

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

MAIL THIS FORM TO THE CLERK, UNITED STATES COURT OF APPEALS, 55 FORSYTH STREET, N.W., ATLANTA, GEORGIA, 30303-2289. MARK THE ENVELOPE "JUDICIAL MISCONDUCT COMPLAINT" OR "JUDICIAL DISABILITY COMPLAINT." DO NOT PUT THE NAME OF THE JUDGE OR MAGISTRATE ON THE ENVELOPE.

SEE RULE 2(e) FOR THE NUMBER OF COPIES REQUIRED

1. Complainant's name: Lester Swartz
Address: P.O. Box 273225
Boca Raton, Florida 33427
Daytime telephone: (407) 392-1761

2. Judge or magistrate complained about:
Name: Judge James C. Paine
Court: The United States District Court for the Southern District of Florida.

3. Does this complaint concern the behavior of the judge or magistrate in a particular lawsuit or lawsuits?

XXXX Yes () No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court: The U.S. District Court for the Southern District of Florida

Docket number: 90-6324-CIV-PAINE

Are (were) you a party or lawyer in the lawsuit?

(XXX) Party Pro-se () Lawyer () Neither

If a party give the name, address, and telephone number of your lawyer:

Name: I acted pro-se

Address:

Telephone number: ()

Docket number of any appeals to the 11th Circuit:

91-5119 and as of June 6, 1995 another appeal has been noticed.

CERTIFIED MAIL # Z-724-813-871

Rev.: 4-81

() Yes

~~XXX~~ No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court:

Docket number:

Present status of suit:

Name, address, and telephone number of your lawyer:

Court to which any appeal has been taken:

Docket number of the appeal:

Present status of appeal:

5. On separate sheets of paper, not larger than the paper this form is printed on, describe the conduct or the evidence of disability that is the subject of this complaint. See rule 2 (b) and 2 (d). Do not use more than 5 pages (5 sides). Most complaints do not require that much.
6. You should either
- (1) check the first box below and sign this form in the presence of a notary public; or
 - (2) check the second box and sign the form. You do not need a notary public if you check the second box.
- () I swear (affirm) that--
- ~~XXX~~ I declare under penalty of perjury that--
- (1) I have read rules 1 and 2 of the Rules of the 11th Circuit Governing Complaints of Judicial Misconduct or Disability, and
 - (2) The statements made in this complaint are true and correct to the best of my knowledge.

L. Stewart

 (Signature)

Executed on June 8, 1995

 (Date)

Sworn and subscribed
 to before me _____
 (Date)

 (Notary Public)
 My commission expires:

THE UNITED STATES COURT OF APPEALS
IN AND FOR THE ELEVENTH CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT

COMPLAINANT

Lester Swartz
P.O. Box 273225
Boca Raton, Fl. 33427
(407) 392-1761

JUDGE COMPLAINED OF:

Judge James C. Paine
In The United States District
Court
In And For The Southern
District Of Florida

FACTS AND ALLEGATIONS

This complaint is brought pursuant to 28 U.S.C.S., Section 372(c) in which complainant, based upon information and belief, alleges the trial judge, James C. Paine, during the latest course of proceedings and events filed in case number 90-6324-CIV-PAINE in the United States District Court For the Southern District of Florida has still engaged in, and poses a threat to continue to engage in, conduct unbecoming a member of the judiciary; conduct prejudicial to the effective and expeditious administration of the courts; and, conduct that does not meet the standards expected of judicial officers, and, as grounds would show this Court:

1. That on or about May 9, 1995 complainant filed several motions in Case #90-6324-CIV-PAINE, the very first motion on the agenda being for Judge Paine to disqualify himself and proceed no further in this subject case, which he unethically, and unduly failed so to do, a true and complete copy of the subject motions that were filed are hereto attached as Exhibit 1 and is incorporated by reference herein.

2. Title 28 U.S.C. Section 144 profoundly states that "[w]henver a party to a proceeding in a district court makes and files a timely and sufficient affidavit..such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. (emphasis supplied). Notwithstanding the mandates of the said Section 144, Judge Paine with total and reckless disregard of the law; with a clear evil spirit and perversity of will; with criminal intent; and, with total reckless abandonment of any or all moral virtues, his Code of Judicial Conduct, and, Oath of Office, he defiantly still proceeded further in this matter, to obviously deny complainant, inter alia, a meaningful access to our Courts and for the obvious and purposeful further delay of the due administration of justice. The affidavit in hereto attached Exhibit 1, reasonably, was timely for these proceedings; reasonably, minds could surely agree the affidavit was sufficient; reasonably, that no necessity other than evil and criminal motives compelled Judge Paine to illicitly and unethically act; and notably, Section 144 made Judge Paine's duty perfectly clear and mandatory. Reasonably, Judge Paine wilfully and wantonly breached CANON 2A, a judge should respect and comply with the law.. and CANON 3A (1), a judge should be faithful to the law.

3. Additionally, it is just incomprehensible how any thinking

person knowing these facts and complainant's fears expressed in the hereto attached Exhibit 1; knowing that the undersigned had filed two Judicial Misconduct Complaints and the contents against Judge Paine; and, knowing complainant served Judge Paine a demand notice pursuant to Florida Theft Statutes, reasonably, could ever believe Judge Paine could be impartial and/or not biased and/or prejudiced against this complainant. Thus, Judge Paine has clearly breached CANON 3(C)(1), a judge shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where he has a personal bias or prejudice concerning a party. Irrefutably, if Judge Paine's said bias and prejudice for some inexplicable reason did not come from extrajudicial sources which complainant is convinced it reasonably has, it reasonably and fairly can be said such bias and prejudice would fall well within the meaning of pervasive bias based upon his blatant otherwise judicial conduct.

4. Since Judge Paine is a member of the Florida Bar and based upon the nature of the proceedings and the nature of the defendants, Judge Paine's impartiality in these most serious matters could more than reasonably be questioned. Any reasonable mind knowing Judge Paine was a member of the Florida Bar; knowing this subject case contained allegations that Florida Bar Officials ("Bar Officials") had schemed to put on a sham disciplinary trial before a Florida Supreme Court appointed referee to save the respondent harmless from disciplinary action; knowing the complaint alleged that Bar officials and all of the other defendants, all of whom were lawyers ("Bar officials et al.") had been sued by this complainant for alleged violations of the racketeering, mail fraud, wire fraud, theft, and fraudulent practices, reasonably, without doubt, would also have to question Judge Paine's impartiality. Consequently Judge Paine has violated CANON 1, a judge should uphold the integrity of the judiciary; CANON 2, a judge should avoid impropriety and the appearance of impropriety; CANON 2A, a judge should act at all times in a manner that promotes public confidence in the judiciary; and, CANON 2B, a judge should not allow other relationships to influence his judicial conduct or judgment. Further, based upon the Code of Judicial Conduct the test as to whether a judge should disqualify is twofold: (1) whether the judge feels capable of disregarding the relationship; and more importantly, whether others can be expected to believe the relationship has been disregarded. Reasonably, no thinking person knowing the facts and circumstances that surround this odious case and Judge Paine's outrageous conduct, could possibly believe he had disregarded the relationship between himself and the Bar officials because it is obvious that Judge Paine, as well as the judiciary, had a substantial interest in the success of the Bar defendants. Thus, it can reasonably be inferred, that Judge Paine corruptly used the power of his office to aid and abet the Bar officials by helping the same save face and escape liability.

5. Moreover, any reasonable mind knowing it is axiomatic that assertions in a complaint are to be taken as true and construed in a light most favorable to the plaintiff (complainant) and knowing the representations made in a lawyers Code of Professional Responsibility, a lawyers Oath of Admission to the Bar, the Code of Judicial Conduct and a judge's Oath of Office, reasonably, should find it unfathomable to believe a real and prudent judge would not duly act on such grave

claims of lawyer misconduct, breaches of trust (especially by Bar Officials), and, the subsequent claims of serious such interference with the administration of justice. Accordingly, it could reasonably be inferred that by Judge Paine's wilful and wanton failure to duly act in such pivotal matters, he either lacks integrity; and/or is biased or prejudiced; and/or has guilty knowledge of the facts and issues; and/or is just mentally or otherwise incompetent. In support of Judge Paine's obvious said and justly questioned incompetence, complainant has attached hereto as Exhibit 2, an article that appeared in the News Sun Sentinel on or about July 22, 1992 which refers to one of Judge Paine's "decisions" in Kingston Square Tenants v. Tuskegee Gardens, 792 F. Supp. 1566 (S.D.Fla. 1992). For the Court's convenience, complainant has listed the other headings and sub headings below the article in the subject case. Reasonably, no thinking person could possibly believe Judge Paine should have been permitted to rule on any more cases from the May 26, 1992 date of the opinion. Incredulously, Judge Paine still remains on the bench despite this decision and has wrongfully been unleashed against this complainant and probably others under the guise of the former's outwardly laudable goal of making sound, just and impartial decisions. This is an absolute outrage!

6. Further, as crystal clearly shown in paragraphs 13 through 17 of the hereto attached Exhibit 1 and has reasonably been known to Judge Paine, strong evidence would support findings of probable cause that perjuries, other misconduct, and manifest ongoing and seemingly never-ending frauds were being perpetrated on the District and Circuit Courts by all of these officers of the court. Additionally, as set forth in paragraphs 18 through 21 in the hereto attached Exhibit 1 further crystal clear frauds had been perpetrated upon the Court which were discovered after the Circuit's mandate had already gone down. Such conduct, when substantiated, clearly constituted major misconduct in violation of a Lawyer's, Code of Professional Responsibility, Creed of Professionalism and Oath of Admission to the Bar. Further as set forth in paragraphs 33 through 52 in the hereto attached Exhibit 1 further alleged frauds being perpetrated upon the other Federal Courts seemed to have been fruitful by certain appellate and district judges of the Eleventh Circuit. Beyond any doubt, Judge Paine again had the inherent power and indeed it was his duty to safeguard and uphold the integrity of the Federal Courts and their proceedings and to initiate disciplinary action against such subject judges and lawyers for the alleged unprofessional conduct of which Judge Paine was made aware pursuant to CANON 3(B)(3) of his Code of Conduct and in compliance with his mandatory obligation to invoke Rule 5.B of the Disciplinary Enforcement Rules for the Southern District of Florida. Such blatant substantial serious omissions and irregularities on the part of Judge Paine, were, are, and pose a threat to continue to be, detrimental to the integrity of the Courts, their decisions, and the public interest.

7. That in light of all the aforesaid; given the sensitive nature of the subject proceedings; and, the nature of the parties and their counsels involved in the same, it can reasonably and substantially be inferred that due to Judge Paine's close overriding friendships and relationships with his Bar "family members", Justices of the Florida Supreme Court, and Judges of this Circuit, all of whom appear to be kindred spirits, he was influentially bribed and/or obliged to use the

power and influence of his office to impede the due administration of justice by, wilfully and wantonly overlooking the substantial evidence of frauds being perpetrated upon the Federal and State Courts. By Judge Paine's overt wilful and wanton failure to duly act, he further poses a threat to continue to wrongfully give further appearances of impropriety to his office by aiding and abetting the Bar officials et al. and certain Judges of this Circuit to further conceal each others indisputably dishonest, illegal, immoral and outrageous acts.

8. Complainant is clearly convinced that Judge Paine's acts and omissions and bent of mind complained of and contained herein, were fashioned with malice; with wilful and wanton abuse of his office and power; with reckless disregard for the rights of the undersigned; with the ongoing expressed and retaliatory intent to injure, oppress and intimidate complainant in the free exercise of his rights, privileges and immunities; and, to deprive me of the dictates of procedural due process, fairness, and to equal protection of the law secured by the Constitution of the United States which Judge Paine has sworn or affirmed to protect. Again, such acts being detrimental to: this complainant; the Court; its proceedings; the American people, and to the due administration of justice.

9. In so doing, based upon information and belief, complainant hereby alleges that in a scheme and artifice to defraud the same of his intangible right to Judge Paine's honest services, the latter has unlawfully conspired with the Florida Bar officials et al. and certain Appellate and District judges of this Circuit, to:

A) injure, oppress, intimidate and illegally restrain this petitioner in the free exercise of enjoyment of his rights and privileges secured to him by the Constitution and the laws of the United States in violation of Title 18 U.S.C., Section 241,

B) deprive this complainant of his rights, privileges, and immunities secured and protected by the Constitution and the laws of the United States, under color of law, in violation of Title 18 U.S.C., Section 242,

C) commit offenses against the United States and to defraud the United States in violation of Title 18 U.S.C., Section 371,

D) commit, aid and abet in the commission of offenses against The United States in violation of Title 18 U.C.S., Section 2,

E) become an accessory after the fact in violation of Title 18 U.S.C., Section 3, and

F) misprision felonies in violation of Title 18 U.S.C. Section 4.

10. Further, this complainant as aforestated also believes that Judge Paine has wilfully and wantonly:

A) conducted and participated in, directly and indirectly, the affairs of The United States District Court, which activities affect interstate commerce, through a pattern of racketeering activity by commission of two or more acts; that he poses a threat to continue said racketeering activity; and, has conspired to violate the provisions of Title 18 U.S.C., Sections 1962 (c) and (d),

B) caused the use of the United States Mails in violation of Title 18 U.S.C., Section 1341,

C) caused the use of the wires in violation of Title 18 U.S.C., Section 1343,

D) influenced, obstructed, and impeded the due administration of justice in violation of Title 18 U.S.C., Section 1503.

11. Based on the foregoing, information and belief, complainant is crystal clearly convinced that Judge Paine has wilfully and wantonly breached his fiduciary duties and abnegated his judicial functions, and by so doing he has perpetrated frauds upon the Federal Courts and thus disgraced the same; he has caused false entries to have been made upon the dockets of our Federal Courts; he has knowingly and miserably failed to adhere to the requisite and promised standards of fidelity and diligence of his office; and by so doing, Judge Paine has defiled his Oath of Office.

WHEREFORE, for the reasons stated above, complainant Lester Swartz, respectfully requests that in the national interests and in the interests of substantial justice, the Chief Judge or acting Chief Judge, in obedience to a Judge's sworn Oath of Office to defend our Courts, the American people, and our Constitution, without any delay, take appropriate action since IT APPEARS TIME WOULD BE OF THE ESSENCE in order to secure this complainant in his inalienable rights to the equal protection of the laws and shield him from any further coercion and believed threats from Judge Paine's tyrannical conduct as clearly confirmed by his subject order, a copy hereto attached as Exhibit 3. Complainant also prays that the Chief Judge or acting Chief Judge will immediately appoint a special committee to investigate these most serious claims of criminal and unethical conduct pursuant to Addendum III of the Rules of the Judicial Council of the Eleventh Circuit governing complaints of judicial misconduct and, pursuant to Chapter 4, Rule 10(b) of Addendum III of the said Rules, the committee immediately consult with the appropriate prosecuting authorities to the extent permitted by 28 U.S.C. 372(c)(14) in an effort to avoid compromising any criminal investigation or any further appearances of impropriety in this Circuit.



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