



**IN THE CIRCUIT COURT OF SEARCY COUNTY, ARKANSAS
SECOND DIVISION**

STATE OF ARKANSAS

VS.

CASE NO. CV 2011-53

KENNY WEBSTER CASSELL

DEFENDANT

**ORDER REMOVING KENNY WEBSTER CASSELL FROM THE OFFICE OF
SHERIFF OF SEARCY COUNTY ARKANSAS**

On this day the above styled cause comes before the court on remand from the Arkansas Supreme Court with an order to make findings consistent with the Supreme Court's decision resulting from the appeal filed by the State of Arkansas. Upon review of the Supreme Court's decision and Plaintiff's Motion for Summary Judgment filed herein, this court finds and orders as follows:

1. Plaintiff and Defendant acknowledge that there are no facts in dispute.
2. The applicable law in the matter rests in Article 5, section 9 of the Arkansas Constitution which states, "No person hereafter convicted of embezzlement of public money, bribery, forgery or other infamous crime, shall be eligible to the General Assembly or capable of holding any office of trust or profit in this State."
3. The Defendant acknowledges that he was convicted of a theft offense by violating 18 U.S.C. § 659 in 1979.
4. This Court has determined that a violation of 18 U.S.C. § 659 is a crime involving dishonesty that qualifies as an "infamous crime" under Article 5 Section 9 of the Arkansas Constitution.
5. As a result of the Defendant's aforementioned conviction involving a crime of dishonesty, the court has determined the Defendant committed an infamous crime under Article 5 Section 9 of the Arkansas Constitution.

6. Pursuant to Article 5, section 9 of the Arkansas Constitution, no person convicted of an infamous crime shall be capable of holding any public office in the state. Under the plain language of the Constitution it is the fact of conviction that disqualifies a person from holding public office. *Ridgeway v. Catlett*, 238 Ark. 303, 325, 379 S.W.2d 277, 279 (1964).

7. It is well established that the office of Sheriff of Searcy County is a public office covered by Article 5, section 9 of the Arkansas Constitution and that Defendant's commission of an "infamous crime" renders him ineligible to hold office as the Searcy County Sheriff and that he should be removed immediately from said office upon the filing of this Order of Removal with the Searcy County Circuit Clerk's office.

8. The filing of this Order of Removal with the Searcy County Circuit Clerk's Office shall have the legal effect of creating a vacancy in the Office of Searcy County Sheriff to be filled in accordance with the procedures set forth in Arkansas law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant's violation of 18 U.S.C. § 619 constitutes an "infamous crime" thereby rendering him ineligible to hold public office as the Searcy County Sheriff pursuant to Article 5, section 9 of the Arkansas Constitution and that he should be removed immediately from said office upon the filing of this Order with the Searcy County Circuit Clerk's office and said removal shall have the legal effect of creating a vacancy in the Office of Searcy County Sheriff to be filled in accordance with the procedures set forth in Arkansas law.

David A Clinger
 HON. DAVID CLINGER

May 30, 2013
 DATE