

AFFIDAVIT

Witness to the  
June 26, 2003 Pre-Motion hearing of Shekhem'El-Bey v. State of New York, et. al.,  
03 Civ. 1050 (JES) by Affidavit of Barbara Morse

United States )  
                  ) ss.  
New York State )

I, Barbara Morse, duly sworn, deposes and says:

At the appearance, June 26, 2003 Mr. Shekhem'El-Bey requested that his appearance and proceeding be placed on the record. Where upon the Federal District Court Judge John E. Sprizzo stated to Mr. Shekhem'El-Bey, since nothing was recorded for the previous appearance, he will not record the present proceedings and directed the court reporter not to record the information Mr. Shekhem'El-Bey was about to present to the Court. I notice that the case before Mr. Shekhem'El-Bey, the Court reporter was recording each time a party to the action spoke. It is apparent that Judge Sprizzo did not want Mr. Shekhem'El-Bey's information on the record regarding Mr. Shekhem'El-Bey's Amended Declaratory Judgment complaint.

Mr. Shekhem'El-Bey introduced prepared information regarding the Default Judgment request for declaratory judgment relief due to Defendant State and City's failure to answer. Judge Sprizzo refuse to grant default judgment saying that "Court of Appeals frown on default judgments and will only deny the default, so to save time he was not granting it because it would only return to him. His ruling denying the default and his failure to record the proceeding completely favored the Defendants when in fact the Defendants were and remains in default according to federal rules of civil procedure.

The City Defendants had the opportunity to answer the declaratory judgment complaint and oppose a default judgment motion. Both, Judge Sprizzo's rulings favored the Defendants, despite the Defendants failure to enter the case. Judge Sprizzo then directed the Defendants to submit a motion to dismiss and it appeared that Judge Sprizzo was practicing law from the bench.

It became very clear to me that the manner in which Mr. Shekhem'El-Bey's case was being conducted by Judge Sprizzo in his Court room that the Defendants has not answered the declaratory judgment complaint at the time of the June 26, 2003 appearance, as it appears that the Defendants have no standing within the action to submit any form of motion, vis-à-vis, Motion to Dismiss, prior to entering into the action by answer according to Rule 7 (a) and 12 (a) of the Federal Rules of Civil Procedure.

I witness Mr. Shekhem'El-Bey being denied a recording of his pre-motion hearing for his default judgment.



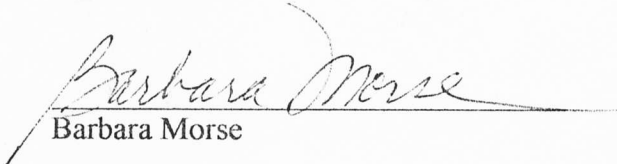
I witness Judge Sprizzo practicing law from the bench by advising the Defendants to submit Motion to dismiss when they did not enter the case within the prescribed time and are in statutory default.

I witness Mr. Shekhem'El-Bey's rights as a pro se litigant being ignored in the Courtroom by Judge Sprizzo, as he ignored Mr. Shekhem'El-Bey's Motion for Default Judgment and pandering to the interest of the Attorneys representing the State and City Defendants despite an opposing legal precedent that says "the court must zealously guard the rights of the pros se litigant" Hall v. Flynn, 829 F.Supp. 1401.

I witness Mr. Shekhem'El-Bey's First Amendment right to access to the Court and to Petition the Government for redress being denied by Judge John E. Sprizzo through an apparent sham proceeding on June 26, 2003 that was favoring the Attorneys representing the State and City Defendants.

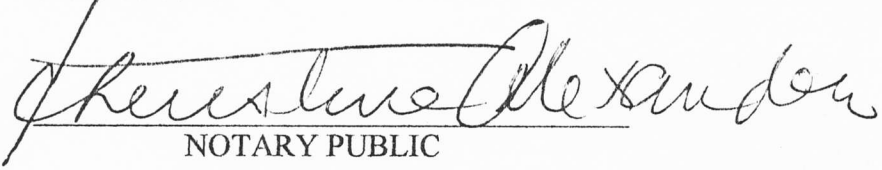
From my personal knowledge regarding Default Judgments, a Grant of a default judgment is automatic when a party fails to answer as facts allege are therefore deemed admitted (CJS Judgment Chapter 49) and it was very disingenuous and outrageous at best for Judge Sprizzo to second-guess the Court of Appeals rulings regarding Default Judgments as a premise upon which to deny Mr. Shekhem'El-Bey's valid Motion for Default Judgment, wherein a default was duly noted on the record by the Judgment Clerk, as mentioned by Mr. Shekhem'El-Bey at his pre-motion hearing, though the Court insured that no record of the proceedings were made.

These actions provides for the conclusion that the United States District Court Judge John E. Sprizzo has engaged in gross prejudicial and bias treatment of Mr. Shekhem'El-Bey's case before the Court that was witnessed by myself and four other individuals.

  
Barbara Morse

JUL 25 2003

On this 25 day of JULY, 2003 before me Personally came BARBARA MORSE known, and known to me to be the individual described in and who executed the foregoing, and who acknowledged to me that he/she executed same.

  
NOTARY PUBLIC

Christine Alexander  
Notary Public, State of New York  
Qual. in NY Co. No. 3114106  
Commission Expires 3/14/06

My Commission Expires on: \_\_\_\_\_