Respondent and his deputies separated Rick Gaston from A.H., and A.H. left with her children to seek safe refuge from Rick Gaston, as noted by Washington County 911 dispatch.
21. Rick Gaston willingly allowed A.H. and her children to leave that night, and the responding Iron County Sheriff's Deputies contacted the dispatch center noting that the parties had been separated, that the responding officers were clear from the call, and that the responding officers had signed off duty for the evening.
22. The responding Iron County Deputies did not report any injuries to the dispatch center during the radio call.
23. During the Missouri State Highway Patrol's investigation, Iron County Deputy Herbert, who was present for the February 8, 2023, call, told investigators that no parties seemed intoxicated and that A.H.'s daughter did not seem to have any serious injury requiring medical attention.
24. On February 10, 2023, Respondent contacted Washington County dispatch and requested a cellular ping of A.H.'s phone, claiming it was for a "well-being check" and citing possible injury to a child and the possible intoxication of A.H.
25. Respondent made these statements to Washington County dispatch despite not having seen A.H. or her children for at least 32 hours; not

previously reporting any injury on February 8, 2023; clearing the February 8, 2023, call indicating the parties had been separated; and having Iron County deputies escort A.H. back to the residence to collect personal items on February 9, 2023.

26. While requesting this phone ping, Respondent noted he was with Rick Gaston.
27. Initially the phone pings indicated that A.H. was in St. Francois County, Missouri, and later pings suggested that A.H. was headed back to her home in Iron County.
28. After the pings of A.H.'s phone were provided, Respondent noted that Rick Gaston intended to confront A.H. and get his daughter.
29. Respondent further indicated to Washington County 911 dispatch that he intended to arrest A.H. and have her "sit in [his] jail," despite the fact that no arrest warrant for A.H. existed and there were no additional facts that would warrant A.H.'s arrest.
30. Subsequently, additional phone pings indicated that A.H. was traveling in Washington County, Missouri, and Respondent requested Washington County Deputies arrive at the last known location of A.H. in order to make an illegal arrest or detention. However, Respondent also requested that they not detain A.H. until Rick Gaston had his daughter, noting that was at Rick Gaston's request.

31. Washington County 911 Dispatch could hear Rick Gaston's voice in the background of the phone call telling Respondent what to say.
32. Subsequently, a Washington County 911 dispatcher and a Washington County Sheriff's Deputy discussed by phone that the Respondent's requests were unusual, and the Washington County Sheriff's Deputy noted that the situation "[was] getting real fishy."
33. Later on February 10, 2023, Iron County Sheriff's Deputy Bresnahan submitted a warrant application to the Iron County Prosecuting Attorney for felony charges of Assault 1st Degree and Endangering the Welfare of a Child 1st Degree against A.H., based on the events of February 8, 2023. The prosecuting attorney declined the charges.
34. Later on February 10, 2023, Washington County 911 dispatch received a call from Rick Gaston, who indicated he knew of information relating to the pings of A.H.'s phone and told the dispatcher that he and Respondent were "working together tonight."
35. Later on February 10, 2023, Washington County 911 dispatch received a call from an Iron County Sheriff's Deputy Matthew Cozad, who requested a "stop and hold" on A.H. and her vehicle, which was entered into the Missouri Uniform Law Enforcement System ("MULES").
36. Subsequently, Washington County 911 dispatch provided Respondent with a Jefferson County address where A.H. was taking refuge, and

during yet another phone conversation with Washington County 911 dispatch, Respondent informed a dispatcher that Rick Gaston was on his way to the address.

37. Later on February 10, 2023, a Jefferson County Sheriff Deputy responded to a “wellbeing check” request for A.H.’s child from Iron County and reported A.H.’s child was fine, to which Respondent answered “. . . they’re gonna have another issue because Gaston is on his way there.”
38. After midnight of February 11, 2023, Rick Gaston arrived at the Jefferson County address, where he was stopped by Jefferson County law enforcement and told to leave.
39. Rick Gaston began to leave, but he again exited his vehicle and became agitated while arguing with Jefferson County law enforcement.
40. Rick Gaston eventually left after being warned he may be arrested and his vehicle towed.
41. Later, Rick Gaston confirmed he received the Jefferson County address from Respondent.
42. On February 18, 2023, Iron County Sheriff’s Deputy Bresnahan contacted Washington County 911 dispatch and requested yet another phone ping of A.H.’s phone, citing the possible endangerment of a child.

43. Washington County 911 dispatch rejected the ping request because it was not related to an active investigation.
44. Iron County Sheriff's Deputy Bresnahan then contacted Verizon Wireless himself and requested an exigent ping for A.H.'s phone.
45. Later on February 18, 2023, Iron County Deputy Bresnahan attempted to persuade Troop C of the Missouri State Highway Patrol to arrest and detain A.H. while she was in Jefferson County until Deputy Bresnahan could come retrieve her, despite the fact no arrest warrant or additional facts existed to warrant A.H.'s arrest.
46. The Missouri State Highway Patrol did not detain A.H. so that Deputy Bresnahan could come retrieve her.
47. As a result of Respondent's conduct and his deputies' conduct at his direction, the Missouri State Highway Patrol initiated an investigation, obtained evidence, conducted interviews, and referred criminal charges for Respondent, Chase Bresnahan, and Matthew Cozad to the Washington County Prosecuting Attorney. A copy of the Missouri State Highway Patrol's Probable Cause Statement relating to Respondent is attached to this petition as Exhibit 3.
48. When the Missouri State Highway Patrol interviewed A.H. during the course of their investigation, she stated that, between February 9 and 11, 2023, she used location data from a Ford application on her phone

and observed Gaston's Ford truck following her using the same routes she used from location to location, even when she was not within Iron County.

49. The Washington County Prosecutor has charged Respondent with one count of participating knowingly in criminal street gang activities, a class B felony; one count of tampering with a victim, a class D felony; one count of attempted kidnapping in the third degree, a class B misdemeanor; one count of stalking in the first degree, a class E felony; one count of stalking in the second degree, a class A misdemeanor; one count of unlawful obtaining of criminal history information, a class A misdemeanor; one count of unlawful disclosure of criminal history information, a class A misdemeanor; one count of misuse of emergency telephone services, a class B misdemeanor; and one count of making a false report, a class B misdemeanor. Exhibit 2.
50. Respondent abused his power and authority as an elected sheriff by encouraging other law enforcement officers to make illegal arrests and detentions of A.H., knowing that he had no jurisdiction or authority and knowing that the arrests and seizures lacked any probable cause or reasonable suspicion, thus knowingly violating the Constitutional rights of A.H. under the Missouri and United States Constitutions, and

subjecting unsuspecting fellow law enforcement officers in neighboring counties to potential civil and criminal liability.

51. Respondent's actions of utilizing his office and its resources, including two deputies, to further criminal acts and conspiracies, were willful acts of misconduct, malfeasance, and misfeasance, and constitute willful and fraudulent violations of his official duty to enforce the criminal laws of the State in direct violation of Section 106.220, RSMo, and outside his jurisdiction granted by Section 57.010, RSMo.
52. Because Respondent willfully and fraudulently violated his official duty, Respondent is not eligible to hold the office of Sheriff of Iron County, Missouri, and Respondent is an interloper and usurper, and must be removed from office.

Count II

Respondent Lacks a Valid Peace Officer License

53. Relator incorporates paragraphs 1 through 52 as if they were restated herein.
54. Respondent must meet the criteria and qualifications of Section 57.010 in order to run for, and continue to hold, the elected office for Sheriff.
55. Section 57.010.2 requires Respondent maintain a valid peace officer license under chapter 590.

56. Due to Respondent's willful acts of misconduct, malfeasance, and misfeasance discussed above, the Director of the Department of Public Safety has issued an emergency temporary suspension order. Exhibit 1.
57. As a result of the Director of the Department of Public Safety's emergency temporary suspension order, Respondent's peace officer license is not valid.
58. Without a valid peace officer license, Respondent does not meet the requirements of Section 57.010, Respondent is not eligible to hold the office of Sheriff of Iron County, Missouri, and Respondent is an interloper and usurper, and must be removed from office.

Relief Sought

59. Respondent's willful violation and neglect of his official duties and failures to perform official acts or duties required of him with respect to the execution or enforcement of the criminal laws of the State, as set forth in Counts I and II, singularly and collectively, constitute a violation of Section 106.220, RSMo, and Section 57.010, RSMo, and results in Respondent's forfeiture of the office of Sheriff of Iron County, Missouri.
60. Upon request, the Attorney General, if filing upon personal information, has the right to a preliminary order of quo warranto. Rule 98.04.
61. The Attorney General, who is filing this petition upon personal information, requests that this Court issue a preliminary order of quo

warranto. The preliminary order should immediately remove Respondent from office until final disposition of the case, and should provide Respondent 10 days to file his answer.

62. The Attorney General requests that this Court specifically appoint Tim Harbison, Iron County Coroner, to serve the preliminary order of quo warranto on Respondent. Rule 98.05.
63. The Attorney General requests that this Court, after hearing, issue a permanent writ of quo warranto removing Respondent from office.

Conclusion

WHEREFORE, Relator prays for a preliminary order of quo warranto, for a permanent order of quo warranto against Respondent removing him from office, for all costs, and for such other relief this Court deems just and proper.

Respectfully submitted,

Andrew Bailey
Attorney General

/s/George R. Lankford
George R. Lankford
Assistant Attorney General
Mo. Bar No. 70186
P.O. Box 861
St. Louis, MO 63188
(Ph) 314-340-7836
George.Lankford@ago.mo.gov