



CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Tel. (914) 421-1200  
Fax (914) 428-4994

E-Mail: [judgewatch@aol.com](mailto:judgetwatch@aol.com)  
Website: [www.judgetwatch.org](http://www.judgetwatch.org)

Elena Ruth Sassower, Coordinator

DATE: July 7, 2003  
TO: American Civil Liberties Union  
FROM: Elena Ruth Sassower, defendant  
*United States v. Elena Ruth Sassower*, M-4113-03  
"Disruption of Congress"  
RE: Documents Underlying the Prosecution

On May 23, 2003, I was arraigned on the criminal charge of "disruption of Congress". At that time, the court-assigned attorney representing me for the arraignment, Mitchell Baer, Esq. (202-347-1250), gave me a document entitled, "Information". Dated May 23<sup>rd</sup>, such essentially quoted *verbatim* 10 D.C. Code Section 503.16(b)(4) (2001 ed.), which it stated I had violated on May 22<sup>nd</sup>. Signing this "Information" was an Assistant United States Attorney, whose illegible signature was above the typed name of Officer Roderick Jennings, who had not signed the document.

Mr. Baer also gave me a May 23<sup>rd</sup> letter from the U.S. Attorney for the District of Columbia. Signed by Assistant U.S. Attorney Leah Belaire -- whose misfeasance I had chronicled five years earlier when she was "Investigative Counsel" to the Senate Judiciary Committee<sup>1</sup> -- the letter extended no "plea offer" and purported to provide "current and comprehensive" discovery. The annexed documents included the following:

- (1) A photocopied page identified as a "copy of def's handwritten statement from which she was reading during disruption (1 page)" -- whose culminating text reads "Mr. Chairman, there's citizen opposition to Judge Wesley based on his

<sup>1</sup> Ms. Belaire's misfeasance as "Investigative Counsel" is summarized at page 10 of my August 11, 1998 letter to ABA President Philip Anderson, a copy of which I sent her, certified mail, under an August 19, 1998 coverletter. Comparable misfeasance by successor counsel at the Senate Judiciary Committee, condoned, if not directed, by the Committee leadership and members, led to the chain of events culminating in my arrest.

documented corruption as a New York Court of Appeals judge. May I testify?";

- (2) Three documents identified as P.D. 163 ("Arrest/Prosecution Report"), P.D. 251 ("Event Report"), and P.D. 252 ("Supplement Report")<sup>2</sup>. Each dated May 22<sup>nd</sup>, these documents give an identical version of what I am purported to have said, *to wit*, "Judge Wesley, look into the corruption of the New York Appeals Court", followed by a characterization that I "wanted to testify". The "Arrest/Prosecution Report" identifies the "Arresting Officer's Name" (at #8) as Officer Jennings and further identifies him as the "Officer Making Statement" (at #68). Sergeant Bignotti is listed as an "Assisting Officer" (at #42), with her signature appearing as a "Reviewing Official" (at #70). The "Event Report" and "Supplement Report", which contain no inquiry as to the "Arresting Officer", list Officer Jennings as the "Reporting Officer" (at #39 and #17, respectively), with Sergeant Bignotti as the "Supervisor" (at #34, #44 and #22, respectively). Each of these Reports identifies Detective Zimmerman as the "Investigator" (at #33 and #18, respectively). Both the "Arrest/Prosecution Report" and "Event Report" black out the complainant's name. However, the "Supplement Report" identifies the complainant as "Chambliss, Saxby" – with a second "Supplement Report", blacking out the names of four "witnesses".
- (3) A document identified as P.D. 778 -- "Citation Release Determination Report". Dated May 22<sup>nd</sup>, it identifies Officer Jennings as the "Arresting Officer", with Sergeant Bignotti as the "Official Making the Release Decision" -- which in this case was to disapprove release;
- (4) Print-outs relating to my June 25, 1996 arrest for "Disorderly Conduct – Loud and Boisterous" -- an arrest which the May 23<sup>rd</sup> letter states (at p. 6) will be used as "*Drew/Toliver* evidence" in that "Def. is known to Capitol Police for being disruptive in the past; Def was arrested in 1996 for disorderly conduct on Capitol grounds."

On June 20<sup>th</sup>, the date set for a status conference, I appeared in court, assisted by an attorney I had retained for that limited purpose, Mark Goldstone, Esq. (301-530-6612). Shortly before the conference began, Mr. Goldstone requested to see the court file. As I recall, the court file did not contain a copy of the U.S. Attorney's May 23<sup>rd</sup> letter with its appended discovery documents. Instead, there was a single page document, dated May 23<sup>rd</sup>, which I had not previously received<sup>3</sup>. Bearing the caption,

<sup>2</sup> There is also a second "Supplement Report" dated May 22<sup>nd</sup>.

<sup>3</sup> Following the status conference, I requested and received a copy from the Court's clerk.

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**it was purportedly signed and sworn to by Officer Jennings, who purported to describe "events and acts" I had committed. In so doing, this May 23<sup>rd</sup> statement both replicates AND substantially deviates from the May 22<sup>nd</sup> documents Officer Jennings had signed under Sergeant Bignotti's supervision, namely, the "Arrest/Prosecution Report", "Event Report", and "Supplement Report". As hereinafter demonstrated -- including by comparison to the videotape and stenographic transcript of the Senate Judiciary Committee's May 22<sup>nd</sup> "hearing" -- this May 23<sup>rd</sup> statement -- as likewise the predecessor May 22<sup>nd</sup> documents -- are knowingly and deliberately false and misleading and establish that the charge against me is not just bogus, but malicious.**

**According to the typed text of the May 23<sup>rd</sup> statement,**

**"Officer Jennings observed the defendant, later identified as Elena Sassower, stand up and shout, among other things, 'Judge Wesley, look into the corruption of the New York Appeals Court.' The defendant further stated that she wanted to testify before the Committee. The disruption occurred during a Judiciary Committee hearing. After striking the gavel twice, the Judiciary Committee Chairman Senator Chambliss requested United States Capitol Police to restore order and asked everyone to remain seated. The defendant was then removed from the hearing room and placed under arrest. Defendant was read her rights."**

**To this is appended a hand-written addition,**

**"After the Senator called for order, the defendant continued to shout."**

**To begin with, it is NOT "Officer Jennings" whose name should be appearing in this statement, but Sergeant Bignotti. It was Sergeant Bignotti and Sergeant Bignotti alone who ordered me to step out of the "hearing room" and then immediately "placed [me] under arrest". This was done without the slightest consultation of Officer Jennings -- a**

fact I vigorously made known on May 22<sup>nd</sup> at Capitol Police station when it first came to my attention that Officer Jennings was being substituted for Sergeant Bignotti<sup>4</sup> as the arresting officer.

As for my being "later identified as Elena Sassower", Sergeant Bignotti would have had reason to know who I was AT THE TIME. As reflected by my May 21<sup>st</sup> letter to Detective Zimmerman -- which should have been, but was not, included in the U.S. Attorney's May 23<sup>rd</sup> letter as *Brady* material<sup>5</sup> -- Capitol Police not only knew who I was IN ADVANCE of the Senate Judiciary Committee's "hearing", but had initiated a phone call to me at Senator Clinton's instance. In that call, Detective Zimmerman, who is part of the "Threat Assessment Section", threatened that Capitol Police would arrest me at the Senate Judiciary Committee's May 22<sup>nd</sup> "hearing" if, at its conclusion, I rose to request to testify and the presiding chairman banged his gavel -- even if he did not request that I be arrested. This, notwithstanding the precedent of the June 25, 1996 Senate Judiciary Committee "hearing" where I was NOT arrested by Capitol Police for rising, at the conclusion of the hearing, with a request to testify. Rather, Capitol Police had then merely warned me that if I said another word I would be removed.

It is hard to imagine that the senior officer dispatched to the Senate Judiciary Committee "hearing" room -- in this case Sergeant Bignotti -- was not "briefed" as to the conversation between Detective Zimmerman and myself. In any event, upon seeing me, Sergeant Bignotti may be presumed to have independently recalled what had transpired at the June 25, 1996 "hearing". Not only was she there, but, following that "hearing", she had participated in my arrest in the hallway outside the Committee on a trumped-up "disorderly conduct" charge -- as to which I had filed a September 22, 1996 police misconduct complaint against her and her fellow officers<sup>6</sup>.

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<sup>4</sup> This came to my attention when I was asked to sign a "Prisoner's Property Receipt", which identified Officer Jennings as the person I had been "arrested by". I refused to do so, adamantly stating that the arresting officer had been Sergeant Bignotti -- and that until it was changed I would not sign it. Rather than make such change to comport with the reality, Capitol Police wrote on the signature line, "Refused", leaving intact my strike out of Officer Jennings' name and number.

<sup>5</sup> According to the May 23<sup>rd</sup> letter (p. 6), the U.S. Attorney's office was "currently aware" of no *Brady* material.

<sup>6</sup> Detective Bignotti's name and number appears on the June 25, 1996 "Prisoner's Property Receipt" annexed as Exhibit "E" to my September 22, 1996 police misconduct complaint. Upon information and belief, she is the female sergeant whose misconduct is chronicled at pages 6-7 of the complaint.

Detective Zimmerman was alerted to this police misconduct complaint in our May 21<sup>st</sup> phone conversation together -- and it is further referenced in my May 21<sup>st</sup> letter to him. Capitol Police's file of that complaint is *Brady* material -- all the more relevant because of the U.S. Attorney's announced intention to use the June 25, 1996 arrest as *Drew/Toliver* evidence.

That Sergeant Bignotti may have received a directive from Capitol Police to carry out Detective Zimmerman's threat and arrest me in disregard for the precedent established by the June 25, 1996 "hearing" or that she harbored personal *animus* against me for filing the September 22, 1996 police misconduct complaint would explain her one-track, completely irrational decision to arrest me when there was NOTHING about my conduct at the May 22<sup>nd</sup> "hearing" that objectively called for such draconian response -- and when, additionally, the background facts were so dispositive in my favor. In vain, I tried to discuss both with Sergeant Bignotti as she put me in handcuffs -- specifically including that I had not been arrested for similarly requesting to testify in 1996. That my arrest is being pegged on Officer Jennings reflects Sergeant Bignotti's knowledge and that of Capitol Police that there is something to hide.

As to what occurred at the May 22, 2003 "hearing" -- Sergeant Bignotti -- and likewise Officer Jennings -- had positioned themselves only yards from the backrow in which I was seated. As such, they can be expected to have heard precisely what I said. Such expectation is all the greater since, according to Officer Jennings' May 23<sup>rd</sup> statement, I "st[oo]d up and shouted".

Moreover, if Sergeant Bignotti and Officer Jennings could not recall my two "shouted" sentences, they could see I was reading from a page of notes -- a fact reflected by the U.S. Attorney's May 23<sup>rd</sup> letter, annexing a "copy of def's handwritten statement from which she was reading during disruption (1 page)". From this notepage, which they took from me upon my arrest, Sergeant Bignotti and Officer Jennings could recollect my exact words:

"Mr. Chairman, there's citizen opposition to Judge Wesley based on his documented corruption as a New York Court of Appeals judge. May I testify?"

Unlike rookie Officer Jennings, Sergeant Bignotti may be presumed to know that this respectful question -- asked at an appropriate point of the Senate Judiciary Committee's public "hearing" -- could not possibly support a "disruption of Congress" charge. Therefore, something wholly different had to be concocted. Indeed, it was concocted not just for Officer Jennings' May 23<sup>rd</sup> mostly-typed statement, but for the handwritten entries on the documents he prepared within two hours of my arrest on May 22<sup>nd</sup>: the "Arrest/Prosecution Report", the "Event Report", and the "Supplemental Report".

Thus, Officer Jennings' May 23<sup>rd</sup> statement, as likewise his three May 22<sup>nd</sup> documents, purport that I shouted, "Judge Wesley, look into the corruption of the New York Court

of Appeals". By placing these words in "quotes", Officer Jennings implies that this is actually what I said -- words directed to Judge Wesley, but having no stated relevance to him and the "hearing". This is then compounded by Officer Jennings' switch to a characterization, rather than my precise words, that I "wanted to testify" -- thereby concealing that I expressed this "want[ing]" by a proper request.

This replication from the May 22<sup>nd</sup> documents was apparently deemed insufficient for the May 23<sup>rd</sup> statement, to which there are additions not contained in the May 22<sup>nd</sup> documents. Thus the May 23<sup>rd</sup> statement purports that I "shout[ed]" "other things" -- without specifying what these "other things" are. It also identifies that this "disruption occurred during a Judiciary Committee hearing" -- thereby implying that I interrupted proceedings then in progress. The statement adds the existence of a gavel -- stating that it was "after striking the gavel twice"<sup>7</sup> that "Judiciary Committee Chairman Senator Chambliss requested United States Capitol Police to restore order and asked everyone to remain seated". The hand-written addition that I "continued to shout" "after the Senator called for order", then implies that I was arrested precisely because I would not otherwise come to "order".

The true facts as to what occurred are best evidenced by the video -- which is why, upon my arrest, I made known to Sergeant Bignotti and Officer Jennings that it needed to be immediately secured. Assistant U.S. Attorney Aaron Mendelsohn (202-514-7700), who represented the prosecution at the June 20<sup>th</sup> status conference, provided me with a copy of the videotape at that time. Such is vastly superior to the stenographic transcript -- a copy of which Assistant U.S. Attorney Mendelsohn also provided me at the status conference -- since it presents, in real time, simultaneously occurring events, which the transcript only imperfectly records, if at all.

To begin with, both the videotape and transcript reflect that the so-called "disruption" did NOT occur "during a Judiciary Committee hearing" -- as Officer Jennings' May 23<sup>rd</sup> statement purports -- but upon its being "adjourned". Only AFTER Senator Chambliss said:

"...if there are no further questions or participation from anyone on the Committee, we will stand adjourned." [Tr. 65, lns. 15-17]

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<sup>7</sup> No gavel is mentioned in the May 22<sup>nd</sup> documents, whose reference to "twice" is to Chairman Chambliss twice requesting the police to "restore order".

did I begin I commence to speak -- which was for a total of eight seconds.

As to Chairman Chambliss striking his gavel "twice", the transcript of the May 22<sup>nd</sup> "hearing" indicates nothing about a gavel. From the video, the reason is obvious. The single strike of the gavel was NOT at all significant. It certainly was not to quell any "disruption", which is how Officer Jennings' May 23<sup>rd</sup> statement makes it appear. Rather, Chairman Chambliss struck the gavel to symbolize the close of the "hearing" -- while saying, "Thank you very much" [Tr. 65, ln. 18].

The video also makes plain that I began speaking as Chairman Chambliss was saying, "Thank you very much" [Tr. 65, ln. 18] -- and not, as the transcript makes it appear, after [Tr. 65, ln. 20]. Indeed, it is because our words are simultaneous -- with mine coming from the back of the room -- that my initial words are not audible from the video.

Presumably, these initial words were also not audible to the stenographer. However, her transcript fails to reflect such fact -- while altering my words immediately following "Mr. Chairman". Her transcript also omits my final words "May I testify?", which, although eclipsed by the beginning of Chairman Chambliss' response, "I will issue a warning that we will have order" [Tr. 65, lns. 23-24], can nonetheless be discerned from the video.

The entirety of what the stenographer has me saying before any response from Chairman Chambliss is:

"Mr. Chairman, we are in opposition to Judge Wesley based on his documented corruption at the New York Court of Appeals." [Tr. 65, lns. 20-22].

Thus, the transcript, although imprecise<sup>8</sup>, nonetheless suffices to establish that I did NOT say, as the May 23<sup>rd</sup> statement and May 22<sup>nd</sup> documents purport, "Judge Wesley, look into the corruption of the New York Court of Appeals".

Further, the video makes plain that I had finished my concluding words, "May I testify?" by the time Chairman Chambliss had responded, "I will issue a warning that

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<sup>8</sup> The discrepancy in the transcript was the subject of my May 30, 2003 letter to the Miller Reporting Company, which asked that the stenographer preserve her "raw, untranscribed notes", as well as what I understand to be an audiotape of the "hearing" which the Company also records.

we will have order". [Tr. 65, lns. 23-24]. Indeed, as reflected by the video, his immediately following words, "The Committee will stand in recess until the police can restore order. Everyone remain seated." -- as if there was some on-going, continued disturbance or ruckus -- were wholly superfluous, since, after asking, "May I testify?" I was completely silent.

The heads of Officer Jennings and Sergeant Bignotti are not seen passing the video camera until this further, wholly unnecessary statement "until the police can restore order". They then pass from left to right.

It must be noted that the video, which is focused on Chairman Chambliss as he closes the hearing, shows no surprise on his face as I begin to speak from the back of the room. Rather, it shows him reaching for his reading glasses and then, presumably, for the paper from which, after I am taken out of the "hearing" room, he seems to read.

Before I am taken out, however, the transcript reflects a "pause". This can be timed from the video at eight seconds -- a period during which Sergeant Bignotti demanded that I step out of the "hearing" room. Although she did not state that I would be arrested, the very demand that I leave the "hearing room" was a significant enough departure from the precedent set at the June 25, 1996 Senate Judiciary Committee "hearing" as to lead me to believe -- based upon what Detective Zimmerman had threatened -- that I might be arrested. Because my stated position to Detective Zimmerman -- reiterated by my May 21<sup>st</sup> letter -- was that it was for the presiding chairman to decide whether a respectful request to testify should be punished by arrest, I then asked Chairman Chambliss:

"Are you directing that I be arrested? Are you directing that I be arrested" [Tr. 66, lns. 3-4]

Chairman Chambliss did not respond to this straightforward question -- much as he had not responded to my straightforward question "May I testify?". Instead, he answered, "I am directing that the police restore order." [Tr. 66, lns. 5-6]. Sergeant Bignotti then again demanded me to step out of the "hearing" room, prompting me to again ask Chairman Chambliss, "Are you directing that I be arrested?" [Tr. 66, ln. 7]. The transcript shows no response, but only a "[Pause.]".

The video reflects what occurs in this nine second "[Pause]". The head of Sergeant Bignotti passes from right to left, followed by my head and the head of Officer Jennings. The sound of a door is then heard. Although the video does not zoom on Chairman Chambliss' face, the tempo of his immediately following words gives the

impression that he is reading a prepared text:

"Outside witness are welcome to submit letters supporting or opposing nominees for the Committee's consideration, but it is not our usual procedure to invite outside witnesses to testify either in support or in opposition to the nomination.

I realize this lady is disappointed that she is not able to make any statement this afternoon, but her disappointment in no way condones any disruption of this hearing." [Tr. 66, lns. 9-17].

He then states, "Again, we will stand adjourned. Thank you very much." [Tr. 66, lns. 18-19].

As my voluminous correspondence with the Senate Judiciary Committee reflects, "letters" submitted by "outside witnesses" -- no matter how serious and substantial -- are simply ignored by the Committee, whose leadership refuses to respond to written requests to testify. Indeed, from the prepared statement read by Senator Chambliss, it appears that the Committee's leadership "set me up" to be arrested. Were it otherwise, Senator Chambliss would have been provided with a statement to be read BEFORE I rose to request to testify -- a statement which acknowledged that the Committee had received a written request to testify, which was being denied because it was "not our usual procedure" -- and because such request did not fall within an exception thereto.