

Benjamin Cunningham
(Federal Crime Victim)
(Federal Whistle-blower)
(347) 879-1717

2429 Southern Blvd #1
Bronx, NY 10458

June 30th, 2014

Complaint Against:

Daniel A. Eigerman-Esq

Regarding 2nd Circuit

Appeals Court's

Appellate FRAUD

Docket No 11-3597

DOCKET NO 12-3931

New York State Supreme Court
Appellate Division-First Department
Disciplinary Committee (212) 401-0800
61 Broadway Avenue
New York, NY 10006

Dear Disciplinary Committee:

Second Circuit Appeals Court's Staff Persons:

Ms Karen G. Milton (Circuit executive)

Mr Michael Jordan (General Counsel)

Ms Catherine O' Hagan Wolfe (Chief Clerk)

have willfully committed Appellate **FRAUD** against my
Civil Rights Appeal Docket No 11-3597 and against my wife's
Civil Rights Appeal Docket No 12-3931 while my assigned federal
attorney Daniel A. Eigerman-Esq will **NOT** file any complaints.



**Second Circuit Appeals Court's
Circuit Executive Karen G. Milton
General Counsel Michael Jordan
Chief Clerk Catherine O' Hagan Wolfe
(202) 857-8700 Are Federal Employees
Who Willfully Committed FRAUD
Against The Cunningham Family's
Civil Rights Appeals:**

The Second Circuit Court OF Appeals' docket sheets shows that the above Civil Rights Appeals were **DISMISSED WITHOUT** the Assigned Appellant Counsel's appellate briefs.

The Second Circuit Court OF Appeals' docket sheets shows that the above Civil Rights Appeals were **DISMISSED WITHOUT** the Government's appellate briefs.

The Second Circuit Court OF Appeals' docket sheets shows that the above Civil Rights Appeals were **DISMISSED WITHOUT** the Southern District Court's original records.

June 21, 2011 Magistrate Judge Kevin N. Fox's Decision has **DENIED** Qualified Immunity to USMS Agency's police.

August 8, 2011 Judge Deborah A. Batts' Decision has **GRANTED** Qualified Immunity to USMS Agency's police.

Therefore, the Southern District Court's original records displays a pending **Judicial Conflict** between Magistrate Judge Kevin N. Fox's **Qualified Immunity** Decision going against Judge Deborah A. Batts' **Qualified Immunity** Decision.

**Second Circuit Appeals Court's
Circuit Executive Karen G. Milton
General Counsel Michael Jordan
Chief Clerk Catherine O' Hagan Wolfe
(202) 857-8700 Are Federal Employees
Who Willfully Committed FRAUD
Against The Cunningham Family's
Civil Rights Appeals:**

January 10, 2012: **Notice OF Appearance** Filed.

January 11, 2012: Docketing Fees **PAID**.

January 13, 2012: Appeal **DISMISSED** as frivolous.

June 21, 2011 Magistrate Judge Kevin N. Fox's Decision has **DENIED** Qualified Immunity to USMS Agency's police.

August 8, 2011 Judge Deborah A. Batts' Decision has **GRANTED** Qualified Immunity to USMS Agency's police.

September 4, 2011 Judge Deborah A. Batts' Decision has **GRANTED** Qualified Immunity to USMS Agency's police.

Three **Qualified Immunity** Decisions are linked to the **FAKE** Charlotte North Carolina State's Reliable Confidential Informant who **NEVER** exist.

Southern District Court's original records shows only that there is an ongoing **Judicial Conflict** up to this late date.

PRELIMINARY STATEMENT:

(SDNY) Judge Deborah A. Batts
(SDNY) Magistrate Judge Kevin N. Fox
(SDNY) AUSA David V. Bober
(05 Civ 10169 (DAB/KNF) **Civil Rights Case**
Dec 5, 2005 to Aug 8, 2011 & Sept 4, 2012.

**Docket No 11-3597 Concerns
Benjamin Cunningham's
Civil Rights Appeal Linked To
Judge Deborah A. Batts'
Qualified Immunity Decision
Dated August 11, 2011:**

**Docket No 12-3931 Concerns
Reena Cunningham's
Civil Rights Appeal Linked To
Judge Deborah A. Batts'
Qualified Immunity Decision
Dated September 4, 2012:**

(D.C.) Judge Rosemary M. Collyer
(D.C.) Peter R. Meier (SAUSA)
FBI Special Agent Kristina L. Norris
USMS Agency's General Counsel William E. Bordley
EOUSA Agency's FOIA Attorney David Luczynski
(13 Civ 1115 (RMC) **FOIA Civil Case**
March/2013 to April 16, 2014 & April 30, 2014

PLEASE BE ADVISED, the above (4) federal cases are
linked to Charlotte North Carolina State's Confidential Informant.

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(SDNY) Judge Deborah A. Batts
(SDNY) Magistrate Judge Kevin N. Fox
(SDNY) AUSA David V. Bober
(05 Civ 10169 (DAB/KNF) **Civil Rights Case**
Dec 5, 2005 to Aug 8, 2011 & Sept 4, 2012.

(D.C.) Judge Rosemary M. Collyer
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USMS Agency's General Counsel William E. Bordley
EOUSA Agency's FOIA Attorney David Luczynski
(13 Civ 1115 (RMC) **FOIA Civil Case**
March/2013 to April 16, 2014 & April 30, 2014

Both federal cases in New York & Washington D.C.
concerns the Charlotte North Carolina State's Reliable Confidential
Informant who willfully committed a federal crime against me.

Both federal judges in New York & Washington D.C. are
willfully **CONCEALING** the Charlotte North Carolina State's
Reliable Confidential Informant very far away from me.

Both federal judges in New York & Washington D.C. have
willfully **DISMISSED** my Civil Rights case & FOIA civil case
WITHOUT the Government producing North Carolina State's
Reliable Confidential Informant in violation of the federal laws under
several **Existence & Reliability** doctrines.

Both federal judges in New York & Washington D.C. are
willfully **BLOCKING** me from filing criminal/civil charges inside
District OF Columbia's Federal Courthouse against the
Charlotte North Carolina State's Reliable Confidential Informant
who has willfully committed federal crimes against me.

(SDNY) Judge Deborah A. Batts
(SDNY) Magistrate Judge Kevin N. Fox
(SDNY) AUSA David V. Bober
USMS Agency's DUSM Nicholas Ricigliano
(05 Civ 10169 (DAB/KNF) Civil Rights case
Dec 5, 2005 to Aug 8, 2011 & Sept 4, 2012.

Inside my Civil Rights case inside the Federal Courthouse located inside Manhattan New York the above federal employees have willfully **Faked Up/Invented Up** a North Carolina State's Confidential Informant who **NEVER** exist only because I **REJECTED** the Government's \$30,000 settlement offer which concerns (SDNY) USMS Agency's Police Officers unlawfully invaded my Bronx County Home on November 29, 2005 **WITH** guns **WITHOUT** Search Warrants; Exigent Circumstances; Consent; Probable Cause & Reasonable Cause based upon the North Carolina State's Reliable Confidential Informant who provided a **FAKE** tip on November 16, 2005 against my New York Bronx County Home to (WDNC) USMS Agency's Police Officers.

(SDNY) Judge Batts & (SDNY) Magistrate Judge Fox issued rulings that (SDNY) USMS Agency's Police Officers violated the 4th Amendment under the United States Constitution against my New York Bronx County Home.

(SDNY) Judge Batts provided Qualified Immunity status over to all USMS Agency's Police Officers because their **MISTAKE** to invade my New York Home was due to North Carolina State's Reliable Confidential Informant who was **NEVER** produced by anybody inside the Department OF Justice's Agency.

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STATEMENT OF TRUE FACTS:

**(SDNY) Magistrate Judge Kevin N. Fox's
Compel Orders Dated July 29, 2010 &
November 12, 2010 Has Clearly Claim:**

“ Inasmuch as: (1) the plaintiff’s motion is unopposed; (2) the plaintiff claims his home was entered by Deputy United States Marshals who lacked probable cause or a warrant to do so; and (3) and the defendants maintain they entered the plaintiff’s home pursuant to a warrant, obtained after the deputy marshals “had received information from a reliable confidential source” indicating that the subject of the warrant, the plaintiff’s brother, “might have been residing with (the plaintiff),” the plaintiff’s request for documents pertaining to the “Reliable Confidential Source” as well as the arrest warrant, including any affidavit(s) or other document(s) submitted when the application was made for the warrant, shall be disclosed to the plaintiff. “

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**USMS North Carolina State's
Police Reports November 16, 2005:**

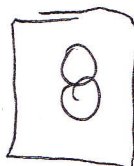
“ On 11/16/05 DUSM ___ was telephone by an anonymous informant in reference to this case. The caller advised that CUNNINGHAM spends most of his time at his (CUNNINGHAM's) mother's residence. CUNNINGHAM's mother is Theresa Cunningham and her last known address is 2420 Hunter Ave, Apt 16B, Bronx, NY 10475. “

North Carolina State's USMS Agency Police Officers contacted the New York State's USMS Agency Police Officers.

November 29, 2005, **New York State's USMS Agency Police** unlawfully invaded the (Pro-se) Plaintiff's New York State Home **WITHOUT** search warrant in order to conduct **STRIP** searches and then **SEIZED** (Pro-se) Plaintiff's personal property in violation of the 4th Amendment under the United States Constitution.

**USMS New York State's
Police Reports November 29, 2005:**

“ On or about 11/16/05 DUSM from W/NC received information from a confidential informant that the SUBJECT was back in Bronx and “staying with his mother or brother. “



**AUSA David V. Bober's Letter/Motion
Dated May 28, 2010 Clearly Stated:**

“ Defendants generally admit that they searched the Cunningham’s residence on the day in question, because they were searching for Mr Cunningham’s brother, Terrence Cunningham, for whom they had obtained an arrest warrant after he jumped bail on drug-related charges. The Marshals had received information from a reliable confidential source indicating that he might have been residing with Mr. Cunningham. “

**November 29, 2010, Terrence Cunningham’s
Affidavit Make The Following Statements:**

“ I NEVER resided with my brother Benjamin Cunningham and his wife Reena Cunningham.
I NEVER provide his home address 24-29 Southern Blvd Bronx New York to anybody/Reliable confidential Informant. “

**AUSA David V. Bober's Letter/Motion
Dated June 22, 2011 Clearly Stated:**

“ Although we now know that the Marshals’ **belief** was **mistaken**, their actions should not be judged through the prism of 20/20 hindsight. “

**(SDNY) Magistrate Judge Kevin N. Fox's
4th Amendment Order Dated June 21, 2011
Has Claim The Marshals Service Violated
Mr Cunningham's 4th Amendment Rights:**

“ The record evidence before the Court establishes the following:

The tip provided by the CI is the only basis, in the record, for the defendants' belief that Terrence Cunningham resided with Cunningham. However, as indicated previously, there exists an issue of fact regarding what the information the CI provided the USMS. If the November 16, 2005 investigation report is credited, the CI advised the USMS only that Terrence lived with his mother, not Cunningham. However, if Ricigliano's declaration and December 1, 2005 investigation report are credited, the CI advised the USMS that Terrence resided with either his mother or Cunningham.

The Court cannot conclude that, as a matter of law, the defendants acted reasonably, as a question of fact about what information the CI provided the USMS remains unresolved.

Drawing all justifiable inferences in Cunningham's favor, Anderson, 477 U.S. at 255, 106 S. Ct. At 2513, the Court finds that he has shown, for the purpose of resolving this motion, that the defendants' search of his home violated the Fourth Amendment. “

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Judge Deborah A. Batts'
Qualified Immunity Order
Dated August 8, 2011:

“ Defendants have variously represented that a confidential informant told them (1) that the fugitive they were seeking lived with his mother, or (2) that fugitive lived with either his mother or with his brother, the plaintiff. Because it is unclear whether the confidential informant in fact told Defendants that the fugitive lived with plaintiff, the **Report** concluded that disputed issues of fact warrant denial of Summary Judgment as to whether Defendants are entitled to qualified immunity. Defendants object that the discrepancy the Report has identified is not material because the Marshals had a reasonable basis to believe that the fugitive resided with plaintiff even if the informant never asserted as much. For reasons that follow, the Court now holds that a jury could find that reasonable basis to believe the fugitive reside at plaintiff's address. Accordingly, the Court finds that Defendants are entitled to qualified immunity on the plaintiff's Fourth Amendment claim based on their search of his house, which must be dismissed. “

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**Judge Deborah A. Batts’
Qualified Immunity Order
Dated September 4, 2012:**

Judge Deborah A. Batts’ summary judgment order dated **September 4, 2012** concerns Reena Cunningham’s Civil Rights case under district court’s docket #07-Civ. 6870 (DAB):

“ As the court found in Cunningham-one , Defendants violated the Fourth Amendment when, without a search warrant, they searched Plaintiff’s home for a non-resident fugitive for whom they had an arrest warrant. However, for the reasons discussed in this Court’s August 8, 2011 order adopting the Report and Recommendation in that case, Defendants are entitled to qualified immunity on Plaintiff’s Fourth Amendment claim to the extent it is founded on the warrant less entry and search. “

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**Second Circuit Appeals Court's
Docket No 11-3597 Concerns
Benjamin Cunningham's
Civil Rights Appeal Linked To
Judge Deborah A. Batts'
Qualified Immunity Decision
Dated August 11, 2011:**

Present:

Ralph K. Winter,
Peter W. Hall,
Denny Chin,
Circuit Judges.

“ Appellant, pro-se at the time of filing his motion, moves for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion is DENIED as moot as he has now paid the filing fee. It is further ORDERED that Appellant's claims are DISMISSED as frivolous. See Pillay V. I.N.S., 45 F. 3d 14, 17 (2d Cir. 1995) “(T)his court has inherent authority to dismiss an an appeal or petition for review as frivolous when the appeal or petition presents no arguably meritorious issue for our consideration.”) “

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**Second Circuit Appeals Court's
Docket No 12-3931 Concerns
Reena Cunningham's
Civil Rights Appeal Linked To
Judge Deborah A. Batts'
Qualified Immunity Decision
Dated September 4, 2012:**

Present:

Peter W. Hall,
Christopher F. Droney,
Circuit Judges.

“ Appellant, pro-se, moves for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it lacks an arguable basis in law or fact.

28 U.S.C. 1915(e); Neitzke V. Williams, 490 U.S. 319, 325 (1989) defining when an action lacks an arguable basis in law or fact.

Judge Debra Ann Livingston, originally a member of the panel, recused herself subsequently to the date the motion was submitted.

Because the remaining members of the panel are in agreement, we have decided this case in accordance with IOPE of the Local Rules and Internal Operating Procedures of the Court. “

Second Circuit Appeals Court's Federal Employees have willfully **CONCEALED** the Charlotte North Carolina State's Reliable Confidential Informant from (Pro-se) Plaintiff:

Federal Appellate Attorney **Daniel A. Eigerman's** **AFFIDAVIT** dated November 26, 2012 has claim:

“ The docket numbers assigned the appeals by the Second Circuit were respectively, 07-4007 & 11-3597 In the course of this representation I had occasion thoroughly and in fact repeatedly to review the record in the Southern District. I did not encounter in the record any document identifying by name any unidentified informant and certainly no evidence that such informant or informants had been presented to the Court. “

(District OF Columbia) **SAUSA Peter R. Maier's** **AFFIDAVIT** Dated March 21, 2014 has claim:

“ Plaintiff asserts that SAUSA Maier and other attorneys in the Department OF Justice are subject to sanctions for failing to produce the records at issue in this FOIA action because interlocutory orders issued by Magistrate Judge Kevin N. Fox in Southern District OF New York in 2010 in litigation required their production. Plaintiff's failure to obtain these documents in his earlier lawsuit is the very reason why he filed a new FOIA request and is litigating the Government's disposition of it. “

**Judge Rosemary M. Collyer's
FOIA Summary Judgment
Decision & Order April 16, 2014:**

“ Mr Cunningham readily admits that he seeks information concerning the confidential informant for personal reasons. He states that he needs the name of the confidential informant so that he may “commence a federal civil case against the Charlotte North Carolina reliable confidential informant who caused undo damages to Mr Cunningham. Mr Cunningham personal interest in records concerning the confidential informant is not a cognizable public interest for purposes of the FOIA Exemption 7C analysis, and does not overcome the privacy interest of the individual who cooperated with law enforcement. The Court recognizes that Mr Cunningham claims to have been victimized by the confidential informant. His relationship to the confidential informant, however, is immaterial to the question of whether the Court should sanction an invasion of privacy.

**Judge Rosemary M. Collyer's
FOIA Summary Judgment
Decision & Order April 16, 2014:**

“ EOUSA and the Marshals also did not conduct a search for records responsive to Mr Cunningham’s FOIA Request. Unlike OJP, however, neither EOUSA nor the Marshals Service claims that searching for records responsive to Mr Cunningham’s Request would be futile. They readily admit that responsive records may be contained in their databases and files. Instead, EOUSA and the Marshals Service argue that a search is unnecessary because any document found would be exempt from disclosure. The Court agrees. “

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**The Government's
USMS Agency
FOIA Statement
Dated March 20, 2013:**

“ The U.S. Marshals Service is responding to your request for records relating to documentation and information concerning a confidential informant. Unfortunately, we are unable to comply with your request. The Marshals Service is unable to confirm or deny the existence of records and/or information on this individual.

If the responsive records exist within the records and files of the Marshals Service, it would be exempt from disclosure pursuant to exemption (J)(2) of the Privacy Act, 552 U.S.C. 552(a) and exemptions 7(c), (d) & (f) of the FOIA Act, 5 U.S.C. 552(b).

**Judge Rosemary M. Collyer's
FOIA Summary Judgment
Decision & Order April 30, 2014:**

“ The Court's analysis is not affected by the case arising out of the Southern District of New York nor denial of coverage decision by two insurance companies. The federal magistrate judge in the Southern District of New York directed the U.S. Marshals to produce records concerning the confidential informant in the context of a civil action brought by Mr Cunningham pursuant to Bivens. Because that matter did not concern the application of FOIA. “

CONCLUDED ARGUMENT:

WHEREFORE, I request this Court to commence whatever proceedings that this Court may deem just and proper because my assigned attorney Daniel A. Eigerman-Esq has **NOT** file any complaints or etc on my behalf to anybody regarding the 2nd Circuit Appeals Court's **FRAUD** that was committed against my wife's Civil Rights Appeal & my Civil Rights Appeal:

January 10, 2012: **Notice OF Appearance** Filed.

January 11, 2012: Docketing Fees **PAID**.

January 13, 2012: Appeal **DISMISSED** as frivolous.

2nd Circuit Appeals Court's Docket Sheets now shows that willful **Appellate Fraud** was committed against two Civil Rights Appeals under **Docket No 11-3597** and **Docket No 12-3931**.

June 21, 2011 Magistrate Judge Kevin N. Fox has **DENIED** Qualified Immunity Status to USMS Agency's police.

August 11, 2011 Judge Deborah A. Batts has **GRANTED** Qualified Immunity status to USMS Agency's police.

September 4, 2012 Judge Deborah A. Batts has **GRANTED** Qualified Immunity status to USMS Agency's police.

All (3) **Qualified Immunity** Decisions are linked to a **FAKE** Charlotte North Carolina State's Reliable Confidential Informant who **NEVER** exist.

RESPECTFULLY,
TB Ce