

**LESTER SWARTZ
P.O. BOX 273225
BOCA RATON, FL 33427
(407) 392-1761**

May 30, 1996

The Hon. William K. Suter, Clerk
The Supreme Court of the United States
The Supreme Court Building
1 First Street, N.E.
Washington, D.C. 20543

Dear Mr. Suter,

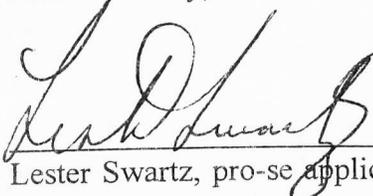
I just discovered that obviously due to my time constraints and dash to the post office on Tuesday May 28, 1996, I inadvertently mailed you my work copy instead of the final work product of my letter addressed to you. Also enclosed with the work copy letter were my new applications to Justice Kennedy. Under these conditions I thought that I should fax you the final draft. So, around 10 AM this morning I called your office to obtain the fax number. I spoke to Mr. Frank Larson who informed me that he could not receive any papers from me by fax.

Consequently, enclosed herein is the letter which should have been inserted in that package as aforesaid. I believe, and would further hope, that you will find this letter substantially more coherent and organized. Incidentally, I have also attached to the final draft letter a copy of Ms. Rapp's letter to me.

I am most sorry for any inconvenience that this may have caused you and/or your office, and I truly apologize for making such an error.

In the meantime, in the event you may have already once again decided to return my second set of applications to Justice Kennedy before receiving the enclosed final draft, if you should discover that there was an error in doing so, you may leave such a message and instructions on my voice mail and following up the same with either a letter and/or fax, at (407) 393-6376. I believe the letter or fax, if any, should set out your instructions to me in detail. If I receive no communication from you or your office by 10 AM on Monday, June 3, 1996, I must assume that you will have elected **not** to transmit my applications to Justice Kennedy.

Most sincerely,


Lester Swartz, pro-se applicant

LESTER SWARTZ
P.O. BOX 273225
BOCA RATON, FL 33427
(407) 392-1761

CERTIFIED MAIL #Z-123-332-684
RETURN RECEIPT REQUESTED

May 28, 1996

The Hon. William K. Suter, Clerk
The Supreme Court of the United States
The Supreme Court Building
1 First Street, N.E.
Washington, D.C. 20543

Dear Mr. Suter,

Ms. Cynthia Rapp of your office informed me over the phone on Friday May 24, 1996 that she was returning my applications to the Honorable Justice Kennedy for issuance of a certificate of necessity. Ms. Rapp's reasons for doing so were, that only a chief judge of the circuit or the circuit justice can ask the Chief Justice to temporarily assign a circuit judge. However, it should be clear by a fair reading of the application that I was already aware of that fact. As will be shown below, I was properly making an application to the Honorable Circuit Justice Kennedy for **him** present a certificate of necessity to the Chief Justice, and then, for the Chief Justice to act accordingly.

I believe that (1) Ms. Rapp's statement was knowingly misleading and an insult to my intelligence (2) that Ms. Rapp knew or should have known Justice Kennedy has the authority to grant the requested relief in that application (3) that Ms. Rapp's action or inaction here was knowingly improper, an abuse of her office and power, and (4) was knowingly an unlawful impediment to (a) effectuate the manifest ends of justice (b) to my right to due process, and (c) to my having an adequate, effective, and meaningful access to the Supreme Court of the United States. For the record, I believe Ms. Rapp's acts here are part of an unlawful scheme and artifice to endeavor to further conceal the underlying most egregious and serious criminal and unethical judicial conduct matters from the knowledge of the Honorables Justice Kennedy and the Chief Justice of the Supreme Court, in this seemingly never-ending, ever-widening, and far reaching conspiracy. As such, I believe Ms. Rapp's said acts lend to the appearance of impropriety, and further, for this reason and others, may have brought your office into serious disrepute in the instant matters.

It seems clear that Ms. Rapp's duties here were and are, ministerial, plainly defined, and peremptory, and that it was her duty to "transmit [my application] to the Justice concerned." My obviously sound reasons for such an adamant stance here are:

1. Pursuant to Supreme Court Rule 22.2, on May 21, 1996, as previously stated, I filed with your office an original application to the Honorable Justice Kennedy requesting him to duly issue

a certificate of necessity in the subject matter. Incidentally, I also enclosed the requisite two copies of the same application and the mandatory proof of service.

2. Pursuant to 28 U.S.C. § 291(a), as was and/or is shown in both applications, Justice Kennedy clearly has the authority to issue the certificate of necessity where it states:

"The Chief Justice of the United States may, *in the public interest*, designate and assign temporarily any circuit judge to act as a circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge *or the circuit justice of the circuit where the need arises*." (emphasis added)

3. Accordingly, pursuant to Supreme Court Rule 22.1, Ms. Rapp had the ministerial, plainly defined, and peremptory duty to promptly transmit the subject application for the issuance of a certificate of necessity to Justice Kennedy. In support of the latter, according to *Meeropol v. Nizer*, 429 U.S. 1337, which I also cited in my application, the Honorable Justice Kennedy not only *has the authority* to act here, but also, most respectfully and importantly, *has the duty* to grant such relief. In support of my position here I would direct your attention to the following:

a. In *Meeropol*, an application for the issuance of a certificate of necessity under 28 U.S.C. § 291(a) was made to Justice Marshall, as the Circuit Justice, by the sons of Julius and Ethel Rosenberg presumably by and through their attorney. Notwithstanding the fact that the application for the issuance of a necessity under 28 U.S.C. § 291(a) in *Meeropol* was denied by Justice Marshall, *unequivocally, it was not denied by a clerk in the Clerk's office of the Supreme Court*. I too, albeit prose, have made such an application for Circuit Justice Kennedy to present a certificate of necessity to the Chief Justice. As a matter of right and law, according to binding precedent set by *Meeropol*, I believe that I am duly entitled here to have the Circuit Justice dispose of this matter, and again, manifestly, *not a clerk in the Clerk's Office of the Supreme Court of the United States*.

b. As I also cited here and in my first application, according to *Meeropol*, the Honorable Justice Kennedy not only has the authority, but most respectfully has a ministerial duty to present that certificate of necessity to the Chief Justice. This was made clear in *Meeropol* where Justice Marshall concluded:

"[Section 291(a)] assignments have been made where an entire court has disqualified itself ... (case cites omitted). *In such cases the circuit judges themselves make the decision not to sit thereby ... causing the "need" under Section 291(a) for the issuance of a certificate of necessity. Such need is plain to anyone looking at the situation, and the duty to issue the certificate must be considered purely a ministerial act to deal with an administrative problem, whether performed by the chief judge of the circuit or the circuit justice. ...* " (emphasis added)

c. Further, as was admitted by the Chief Judge in the second paragraph of his order found on page 3 of Exhibit C and appended to both subject applications, and further, as evidenced by the recusals of the circuit judges in regular active service appended to the 13 page Exhibit B also appended to both subject applications, all of the subject judges of the court of appeals had disqualified themselves. This should pass the second leg of the aforesaid two prong test.

d. Finally, and hopefully conclusively, presumably having established herein that the Honorable Justice Kennedy has the authority to issue the certificate of necessity where, as here, the need arises, and further, that manifestly the subject circuit judges of the court of appeals recused themselves here, I would now direct your attention to the top of page 1340 in *Meeropol* where Justice Marshall corroborates all of the above. There the late Justice Marshall opined:

"Sitting as a Circuit Justice, I simply do not have the power to unseat all of the judges of a court of appeals in a particular case absent any showing that they have recused themselves.

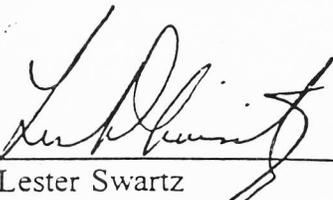
Here, the circuit judges have plainly recused themselves, a "need" has arisen, and the Honorable Circuit Justice Kennedy does in fact have under 28 U.S.C. § 291 and Supreme Court Rule 22 the authority, and further according to Meeropol, even has the duty, to issue the subject certificate of necessity.

THEREFORE, since time is of the essence here; for the reasons contained herein; as a matter of right and law; and, according to the binding precedent set by *Meeropol*; I believe that I am clearly entitled to, and thus, I am most respectfully hereby demanding, *that this application be immediately transmitted directly to the Honorable Justice Kennedy for his determination of these matters, unless of course, it becomes necessary for another designated Honorable Justice to sit in his place here.*

For the record, I have also enclosed here two copies of the new original application and also, another proof of service as required by Supreme Court Rule 22.2.

Furthermore, I also hereby most respectfully request, if proper, that you treat this letter as a formal complaint from the undersigned against Ms. Rapp, and further, that proper action be taken here. If I must file a formal complaint on one of your forms, and/or with another office(s) and/or person(s) and/or on their forms, please provide me with such information and/or forms.

Most sincerely,


Lester Swartz