

06-1227-CD

Stephen Jarrett vs William Shaw et al

2006-1227-CD  
Stephen Jarrett vs William Shaw et al

Stephen B. Jarrett, Esquire  
Attorney ID 63007  
32 N.W. Fourth Ave.  
Clearfield, PA 16830  
814-496-8243

IN THE COURT OF COMMON PLEAS of CLEARFIELD COUNTY  
IN EQUITY

Stephen B. Jarrett

NO: 2006-1227-CD

Plaintiff

Vs.

District Attorney William Shaw

And

The County Commissioners of Clearfield County

(Jointly and Severally)

FILED

AUG 01 2006

010-00/um

William A. Shaw  
Prothonotary/Clerk of Courts

4 CEN to Jannett

**MOTION FOR IMMEDIATE RELIEF IN THE FORM OF INJUNCTION  
AND SPECIFIC PERFORMANCE TO COMPEL THE IMMEDIATE  
CEASE AND DESIST OF THE SALE OF HATE CRIMES MATERIAL**

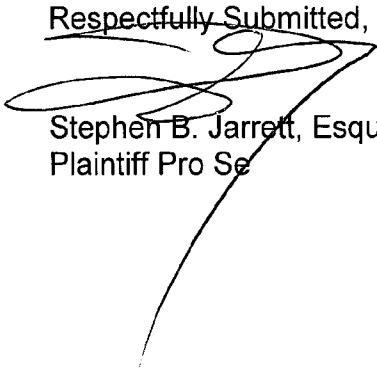
Now Comes Stephen B. Jarrett, Esquire, *Pro-Se*; and respectfully requests that this Honorable Court grant immediate hearing on this, his request for immediate injunction against and/or cease and desist order preventing the open air sale of racist and nazi items at the Clearfield County Fair. In support of this motion, plaintiff states as follows:

- 1> Plaintiff is Stephen B. Jarrett, Esquire, resident of Clearfield County.
2. Defendant Commissioners of Clearfield County are the legal entity charged with licensing, promoting, and sanctioning the Clearfield County Fair.
3. Defendant Shaw is the District Attorney of Clearfield County who has the legal obligation and responsibility to investigate and prevent Hate Crimes in said county.
4. Plaintiff attended the Clearfield County Fair on the dates of July 30 and 31, 2006.

5. Plaintiff noted several booths/ stands openly displaying and vending hate crimes material to .S.K.K. Gas Death Unit Insignia, Flags and shirts extolling the virtue of the Confederate Pro-Slavery Position, Nazi/S.S. Knives, K.K.K. and Adolph Hitler Commerative Medallions and other offensive racist material too numerous to mention.
6. The sale of such items, and the collection of licensing fees, taxes etc. by the County for the sale of such items represents a state action which implicitly and explicitly involves The Commissioners of Clearfield county.
7. It is further alleged that police agents whom are responsible to and report to District Attorney Shaw, have ignored acts which constitute hate crimes; in that said items advocate the death and /or genocide of protected racial minorities.
8. By omission, tacit approval or pure negligence the County Commissioners have allowed the sale of hate crime materials and have profited from the licensing fees and/or tax paid by hate vendors.
9. By omission, tacit approval and/or pure failure in his duty to enforce the laws of this Commonwealth, Mr. Shaw has fostered the commission of hate crimes as well as turned a blind eye to the vending of materials advocating genocide.
10. It is, or should be patently offensive to this Honorable Court that items which advocate genocide, slavery, race hatred are allowed to be openly displayed at a "family fair".
11. It is difficult to imagine that Gubernatorial Candidate Lynn Swann ( an African-American) nor present Governor Ed Rendell (a Jew) would possibly support the non-enforcement of hate crime laws or the collection of revenues Generated by hate materials.
12. Plaintiff intends to present several hate crime materials to the court at hearing.

WHEREFORE, it is respectfully requested that this Honorable Court grant an immediate and forthwith hearing on this matter. Race hatred is not to be tolerated.

Respectfully Submitted,

  
Stephen B. Jarrett, Esquire  
Plaintiff Pro Se

Stephen B. Jarrett, Esquire  
Attorney ID 63007  
32 N.W. Fourth Ave.  
Clearfield, PA 16830  
814-496-8243

IN THE COURT OF COMMON PLEAS of CLEARFIELD COUNTY  
IN EQUITY

Stephen B. Jarrett

NO:

Plaintiff

Vs.

District Attorney William Shaw

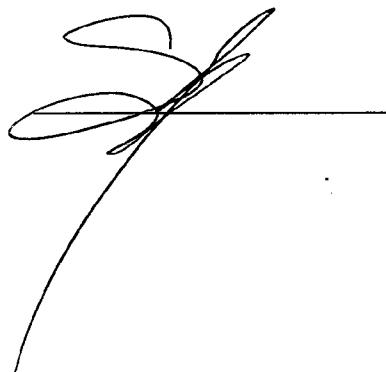
And

The County Commissioners of Clearfield County

(Jointly and Severally)

CERTIFICATE of SERVICE

I, Stephen B. Jarrett, Esq. Do swear and affirm that true and correct copies of the attached complaint have been personally served upon defendants on this 1<sup>st</sup> Day of August, 2006.

A handwritten signature in black ink, appearing to read "S. B. Jarrett", is written over a horizontal line.

Stephen B. Jarrett, Esquire  
Attorney ID 63007  
32 N.W. Fourth Ave.  
Clearfield, PA 16830  
814-496-8243

IN THE COURT OF COMMON PLEAS of CLEARFIELD COUNTY  
IN EQUITY

Stephen B. Jarrett

NO:

Plaintiff

Vs.

District Attorney William Shaw

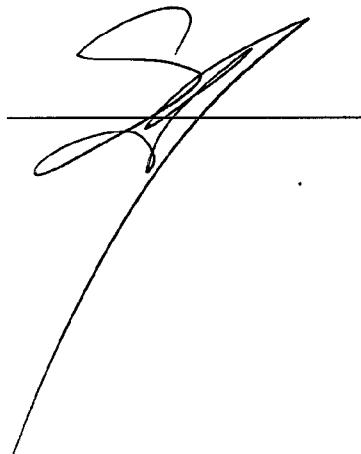
And

The County Commissioners of Clearfield County

(Jointly and Severally)

CERTIFICATE of SERVICE

I, Stephen B. Jarrett, Esq. Do swear and affirm that true and correct copies of the attached complaint have been personally served upon defendants on this 1<sup>st</sup> Day of August, 2006.

A handwritten signature in black ink, appearing to read "Stephen B. Jarrett", is written over a horizontal line.

FILED

AUG 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

Stephen B. Jarrett, Esquire  
Attorney ID 63007  
32 N.W. Fourth Ave.  
Clearfield, PA 16830  
814-496-8243

IN THE COURT OF COMMON PLEAS of CLEARFIELD COUNTY  
IN EQUITY

Stephen B. Jarrett

NO: 2006-1227-CD

Plaintiff

Vs.

District Attorney William Shaw

And

The County Commissioners of Clearfield County

(Jointly and Severally)

RULE

And Now this \_\_\_\_\_ day of \_\_\_\_\_, 2006; a Rule is ORDERED  
Returnable on defendants to show cause, if any they have why the relief  
requested herein should not be immediately granted.

Rule returnable the \_\_\_\_\_ day of \_\_\_\_\_ 2006 in Courtroom  
\_\_\_\_\_, Clearfield County Courthouse. at \_\_\_ a.m/p.m.

By the Court

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J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - IN EQUITY

STEPHEN B. JARRETT, ESQUIRE  
Plaintiff

vs.

DISTRICT ATTORNEY WILLIAM SHAW,  
AND THE CLEARFIELD COUNTY  
COMMISSIONERS OF CLEARFIELD  
COUNTY,

Defendants

: No: 2006-1227-CD

: Type of Case: Equity

: Type of Pleading: Preliminary Objections  
to Motion under PA.R.Civ.P. Rule 1028

: Filed on Behalf of: Respondents

: Counsel of Record for this Party:

: Kim C. Kesner, Esquire  
Supreme Ct. I.D. #28307

: 23 North Second Street  
Clearfield, PA 16830  
814-765-1706

: Opposing Counsel of Record:

: Stephen B. Jarrett, Esquire  
32 N.W. 4<sup>th</sup> Avenue  
Clearfield, PA 16830  
814-496-8243

FILED 5cc  
01/02/06  
AUG 02 2006 Atty Kesner  
B  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION -- IN EQUITY

STEPHEN B. JARRETT,  
PLAINTIFF

vs. : No. 2006-1227-CD

DISTRICT ATTORNEY WILLIAM SHAW,  
AND THE COUNTY COMMISSIONERS  
OF CLEARFIELD COUNTY,  
DEFENDANTS

AND NOW, comes District Attorney William Shaw and the County Commissioners of Clearfield County by Kim C. Kesner, Esquire, Clearfield County Solicitor who file the following responsive pleadings to Stephen B. Jarrett's Motion for "Immediate Relief in the Form of Injunction and Specific Performance".

**I. PRELIMINARY OBJECTIONS TO MOTION UNDER PA.R.CIV.P. RULE 1028.**

**A. Failure of Pleading to Conform to Law or Rule of Court**

1. Stephen B. Jarrett (Jarrett) has commenced this action by his Motion for "Immediate Relief in the Form of Injunction and Specific Performance..."
2. An injunction and specific performance are equitable relief available only in a civil action which must be commenced by the filing of a complaint. See Explanatory Comment (2003) to abolition of former practice in an action in equity; Pa.R.Civ.P. Rule 1007.
3. Jarrett's pleading lacks a Notice to Defend as required by Pa.R.Civ.P. Rule 1018.1.
4. Jarrett's pleading lacks a cover sheet required by Local Rule 205.2(b).
5. Jarrett previously attempted to commence an action by filing a Motion for Injunctive Relief in Stephen B. Jarrett, Esquire, Petitioner vs. The Commissioners of Clearfield County and

the Public Defender's Office of Clearfield County, Respondent (Clearfield County--Civil Division No. 06-777-CD), which was dismissed upon Preliminary Objections by this Court's Order dated February 3, 2006 for the same reasons as set forth in paragraphs 2, 3 and 4 above as well as for failure to state a cognizable cause of action.

6. While Jarrett is proceeding pro se, he is a licensed attorney at law in Pennsylvania and his filing of a second defective pleading is obdurate, vexatious and frivolous.

WHEREFORE, District Attorney William Shaw and the County Commissioners of Clearfield County respectfully request this Honorable Court to dismiss Jarrett's Motion for "Immediate Relief in the Form of Injunction and Specific Performance".

**B. Legal Insufficiency of Pleading—Request for Injunction (Demurrer)**

1. Jarrett has failed to plead a claim or cause of action upon which the relief of an injunction can be granted.

2. As a matter of law, Jarrett has no cognizable or enforceable claim to an injunction requiring District Attorney William Shaw to commence a prosecution. This Court lacks any jurisdiction in equity to compel the District Attorney of Clearfield County to prosecute an alleged crime. Procedures for court approval of prosecution of an alleged crime where the District Attorney declines to prosecute are available under the Pennsylvania Rules of Criminal Procedure. See Pa.R.Crim.P., Rule 506.

3. As a matter of law, Jarrett has no cognizable or enforceable claim for an injunction against the County Commissioners of Clearfield County for failing to prevent the sale of offensive materials by private vendors which would constitute an impermissible prior restraint.

4. Otherwise, Jarrett's Motion contains no allegation supporting a cognizable claim for injunctive relief.

WHEREFORE, District Attorney William Shaw and the Commissioners of Clearfield County respectfully request this Honorable Court to dismiss Jarrett's Motion for "Immediate Relief in the Form of...Injunction".

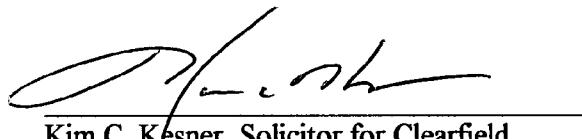
**C. Legal Insufficiency of Pleading—Request for Specific Performance (Demurrer)**

1. Jarrett has failed to plead a claim or cause of action upon which the relief of specific performance can be granted.

2. Specific performance is an exceptional remedy for breach of contract. Jarrett's Motion alleges no contractual relationship between he, District Attorney William Shaw and/or the County Commissioners of Clearfield County upon which the relief of specific performance could be granted.

WHEREFORE, District Attorney William Shaw and the Commissioners of Clearfield County respectfully request this Honorable Court to dismiss Jarrett's Motion for "Immediate Relief in the Form of...Specific Performance...".

Respectfully submitted:



\_\_\_\_\_  
Kim C. Kesner, Solicitor for Clearfield  
County  
Supreme Ct. I.D. #28307

23 North Second Street  
Clearfield, PA 16830  
814-765-1706

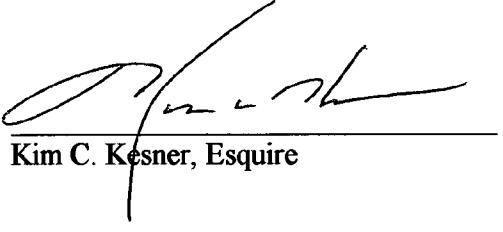
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on the 2nd day of August, 2006, I caused to be served a true and correct copy of the Respondents' Motion for "Immediate Relief in the Form of Injunction and Specific Performance" on the following and in the manner indicated below:

**By United States Mail, Regular Mail, Addressed as Follows:**

Stephen B. Jarrett, Esquire  
32 N.W. 4<sup>th</sup> Avenue  
Clearfield, PA 16830

Date: August 2, 2006

  
\_\_\_\_\_  
Kim C. Kesner, Esquire

**FILED**

AUG 02 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

STEPHEN B. JARRETT

:

VS.

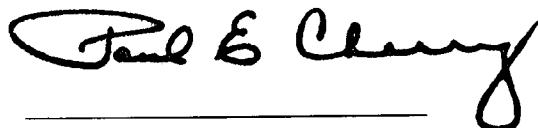
: NO. 2006-1227-CD

DISTRICT ATTORNEY WILLIAM SHAW : IN EQUITY  
and CITY COMMISSIONERS OF :  
CLEARFIELD COUNTY, jointly and :  
severally :  
:

O R D E R

AND NOW, this 2nd day of August, 2006, following argument on Preliminary Objections to Motion for Immediate Relief in the Form of an Injunction and Specific Performance, and upon consideration of the issues raised by both counsel, it is the ORDER of this Court that the Preliminary Objections to said motion shall be and are hereby granted and that the Motion for Immediate Relief in the Form of an Injunction shall be and is hereby denied.

BY THE COURT,



Judge

FILED <sup>1CC</sup>  
013:21001 Amy Kesner  
AUG 08 2006 1CC S. Jarrett

William A. Shaw  
Prothonotary/Clerk of Courts

DA Shaw  
CR

**FILED**

AUG 08 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/8/06

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions: