

IN THE
SUPREME COURT OF THE UNITED STATES

October Term 1996

FORMAL MISCONDUCT COMPLAINT

COMPLAINANT:

Lester Swartz
P.O. Box 273225
Boca Raton, Florida 33427
(561) 392-1761

RESPONDENTS:

William Suter, Clerk and
Cynthia J. Rapp, Assistant Clerk
Supreme Court of the
United States

Complainant hereby files this formal misconduct complaint against the above-named respondents and as grounds therefor would show:

1. On or about May 21, 1996 complainant timely filed an Application for the issuance of a certificate of necessity directed to the Honorable Justice Anthony M. Kennedy together with the requisite number of copies of the same. A copy of the subject Application, Docket No. A-988, is attached hereto. However, rather than promptly transmitting that Application to Justice Kennedy, respondent Rapp returned the same and all of the said copies to this complainant along with a letter stating that only a Chief Judge of the circuit or the Circuit Justice can ask the Chief Justice to temporarily assign a circuit judge.

2. Complainant believed then, and strongly believes today, that (1) respondent Rapp's statement was knowingly misleading; (2) that respondent Rapp knew or should have known Justice Kennedy had the authority to grant the requested relief in that application and that complainant's Application was proper for filing and subsequently for prompt transmittal to Justice Kennedy; (3) that respondent Rapp's action or inaction here was knowingly inappropriate, an abuse of respondent Rapp's office and power; and (4) was knowingly an unlawful impediment to (a) effectuate the manifest ends of

justice; (b) to complainant's right to due process; (c) to complainant having an adequate, effective, and meaningful access to the Supreme Court of the United States; and further, (d) that respondent Rapp's acts were part of an unlawful scheme and artifice to endeavor to further conceal the underlying most egregious and serious criminal and unethical judicial and attorney misconduct matters on the part of the Eleventh Circuit judges and the Florida Bar officials from the knowledge of the Honorables Justice Kennedy and the Chief Justice of the Supreme Court. Consequently, complainant believes respondent Rapp's alleged acts of impropriety and the appearance of impropriety had now brought the Clerk's Office of the Supreme Court of the United States into very serious disrepute.

3. On May 28, 1996 complainant felt compelled to re-file the subject Application which was ultimately docketed as A-988. On June 5, 1996 complainant was notified by respondent Rapp that the application was submitted to Justice Kennedy who had denied the same.

4. On or about May 30, 1996 complainant wrote respondent Clerk Suter a certified letter regarding the perceived wilful and known misconduct on the part of respondent Rapp, and further that respondent Rapp's conduct was most disturbing and seemed highly suspect. In that same letter, in pertinent part, complainant respectfully requested, if proper, that respondent Suter treat this letter as a formal complaint from the undersigned against respondent Rapp, and further, that proper action be taken here. To date and to the best of complainant's knowledge respondent Suter never replied to this subject letter. Respondent Suter's silence here also gives the appearance of impropriety.

5. On or about July 6, 1996, after receiving no reply to complainant's previous letter dated May 30, 1996, complainant wrote respondent Suter another certified letter. To the best of complainant's knowledge respondent Suter has not replied to this letter either.

6. On or about August 20, 1996, due to respondent Suter's silence and the very disturbing alleged appearances of impropriety in the Clerk's office, complainant wrote respondent Suter another certified letter. This time complainant requested a certified copy of the Honorable Justice Kennedy's order

denying complainant's subject application in Supreme Court Docket # A-988. Complainant informed respondent Suter if there was a charge for the same to please inform complainant of any such charges and that complainant would immediately send the Supreme Court those fees.

7. To date, complainant has yet to receive any reply from respondent Suter or a copy of the Honorable Justice Kennedy's order which is most disturbing, highly suspect, and strongly reinforces complainant's beliefs of serious impropriety and appearances of impropriety within the walls of this most Honorable Court. As such, complainant questions whether Justice Kennedy in fact ever received or read the subject Application and the Exhibits attached thereto which this complainant had submitted to this Court.

WHEREFORE, complainant most respectfully files this formal complaint against respondent Suter and respondent Rapp for due appropriate investigation, corrective action, and response by the most Honorable Chief Justice Rehnquist.

Respectfully submitted,



Lester Swartz