

# Weber attorneys want judge disqualified after he said they lied in gang injunction case

By MARK SHENEFELT Standard-Examiner



Weber County Attorney Chris Allred, left, and Deputy Attorney Jeffrey Thomson discuss the benefits of bringing back the gang injunction Wednesday, October 7, 2015 at the Standard-Examiner in Ogden, Utah.

Link: [https://www.standard.net/police-fire/weber-attorneys-want-judge-disqualified-after-he-said-they-lied/article\\_7466a0b1-d113-526f-977d-ab80b3a899be.html](https://www.standard.net/police-fire/weber-attorneys-want-judge-disqualified-after-he-said-they-lied/article_7466a0b1-d113-526f-977d-ab80b3a899be.html)

The current and former elected Weber County attorneys want the disqualification of a federal judge who accused them of submitting false testimony under oath in a civil suit over the county's controversial anti-gang injunction.

Chris Allred and his predecessor, Dee Smith, have filed declarations in U.S. District Court supporting the county's motion to disqualify Judge Clark Waddoups from further involvement in a civil lawsuit by two Ogden men who challenged the gang injunction's constitutionality.

“I am extremely concerned that there is an actual or perceived personal bias that Judge Waddoups has against me, Dee Smith, and the Weber County Attorney’s Office” based on the judge’s recent rulings against the county in the civil suit, Allred said in his affidavit.

U.S. District Judge Clark Waddoups of Salt Lake City, pictured here in 2007, is accused by a trial attorney of being biased against a woman who sued Weber County for sex discrimination.

[Associated Press](#)

Waddoups recently ruled in favor of plaintiffs Leland McCubbin Jr. and Daniel Lucero, sustaining their argument that the county violated their constitutional due process rights when they were charged under the injunction.

The judge wrote that he could not rely on the attorneys’ previous sworn statements that the county did not keep a gang member database. He did his own research and relayed in his ruling that Weber County Jail employees kept gang lists.

If it is true that the jail documented gang members, “it is hard to understand how Mr. Allred could have submitted a declaration in 2018, under penalty of perjury, representing to this court that ‘there is not any official or unofficial list, database, or handwritten notes related to gang membership that Weber County owns, possesses, or controls,’” Waddoups said.

Frank Mylar, a private attorney representing the county in the civil suit, said in motion seeking Waddoups’ disqualification that the judge misconstrued the gang notes kept by the jail.

Mylar said former Weber County Sheriff Terry Thompson’s declaration in the case explained “that the jail documents in inmate records which inmates belong to which gangs” for cellblock security purposes — not for identifying Ogden Trece gang members to be served the injunction. “The judge then proceeds to state several times that Allred and Smith testified under ‘oath’ and infers several times that they lied under oath, even though the evidence found by the judge does not even prove what the judge asserts,” Mylar wrote. “The judge is seemingly trying to embarrass or defame these county attorneys.”

Mylar also pointed out that the attorney for McCubbin and Lucero, John Mejia of the American Civil Liberties Union of Utah, once was a law clerk for Waddoups, “and this information was never disclosed.”

Mylar added, “... it could be perceived that the judge was trying to defame the elected Weber County attorney, knowing that his words would be published in the media. Several media outlets have clearly understood that Judge Waddoups is calling the county attorney a liar.”

In his affidavit, Smith said he was “so shocked” when he read what Waddoups said “about me lying.”

He said he called jail officials to verify why they keep notes on gang members. It’s no more than a tool “to keep rival gang members from being housed together,” Smith said.

Waddoups “jumped to unwarranted conclusions about gang issues and the jail and about my veracity as an attorney,” Smith said. “I firmly believe that Judge Waddoups is personally attacking me ... and that he is attempting to negatively impact my role as a public prosecutor.” Smith added, “I have never had a judge assume, threaten, or question that I submitted a false statement or evidence before a court. I ... believe that Judge Waddoups has attacked my character and libeled me publicly ... I have no faith that I will ever achieve justice from this judge.”

Waddoups signed an order Oct. 23 requesting that Judge Robert Shelby hear the disqualification motion.

The Weber County Attorney's Office, working with the Ogden Police Department, filed the public-nuisance injunction against the Trece gang in 2nd District Court in 2010 after the authorities cited escalating gang-related crime in the city.

Smith was county attorney at the time and Allred was a deputy attorney who worked on the gang injunction. Smith left office in 2015 and Allred was elected to replace him. Smith now works as a deputy attorney in Allred's office.

Ogden police had a gang member database, adding names to it based on criteria including style of dress, hand signs, tattoos and association with known gang members.

Those served with the injunction were subjected to a curfew, banned from associating with other gang members, even family members in gangs, and other restrictions.

*You can reach reporter Mark Shenefelt at [mshenefelt@standard.net](mailto:mshenefelt@standard.net) or 801 625-4224. Follow him on Twitter at [@mshenefelt](https://twitter.com/mshenefelt).*

### Federal judge scolds Weber County in declaring gang injunction unconstitutional

SALT LAKE CITY — A federal judge has ruled Weber County violated the constitutional due process rights of two Ogden men charged under a gang i...

- [Box Elder jail ruling gives boost to suit against Weber County's gang injunction](#)
- [Prosecutor transparency bill planned for 2020 Utah Legislature](#)