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### **Brown In and For First Judicial Dist., Jefferson County v. District Court In and For First Judicial Dist., Jefferson County**

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NO. 15 III

FILED IN THE  
SUPREME COURT  
OF THE STATE OF COLORADO

NOV 14 1978

*David W. Brugia*

IN THE  
SUPREME COURT  
OF THE  
STATE OF COLORADO

NOLAN L. BROWN, DISTRICT  
ATTORNEY IN AND FOR THE  
FIRST JUDICIAL DISTRICT,  
COUNTY OF JEFFERSON  
STATE OF COLORADO,

Petitioner,

vs.

THE DISTRICT COURT IN AND FOR  
THE FIRST JUDICIAL DISTRICT,  
COUNTY OF JEFFERSON, STATE  
OF COLORADO, AND THE HONORABLE  
MICHAEL VILLANO, ONE OF THE  
JUDGES THEREOF.

Respondents.

\* \* \* \* \*

C O M P L A I N T

(For Relief in  
Nature of  
Mandamus)

The Petitioner, NOLAN L. BROWN, moves this  
Honorable Court for an order requiring the Respondents  
to show cause why this Court should not issue an order  
commanding the respondent Judge to take jurisdiction over  
the person of the Defendant in Criminal Action No. 78CR  
0375, the People of the State of Colorado v. Roberto  
Brugno, Defendant.

AS GROUNDS for requesting that an order to  
show cause issue the Petitioner states the following:

- [1]. That the Petitioner is the District  
Attorney in and for the First Judicial  
District, Jefferson County, State of  
Colorado.

- [2]. That the Defendant, Roberto Brugno, was charged in Criminal Actions 78CR0375, 78CR0376, 78CR0377, 78CR0378, 78CR0379, 78CR0380, and 78CR0381, by information with the offenses of Felony Theft, C.R.S. 1973,18-4-401, as amended, Felony Theft Receiving, C.R.S. 18-4-410, as amended, and Conspiracy C.R.S. 1973, 18-2-201, as amended.
- [3]. That on July 17, 1978, the Defendant plead not guilty to all counts in all cases.
- [4]. That on the 14th day of August, A.D. 1978 upon Motion by the Defendant, the Hon. Michael Villano, Judge of Division Eight of the District Court of Jefferson County, consolidated all cases into Case No. 78CR0375. This consolidation was granted over the objection of the People.
- [5]. That on the 3rd day of November, A.D. 1978, other defense motions were heard. At this hearing the Court declared that the statutory presumption within C.R.S. 1973, 18-4-411, as amended, the value of the thing involved is One Thousand Dollars (\$1,000.00) or more, that commission of Theft Receiving constitutes prima facia evidence that the person is engaged in the business of buying, selling, or otherwise disposing of stolen goods for a profit, was unconstitutional. He also declared that he would refuse to allow the People to instruct the jury at the Defendant's trial on this presumption.
- [6]. That from the Court's ruling of August 14, 1978 and November 3, 1978, the People seek relief from this superior court by way of a Writ of Mandamus ordering the District Court of Jefferson County,

Division Eight, to separate the one case into the original cases previously filed and also ordering the statutory presumption found in 18-4-411, C.R.S. 1973, as amended, to be constitutional and a proper instruction for the Defendant's jury trial.

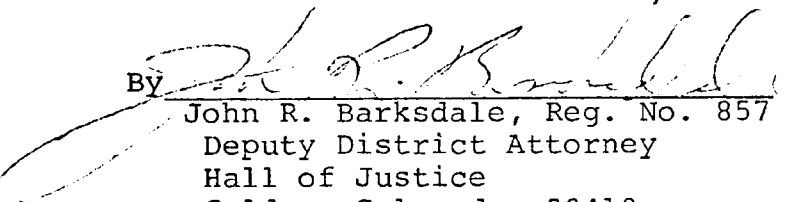
WHEREFORE, Petitioner prays as follows:

[1]. That this Court forthwith issue a Citation to the Respondents to show cause why the relief herein prayed for should not be granted.

[2]. That this Court declare that Division Eight of the District Court in and for the First Judicial District, County of Jefferson, State of Colorado, and the Honorable Michael Villano, acted unlawfully and improperly in consolidating the Defendants cases into one case and also acted unlawfully and improperly when he declared the statutory presumption within 18-4-411, 1973 C.R.S. as amended, to be unconstitutional.

NOLAN L. BROWN  
District Attorney  
First Judicial District

By

  
John R. Barksdale, Reg. No. 857  
Deputy District Attorney  
Hall of Justice  
Golden, Colorado, 80419  
279-6511, Ex. 242

CERTIFICATE OF MAILING

I hereby certify that I have this 9th day of November, A.D. 1978, placed in the United States mails, postage prepaid, a true and exact copy of the within Complaint for Relief in Nature of Mandamus properly addressed to:

Peter Schild, Esq.  
Deputy Public Defender  
607 Tenth Street  
Golden, Colorado, 80401

*Mary Sue Caspell*