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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff,

vs.

Joseph M. Arpaio,
Defendant.

2:16-CR-01012-1-SRB

ORDER TO SHOW CAUSE

This Order is entered pursuant to 18 U.S.C. § 401 and Rule 42 of the Federal Rules of Criminal Procedure. On October 11, 2016, the Government stated its intention to prosecute Joseph M. Arpaio for contempt under 18 U.S.C. § 401(3) based on the Order Re Criminal Contempt entered by United States District Judge G. Murray Snow on August 19, 2016, in the *Melendres* matter. See *Melendres v. Arpaio*, no. 2:07-cv-02513 (D. Ariz. Aug. 19, 2016), Order Re Criminal Contempt, ECF No. 1792. For the reasons set forth below, the Court issues this Order to Show Cause as to whether Joseph M. Arpaio should be held in criminal contempt for willful disobedience of Judge Snow's preliminary injunction of December 23, 2011, entered in *Melendres*. See *Melendres*, Order, ECF No. 494.

The essential facts constituting the charged criminal contempt are as follows:

In December 2011, prior to trial in the *Melendres* case, Judge Snow entered a

1 preliminary injunction prohibiting Sheriff Arpaio and the Maricopa County Sheriff's
2 Office ("MCSO") from enforcing federal civil immigration law or from detaining persons
3 they believed to be in the country without authorization but against whom they had no
4 state charges. *See Melendres*, Order, ECF No. 494. The preliminary injunction also
5 ordered that the mere fact that someone was in the country without authorization did not
6 provide, without more facts, reasonable suspicion or probable cause to believe that such a
7 person had violated state law. *See id.* Judge Snow noted that Sheriff Arpaio admitted he
8 knew about the preliminary injunction upon its issuance and thereafter. (Doc. 1677 ¶ 15.)
9 Sheriff Arpaio's attorney stated to the press that the Sheriff disagreed with the Order and
10 would appeal it, but would also comply with it in the meantime. (*Id.* ¶ 14.) Sheriff
11 Arpaio's attorney and members of his command staff repeatedly advised him on what
12 was necessary to comply with the Order.
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16 Almost immediately after the court entered its original October 2, 2013 injunctive
17 order, (Doc. 606), Judge Snow had to amend and supplement the order and enter further
18 orders because: (1) the Sheriff refused to comply in good faith with the order's
19 requirement that he engage in community outreach, (Doc. 670; *see also* Doc. 1677
20 ¶¶ 368, 368 n.13), and (2) the Sheriff and his command staff were mischaracterizing the
21 content of the order to MCSO deputies and to the general public, (Doc. 680; *see also*
22 Doc. 1677 ¶ 367). Within one month of those revisions, the Defendants disclosed to the
23 court the arrest, suicide, and subsequent discovery of misconduct of Deputy Ramon
24 "Charley" Armendariz who had been a significant witness at the trial of the underlying
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1 matter. Among other things, the disclosure of Armendariz’s misconduct eventually
2 resulted in the determination that the Sheriff had intentionally done nothing to implement
3 the court’s 2011 preliminary injunctive order; and the Sheriff was not investigating the
4 allegations of misconduct in good faith—especially those that pertained to him or to
5 members of his command staff.
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7 The MCSO continued to stop and detain persons based on factors including their
8 race, (*id.* at ¶ 161), and frequently arrested and delivered such persons to ICE when there
9 were no state charges to bring against them, (*id.* ¶¶ 157–61). Judge Snow concluded that
10 Sheriff Arpaio did so based on the notoriety he received for, and the campaign donations
11 he received because of, his immigration enforcement activity. (*Id.* ¶¶ 58–60.) Since
12 Sheriff Arpaio had previously taken some of his arrestees to the Border Patrol when ICE
13 refused to take them, he determined that referral to the Border Patrol would serve as his
14 “back-up” plan for all similar circumstances going forward. (*Id.* ¶¶ 40–41.) Sheriff
15 Arpaio’s failure to comply with the preliminary injunction continued even after the
16 Sheriff’s appeal to the Ninth Circuit Court of Appeals was denied. (*Id.* ¶¶ 42–44.) When
17 Plaintiffs accused Sheriff Arpaio of violating the Order, he falsely told his lawyers that he
18 had been directed by federal agencies to turn over persons whom he had stopped but for
19 whom he had no state charges. (*Id.* ¶¶ 50–52.) Nevertheless, Sheriff Arpaio’s lawyer still
20 advised him that he was likely operating in violation of the preliminary injunction. (*Id.*
21 ¶ 53.) Although Sheriff Arpaio told counsel on multiple occasions either that the MCSO
22 was operating in compliance with the Order, or that he would revise his practices so that
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