

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED
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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 6:08-cr-118-Orl-DDD-DAB

JUDE LACOUR,

Defendant

_____ /

DEFENDANT'S MOTION FOR A HEARING
ON POSSIBLE CONFLICT OF INTEREST

1. Defendant, Jude T. Lacour, a Pro Se inmate at Orange County Correctional Facility, respectfully moves this Court for a hearing concerning a conflict of interest that the law firm of Leventhal & Slaughter, LLP may have in continuing to represent defendant Akhil Baranwal.
2. To assist the Court in its responsibility of appointment of counsel pursuant to Fed. R. Crim. P.44, and Title 18, United States Code, Section 3006A, the Defendant via

his letters and notices informed the Court and caused the recusal / disqualification of three federal magistrates / judges, to wit: The Honorable Karla R. Spaulding, The Honorable Gregory A. Presnell, and The Honorable Gregory J. Kelly, for their conflict of interest involving the law firm of Akerman Senterfitt.

3. The Defendant further requested and caused the removal of two defense attorneys, to wit; J. Cheney Mason and William Bryan for their conflict of interest in the representation of the Defendant. The disqualification of the aforementioned judges and attorneys were based on good faith and irrefutable evidence.
4. Defendant was never permitted a hearing to amplify the conflict involving the prosecutor(Karen Gable) in the instant case. In fact, as the Court is aware, the Defendant filed a Motion To Dismiss For Malicious, Criminal, and Outrageous Prosecutorial / Judicial Misconduct (Docket 422) delineating among other things, the fact that the prosecutor in the instant case (Karen Gable) intentionally concealed the conflicts concerning the recused jurists and defense attorneys. Defendant's motion to dismiss (Docket 422) was denied for being filed out of rule, a rule that seems to apply only to the Defendant.
5. Nonetheless, Defendant is respectfully requesting a hearing concerning defense attorney Robert Leventhal to demonstrate to the Court that his representation and consultation with Defendant in the instant case is a conflict and that the prosecutor is once again intentionally concealing the conflict.

6. Rule 1.7(b) [Conflict of Interest--General Rule] states:

A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interest, unless:

(A) the lawyer reasonably believes the representation will not be adversely affected; and

(B) the client consents after full disclosure and consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

7. Given the above, it would appear that a hearing is appropriate so that the defendant can prove that on or about March 30, 2009, defense attorney Robert Leventhal deceived the Court by intentionally minimizing his consultations with the Defendant in the instant case and knowingly misrepresented his Opening Statement in an attempt to adversely affect the Defendant's standing before the jury.

8. Consequently, the Defendant is respectfully requesting that the Court grant this motion and or that a hearing be set so that the Defendant can introduce the emails and or evidence cited in Docket 96, which Mr. Leventhal denied in the recent Court appearance. The document in question (Docket 96) was created on or about July 10, 2008 and is incorporated as Exhibit #1.

For the reasons set forth, it is respectfully requested that the Defendant's Motion for a Hearing on Possible Conflict of Interest be granted.

I HEREBY CERTIFY that on April 7, 2009, I filed the foregoing with the Clerk of the Court and Assistant U.S. Attorney by hand delivering this motion to the following entities:

Clerk's Office, US. District Court
Middle District of Florida, Orlando Division
United States Courthouse, Suite 1200
401 West Central Boulevard
Orlando, FL 32801

Karen L. Gable, Assistant U.S. Attorney
501 W. Church St., Ste. 300,
Orlando, FL 32801

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jude T. Lacour", is written over a horizontal line.

Jude T. Lacour, Pro Se Inmate

Magistrate Baker,

07/08/08

I am still not being granted meaningful access to the courts, therefore I am communicating with the Court again in this format.

The following points will be covered:

1. My Pro Se Status
2. Continued violations of my Constitutional Rights
 - a. Requested hearing not granted
 - b. Inadequate access to the law library
 - c. Inadequate law library
 - d. Gross discouragement by Deputy in charge of law library
 - e. Discouragement by Deputy in charge of C-Pod
 - f. Inability to view 300,000 documents supplied on disk by the Prosecution
 - g. Inability to use attorney room to interview witnesses
 - h. Inability to talk with witnesses on the phone
 - i. Inability to communicate with my investigator
3. Discovery Violations
 - a. Search warrant affidavit from April 19, 2005
 - b. Seizure warrants from April 19, 2005
 - c. Reynolds narrative
 - d. Employee interviews
 - e. Documents Agent Groeschner has
 - f. Arrest documents
 - g. Mel Sacks correspondence
 - h. DOJ investigation concerning Akerman
 - i. Akerman Senterfitt documents

4. The Conflicts

- a. Judge Presnell
- b. Magistrate Spaulding
- c. Cheney Mason
- d. Other lawyers

Conclusion

1. My Pro Se Status

Based on the information in this document it is apparent that my Pro Se status means nothing to the Court and the Government. I am aware of many cases where a defendant represented himself in Pro Se and was given the resources he/she needed to defend themselves. I am being granted none of the necessary resources. I am even being held in a facility that is obviously controlled by Ms. Gable. But, she can always use the excuse that this is a State facility so the government has no jurisdiction. I'm not falling for that trick. What is transpiring is so far outside of the concept of a level playing field, professional ethics, and Constitutional protections that a complaint may need to be filed.

2. Continued Violations of My Constitutional Rights

a. Requested hearing not granted

Last week, my last letter was put on the record where I asked for a hearing concerning the issues raised. It has not happened yet. I assume that it is not going to happen. Does the Court not want to hear from me? Not only was the hearing not granted, but the issues raised have not been addressed. I looked up the word *hearing* in the dictionary. It said, "Opportunity to be heard; Judicial Trial." If what I communicate to the Court will not be heard, then I will consider that a violation of my Due Process rights.

b. Inadequate access to the law library

I am unable to get access to the law library until 11pm. On top of that, I can only access the law library when a particular squad of officers are on duty. Therefore, my access is limited to the whims of a particular deputy's desires and schedule. This is by no means adequate. I also wonder why an inmate must be representing themselves in Pro Se to get access to the law library. Is this a Middle District of Florida policy only? The two previous institutions I was in, allowed any inmate to access the law library. It appears that Guantanamo inmates now have more of a legal right to challenge their imprisonment than M.D. of Florida inmates do after the recent Supreme Court rulings.

c. Inadequate law library

It becomes even more obvious that the idea behind this state run federal holding facility is nothing more than a psychological break down facility to force people to plea or snitch, or both, when the law library is evaluated. Not a single book covers Federal law. The books that are there are ancient. The number of books is so deficient that they don't even take up half of a very narrow bookcase. It's no wonder that the facility played games and took as long as possible to give me access.

d. Gross discouragement by Deputy in charge of law library

The first night Deputy Hill took me to the law library, he made the following statement within 30 seconds of pulling me out of the Pod.... "The last six inmates I took to the law library got life sentences." There could only be one purpose behind such a disgusting comment; more psychological breakdown to go so far beyond discouragement that the inmate gives up fighting for his life and Constitutional rights. Nothing would make the prosecution happier. I intend to pull all the cases where a M.D. of Florida represented themselves to determine if their rights were so egregiously violated as mine are currently being violated.

e. Discouragement by Deputy In charge of C-Pod

When Deputy Hill informed Deputy Lopez that he was taking me to the law library, Deputy Lopez said, "It doesn't matter, he will get found guilty anyway." This confirms that the purpose of this facility is to psychologically break down a defendant in an organized fashion.

These two deputies should not be allowed to communicate with inmates any further.

f. Inability to view 300,000 documents on disk supplied by the prosecution

My Pro Se status must mean nothing when I am unable to view the documents in my case. Ms. Gable has turned over several computer disks that allegedly contain 300,000 documents. However, giving me computer disks without giving me a computer to view them is like giving me a key to a car without an engine. I cannot review the documents. How do I know that they contain what Ms. Gable says they contain? Considering that every time she speaks, she misrepresents, I cannot know for sure unless I am given the ability to view them on a computer. There are many cases where a Pro Se defendant was given a laptop to aid him in his defense. Is the M.D. of Florida interested in creating a fair playing field or simply winning at all costs, even if it means violating fundamental Constitutional rights?

g. Inability to use attorney room to interview witnesses

My Pro Se status means that I am a lawyer representing myself. As a lawyer, I should have access to the attorney room to interview the many witnesses in my case. Considering that I have not waived my right to a Speedy Trial, there is much preparation to do in a short period of time. In any case, witnesses play an important role. Not being able to interview them is another violation of my Due Process rights. Again, my Pro Se status must mean nothing to the M.D. of Florida.

h. Inability to talk to witnesses on the phone

My witnesses are unwilling to talk with me on a phone where the conversation is being recorded and listened to by the prosecution. Without being able to interview my

witnesses in the attorney room and without being able to talk to them on the phone, I am completely cut off from them and the ability to defend my case. It is logical that an attorney, which I am now, should have access to a secure phone as much as possible.

I. Inability to communicate with my Investigator

My investigator has been working on this case for over three years. He was brought on one week after the execution of the search warrant. I have requested access to the attorney room to talk with him but have heard nothing. He is also unwilling to discuss the case on recorded phone calls. Any good lawyer relies on the assistance of an investigator. It is important that I am able to work with him in a privileged environment as much as possible. Unless, of course, my Pro Se status is of no consequence to the Court.

3. Discovery Violations

Before I reached your courtroom, I was in Magistrate Spaulding's courtroom. While there, Ms. Gable stated on the record, that she had turned over all of the discovery to me. I disagreed and informed (the) Magistrate of two of the items that are missing before she recused herself.

When I arrived in your courtroom, one of the two items had subsequently been turned over to me. Ms. Gable simply ignored the other item.

How is it that Ms. Gable can continue to conceal necessary discovery and be on the record concerning it being turned over? More importantly, why does the Court allow this? Here is a partial list of what is due to me:

A. Search warrant affidavit from April 19, 2005

The search warrant affidavit that was turned over is not the original search warrant affidavit filed with the Court for April 19, 2005. It is apparent why the government is purposely concealing this document. How long will the Court continue to allow this?

B. Seizure warrants from April 19, 2005

The discovery that Ms. Gable turned over in your courtroom after stating on the record that she had turned over all discovery was a few seizure warrants. Again, they were either not the actual warrant filed with the court or not the seizure warrant from April 19, 2005. Is it typical that Government Prosecutors purposely conceal such important documents? Do the rules of criminal procedure, evidence, etc not apply to the government?

C. Reynolds Narrative

Ms. Gable stated in the moving papers that she would be submitting a narrative concerning Robert Reynolds involvement in this case. Mr. Reynolds was representing my father in this case.

D. Employee interviews

Jive's 30+ employees were interviewed on April 19, 2005 by 60+ agents

E. Documents SA Groeschner has

For some reason, SA Groeschner is holding on to important documents concerning this case. According to Ms. Gable, he is the only one that has these documents. As a lawyer in this case, it is important that I am able to review these documents.

F. Arrest documents

I have not been provided with any of the documents relating to my arrest. I don't even know who arrested me.

G. Mel Sacks correspondence

Mel Sacks is my attorney in Los Angeles, California. I am simply seeking correspondence between him and Ms. Gable.

H. DOJ investigation concerning Akerman

A major internal investigation was completed by the Department of Justice concerning Akerman Senterfitt's involvement in this case. I am entitled to a copy.

I. Akerman Senterfitt documents

Ms. Gable has referenced in moving papers several times that she has Akerman Senterfitt documents in her possession that have not been turned over yet.

4. The Conflicts

There are many conflicts in this case. All of which Ms. Gable is or was aware of. She has been aware of at least one of them for over three years and yet continues to conceal it. This is a list of known conflicts at this time. I am 100% certain that many more will surface.

A. Judge Presnell

Judge Presnell was previously a lawyer employed by Akerman Senterfitt. His wife is currently a practicing partner at Akerman Senterfitt. Akerman was one of many law firms and legal professionals that advised Jive Network. Ms. Gable has hidden this conflict from Judge Presnell for over 3 years now. Judge Presnell is residing over my active Civil Forfeiture case concerning the exact same assets and issues. I asked my attorneys on the civil case to file a motion to recuse Judge Presnell. As of now, it has not been done.

B. Magistrate Spaulding

Again, Ms. Gable was well aware of the conflict concerning Akerman and Magistrate Spaulding. However, the exact reason for the conflict has not been communicated to me. As soon as Magistrate Spaulding was informed of Akerman's involvement in this case by me, she immediately recused

herself. I respect that. Before she left the bench, she stated that had she known sooner about the involvement of Akerman, she would have recused herself long ago. Just like Judge Presnell, Ms. Gable is/was perfectly willing to conceal this information from the respective Courts.

C. Cheney Mason

Cheney Mason is an attorney in Orlando that is representing my father, who is a co-defendant in this case. In the moving papers, Ms. Gable has written to Mr. Mason to inform him of a conflict. Again, I have not been informed of the reason why Ms. Gable believes that there is a conflict concerning Mr. Mason. However, it is apparently that Ms. Gable is well aware of a conflict and is allowing it to continue, just like she was willing to allow it with Judge Presnell and Magistrate Spaulding. I do not consider all of this a coincidence considering that Mr. Mason represented a gentleman named John Labosco, who used to be in business with me. His criminal case involved all the same players; Ms. Gable, Judge Presnell, Mr. Mason, and others. In addition, Mr. Labosco and the other partner in the venture, Mitchell Dobbins, actually stole the business from me after the execution of the search warrant on Jive Network, April 19, 2005. Mr. Labosco and Mr. Dobbins also owe me a significant amount of money by their own acknowledgement.

As far as I know, Mr. Mason's client, my father, has not been informed of the conflict by Mr. Mason or anyone else. I find it more than interesting that Mr. Mason is now attempting to squeeze \$350,000 out of my father while at the same time trying to convince him to plea which does nothing but benefit the government. It is apparent that Mr. Mason's loyalties lie with Ms. Gable, not his client. Further evidence supporting that statement is that Mr. Mason has refused to attend any meeting where I am present. This "arrangement"

between Mr. Cheney [Mason] and Ms. Gable completely undermines the right to competent counsel as guaranteed by the Sixth Amendment and the attorney/client privilege. Included in any defendant's Sixth Amendment right to effective assistance of counsel is the right to be represented by counsel whose loyalties are undivided. Lastly, I consulted with Mr. Mason concerning this case, in his office, no less than two times.

D. Other Lawyers

Currently, there are two other lawyers representing co-defendants in this case that have similar conflict issues as Mr. Mason. I am absolutely positive that Ms. Gable is already aware of these conflicts. One of them, Mr. Leventhal, was also consulted by me several times. In one of the meetings, two years ago, Mr. Leventhal brought out the name of one of the co-defendants, Hudson Smith, on his own accord. He also stated that Mr. Smith was a witness in a case in Texas where Mr. Leventhal was counsel. Mr. Leventhal also stated that he had talked with Ms. Gable concerning the current case. I would like to request an evidentiary hearing concerning these issues and Mr. Leventhal. Over the last three years, there have been many other lawyers with similar conflicts, including the prosecution and judiciary. One of the defense attorneys from the past who had a conflict was even referred to me by Mr. Labosco, or should I say Ms. Gable? Mr. Labosco also informed me that said lawyer also represented him. In the coming months, many more conflicts and violations of the Fifth and Sixth Amendments concerning lawyers will be brought out.

Just like the conflicts outlined above, Ms. Gable will already be aware of each of them. But, she will be willing to cover them up too, more than likely, surreptitiously [to] gain an advantage.

My question is, how do these Florida lawyers, including Ms. Gable, continue to conduct themselves in such an unethical manner?

The fact that the Court is charged with ensuring that Judicial integrity is maintained and government misconduct curbed, makes me wonder how Ms. Gable is able to continue committing such misconduct.

Enlisting or attempting to enlist a Defendant's attorney, whether it be my attorney, my father's attorney, or one of my co-defendant's attorney's is by no means appropriate.

To completely cut off my ability to defend myself in Pro Se, on top of that, by holding me unnecessarily in Guantanamo-like conditions, having Deputies psychologically intimidate me, and violating most, if not all, of my Constitutional rights, Civil rights, and inalienable rights, when the prosecution is aware of exculpatory evidence and much more government misconduct is a perversion of the Justice system at the highest levels.

Based on my experience with lawyers, the criminal justice system, and my many conversations with fellow inmates, it is apparent to me that this type of conduct is typical, rather than the exception.

At the minimum, the Court has a duty and responsibility to remove Mr. Mason from this case. If the Court decides to "hear" me, the Court also has the duty and responsibility to address the other issues I have raised in this document.

Respectfully Submitted,

Jude LaCour