

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.) CAUSE NO.: 2:16 CR 161
)
JOHN BUNCICH,)
Defendant.)

**DEFENDANT, JOHN BUNCICH’S, REPLY TO GOVERNMENT
RESPONSE AS TO CHANGE IN CONDITIONS OF BOND**

Comes now the Defendant, John Buncich, by and through counsel, Bryan M. Truitt and replies to the government’s Response to Buncich’s Motion for Modification of Bond Conditions and in support thereof states as follows;

1. That a condition of John Buncich’s bond was that he surrender his firearms.
2. That the undersigned was not counsel of record at the time of his arrest and was not privy to the conversations and arguments concerning this condition.
3. That John Buncich is the elected Sheriff of Lake County and remains in that post.
4. That the government claims that through their surveillance they did not witness the Sheriff wear a firearm.
5. That this is false. Buncich wore a firearm continually throughout his service as Sheriff. He kept a gun in his pocket as well as his sock. He always was armed with a service weapon.
6. That regardless of whether he did or did not, he is charged with a non-violent offense and is not a prohibited person to carry a weapon.
7. That his possession of a firearm has nothing to do with his threat to society or his risk of non-appearance. The government does not argue otherwise.

8. The government's citation of *United States v. Clark*, 741 F2d 699 (5th Cir. 1984) is absurd and inapplicable. *Clark* is a case of a convicted federal felon who received and possessed a firearm after conviction and had his supervised release revoked. Clark was a convicted felon and a prohibited person. Buncich is not. Yes, Buncich cannot buy a firearm but he is not prohibited from possessing a firearm by virtue of his indictment. The government knows this but attempts to mislead the Court knowing full well that the media will publish their words at face value and not fact checking the distinction.
9. The facts are so different than Buncich's request as to only expose the vindictiveness and desperation of the government because Buncich won't plead guilty. He won't plead guilty because he is not, in fact, guilty of anything.
10. That further, the government's reference to a Southern District of Indiana case of an indicted Sheriff rings hollow without a documentation of the facts of that case.
11. That although the undersigned was not part of the conversation concerning the surrendering of bond conditions, he understands that there were concerns by the government about whether Buncich was a danger to himself at the time of his arrest. He is not now, if he ever was.
12. That even if he was, he would have plenty of access to weapons at the Lake County Sheriff's Office in his position as Sheriff and this condition does nothing to further that concern of the government's..
13. That the government is simply being vindictive. Buncich persists in his innocence and as a result the government opposes his motion, has not provided any discovery and refuses to release his personal documents (either original or in copy). The government cites no risk of non-appearance or public safety in its opposition. It makes a ludicrous argument

that if he takes possession of items taken from him (which he possessed and properly owned at the time of Indictment), he is violating federal law. In support they cite a case that has no factual similarity to the case herein. It's an embarrassing argument.

14. That the government's response, on its face, belies the frivolity and meritless nature of their position. This is a continued attempt at intimidation to attempt to gain a guilty plea from Buncich; combined with withholding his personal belongings and not providing Rule 16 discovery items to the defense. The defense has agreed to sign a protective order and has signed such an order agreeing not to disclose any discovery materials to non-defense employees but has yet to receive a single piece of paper of discovery or evidence against Buncich.
15. That there is no reason not to modify the bond conditions. The government does not argue that the Court is unable to modify the conditions of bond. Nor can it. Were that true, under a hypothetical scenario were there no such condition but the government later learned that the Sheriff posed a threat to himself or others, would they argue that they were prohibited from asking additional conditions of bond be placed on the Defendant? That would be very unlikely.
16. That it is clear that an elected Sheriff should have his service weapon. Absent credible evidence that Buncich poses a threat to society or a risk of non-appearance, the conditions of bond prohibiting firearm possession should be modified.

WHEREFORE, Defendant Buncich, by counsel, prays this Court to modify his conditions of bond as requested and for all other just relief.

Respectfully submitted,

/s/ Bryan M. Truitt

Bryan M. Truitt, Atty. #20684-64

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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant does hereby certify that a copy of the foregoing was served on counsel of record via the District Court's CM/ECF system on February 6, 2017.

/s/ Bryan M. Truitt

Bryan M. Truitt; 20684-64