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By Tom Horne

ANDREW THOMAS' ABUSE OF POWER

Recently, a court found that Andrew Thomas had prosecuted people for personal political advantage and for personal political retribution. (Court case CR2010-005423-001, February 24, 2010.) This is worst thing that you say about a prosecutor. The following provides some of the back ground for this finding.

The first person who seriously criticized Thomas was Don Stapley. Stapley is a longtime Maricopa County Supervisor, who is known for fiscal conservatism. He criticized Thomas for financial irresponsibility. Thomas had raised the expenditures for the Maricopa County Attorney's office for outside lawyers from \$6 million a year to \$16 million a year, almost all of which had gone to lawyers that served on a host committee for one of Thomas' fundraisers. There was an appearance of repaying political favors with government money.

In addition, Stapley criticized Thomas for wasting \$2 million of public money on advertising allegedly to tell people not to use drugs, but actually to promote Thomas' name and picture. The Goldwater Institute would later make the same criticism, stating "Mr. Thomas' massive and continuous promotion of his name and image through official publications and communications cannot possibly be seen as aimed at advancing any legitimate purpose."

Almost immediately, an investigation started of Stapley, which resulted in his indictment on trumped-up charges, all of which were ultimately dismissed. But Stapley went through years of hell, spending over \$1 million in attorneys' fees, and having his health and his wife's health damaged. The Arizona Republic editorialized that it could see no rational argument for Thomas' action, other than "raw political payback," and that "Andrew Thomas is usurping justice." (Stapley dismissal followed, Court case No. CR2010-00543-001; Goldwater policy brief, May 12, 2009, p. 8; Editorial December 9, 2009.)

Simultaneously, Russ Jones, a legislator from Yuma, got crosswise with Thomas' allies in the legislature. Jones also found himself indicted on trumped up charges, all of which were ultimately dismissed, but not before Jones had hundreds of thousands of dollars of attorneys' fees as well. (Yuma Sun, May 21, 2010.)

All of this was a view to intimidation of critics, which worked. A number of legislators, asked to endorse Tom Horne, said they could not consider it until Thomas resigned, because they saw Jones being indicted and they didn't want to be indicted.

Thomas then got into a conflict with all five members of the Board of Supervisors. Being fiscal conservatives, they had saved money for a badly needed new courthouse, so that it could be built without the county incurring any debt. Thomas wanted them to raid that fund for his budget, and they refused. This may have been a reasonable disagreement, but Thomas pursued it by investigating them with a view to indicting them.

A judge put a stop to it, stating that Thomas' actions were unethical. The judge pointed out that the County Attorney represents the board of supervisors, and one cannot investigate or indict one's clients, something that every first year law student knows. Three different judges, in three different cases, would find Thomas' actions in different circumstances to be unethical. The judge in this case also stated that Thomas' actions had "the appearance of evil." (Court Case No. 422GJ350, February 6, 2009.)

The supervisors wanted separate counsel to represent them in civil cases, rather than be represented by someone who had been investigating them. Thomas contested their right to do so. A separate judge ruled in favor of the board of supervisors, finding that Thomas had acted unethically. He stated that when Thomas decided to act ethically, he could resume representing the board of supervisors, but not before. (Court Case No. CR CV2008-033194, August 21, 2009.)

Thomas was losing case after case of these political cases. He had to undermine the appearance of objectivity of the trial judges, so he started accusing the judges. He filed a racketeering case against all five members of the board of supervisors, their lawyers, county officials, and four separate judges who ruled against him in four separate cases. He accused the judges of bribery and extortion, but had not one iota of evidence that any judge had taken a penny in a bribe, or had committed extortion.

When the time came to argue the motion to dismiss, the gunslinger dropped his guns and ran away. He dropped the case. As a cover, he made up a story that the federal government had agreed to pursue the investigation, and that is all that he ever wanted. The next day the head of the Integrity Division of the U.S. Department of Justice said that he was dismayed at what had been stated, in that the federal government had agreed to no such thing. Thomas had made it up. (*The Arizona Republic*, March 14, 2010.)

Once all of the charges against Stapley had been dismissed, Thomas came up with a new set of charges. He referred these to Sheila Polk, County Attorney in Yavapai County. He chose her because she was a life-long conservative Republican, law-in-order prosecutor. In a brave statement, she stated that she could no longer remain silent, because her silence would implicate her in what she saw as wrongdoing by Thomas. Her words were that she could not longer remain silent in the face of "totalitarian tactics in Maricopa County." (*The Arizona Republic*, December 22, 2009.)

The amount of money wasted on these campaigns against Thomas' critics, all of which failed, has been calculated by *The Arizona Republic* to be in excess of \$3 million, all taxpayers' dollars, at a time when there has been talk about the possibility of laying off police officers. (*The Arizona Republic*, June 3, 2010.)

The following is a summary showing that Thomas has lost or dropped all of his political cases:

	CASE	DISPOSITION
1.	Prosecution of Don Stapley	Dismissed

2.	Prosecution of Mary Rose Wilcox	Dismissed
3.	Prosecution of Judge Donohoe	Dropped
4.	Prosecution of Yuma State Legislator Russ Jones	Dismissed
5.	Racketeering case against County Supervisors, their lawyers, County officials, and four judges who ruled against Thomas in four different cases	Dropped on eve of arguing Motion to Dismiss
6.	Contesting County hiring its own lawyer because of Thomas' unethical conduct	Lost
7.	Court Tower case	Lost
8.	Challenging Hispanic court	Lost
9.	Contest of Balanced Budget Act of 2008	Lost
10.	Records request battle with County	Lost
11.	Prosecution of <i>New Times</i> newspaper	Dropped
12.	Prosecution of demonstrators	Lost

Judges are vulnerable, because they have left their law practices, have no clients, and their reputations are everything to them. Judges have said that when they rule against the county attorney's office, they worry about being personally investigated. If an out-of-control prosecutor can intimidate judges, then no one has any constitutional rights. The Constitution sets up an independent judiciary so that there will be somebody who can protect people's constitutional rights from incursions by government officials.

Among legislation that has been sought by Thomas, is a bill that would provide that business records could be subpoenaed by county attorneys or the attorney general without the necessity of going to court. Business officials also could be subpoenaed to testify personally, without the necessity of going to court. One can imagine the amount of intimidation of critics that would be possible under those circumstances. As *The Arizona Republic* stated in an editorial: "But nothing...compares with the **abuse of power** Thomas is now perpetrating against the Board of Supervisors." (*The Arizona Republic*, December 9, 2009.)

If an out-of-control prosecutor becomes attorney general, businesses will not want to move to Arizona, and Arizona will have no economic future.

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Paid for by Tom Horne for Attorney General