



Friends Of The Border Patrol

A 501(c)(3) Nonprofit Law Enforcement Advocacy Corporation
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October 4, 2009

The Hon. James Sensenbrenner
House Judiciary Committee
2449 Rayburn HOB
Washington, DC 20515

Re: Judicial Conference Committee on Judicial Conduct & Disability;
Noncompliance with rules

Dear Chairman Sensenbrenner:

I hope this letter finds you well. As you know, beginning in 2004, I founded FOBP to support the Border Patrol and began investigating border security and cross-border violence. In 2006, I began investigating questionable prosecutions by the Department of Justice and terminations involving Homeland Security employees. The results of such investigations and cases, one of which I brought before the Judiciary Committee's El Paso Field Hearing in August of 2006, led to my describing them as the War on Law Enforcement.

I have found rampant abuses by the courts especially in the 11th Circuit to the degree that it requires my bringing the results of my investigation to you in order to ensure oversight and accountability for that is a hallmark of your work. If such abuses can take place as I have witnessed in the 5th and 11th Courts of Appeal Jurisdictions, they can easily be repeated across our nation. However, for the purposes of this correspondence, I am focusing on the 11th.

Beginning in July, I filed eight petitions for review in accordance with the rules promulgated by the Judicial Conference Committee on Judicial Conduct and Disability in Washington, DC.

Contrary to the JCC's publicly stated purpose—to resolve criticism from Congress and the public regarding the handling of complaints against judges, the JCC has privately refused to comply with its rules.

The JCC refuses to acknowledge receipt of my petitions—I have confirmation delivery from Federal Express and UPS. I called the office at least three times—the woman who answered the telephone refused to identify herself. One woman who did identify herself, Ms. Bryant, informed me that a “paralegal specialist,” Mimi Wyche, is in charge of the petitions. As far as I can determine, she has no law degree. I called her three times, but she refuses to return my calls.

The petitions arise out of eight judicial misconduct complaints filed against two Miami Federal District Court judges—Judge Jose Martinez and Chief Judge Federico Antonio Moreno, and six 11th Circuit Appeals Court judges—Hull, Barkett, Black; and Carnes, Tjoflat and Thrash.

The Eleventh Circuit Judicial Council made a mockery of the proceedings. Instead of referring the complaints to another judicial council in another circuit for appointment of a special investigator/prosecutor, the judges participated on behalf of their fellow judges and exonerated themselves by proxy.

I filed these complaints after litigation was terminated because the judges used their office to cover-up for each other and covered-up identifiable criminal and unethical conduct in the Miami United States Attorney's Office in retired Customs and Border Protection Officer Eugene Cavicchi's employment discrimination and retaliation cases.

Eugene Cavicchi is a graduate of Boston Latin, Holy Cross, an honors exchange student in Paris, France, and is State Department certified in French. Retired Officer Cavicchi was a highly decorated officer who was forced into early retirement, after 23 years of dedicated service. The final straw, after several years of retaliation, came when Miami Port Director, Jose Ramirez, who received three promotions after he admitted to tampering with evidence and "placing" marijuana in a black couple's luggage, ordered him to deliver inter-office mail.

Despite winning a petition for a writ of certiorari, the courts ignored the mandate of the Supreme Court. Miami Federal Judge Jose Martinez, a full-time sports announcer, assigned the case to himself after remand. The case had been assigned to a US Magistrate judge by consent of the parties. The assistant United States attorney withheld documents and admitted she had fabricated the defense against Eugene Cavicchi, but Judge Martinez pretended he could not understand English, and claimed the statement was "vague and conclusory." Martinez declared a motion to compel discovery "moot." The motion had been pending since 2004.

Martinez had been openly associating with a named-hostile witness, District Field Officer Thomas Winkowski, during Cavicchi's litigation and, when confronted with two motions to recuse, allowed Chief Judge Moreno to provide an alibi, claiming he was unable to rule on motions because of recent heart surgery. In truth, Martinez was broadcasting on the radio and boasted in an interview that he had missed only three University of Miami home football games since the fifties and about four away games since the eighties.

Although Judge Martinez previously listed his remunerations from his broadcasting activity, he did not do so in 2006, the year the recusal motions were filed. Instead, he declared his sports-announcing activity during the time in question in his 2007 Financial Disclosure Report.

When Chief Judge Federico Antonio Moreno alibied for Judge Martinez and assigned the cases to himself, he ignored the rules regarding the random assignment of judges. He would not disclose how many Judge Martinez cases he assigned to himself during this time. Although Chief Judge Moreno demands decorum from attorneys who appear before him, he administered the attorney's oath of office to his daughter in her pajamas before she went to work for the

Department of Justice. Ms. Moreno is an assistant United States attorney, but she does not disclose that position or telephone number on the Florida Bar Attorney Registration statement. We submit that the reason she does not disclose that information is that it would create appearance problems—Justice Tom Clark resigned from the Supreme Court when his son Ramsey became attorney general. The address she lists does not appear on the Miami-Dade tax records; therefore, we conclude that it is the judge’s home. Although the Florida Bar requires her to list a telephone number, she does not.

Chief Judge Moreno is also an adjunct professor of law at the University of Miami litigation section with former AUSA Bonn. It was she who withheld documents which proved her admission that she made up the defense in Officer Cavicchi’s case.

In the second case Moreno assigned to himself, the successor AUSA proffered a fabricated document. Moreno gave her a pass because he claimed she did not use it—she was caught. Moreno also refuted his earlier approved-decision wherein the court said Port Director Jose Ramirez should have been fired for the marijuana planting incident and claimed Officer Cavicchi’s reliance on his decision were “bombastic insinuations and accusations.”

Eleventh Circuit Judges Hull, Barkett and Black. The judicial misconduct complaints against these three judges are identical. Although Officer Cavicchi never argued race in his brief and specifically stated in his deposition that he was not pursuing a race claim, stating, “I am Italian-American. And Italian-Americans are not considered a minority. We are of a Latin origin. **And I do not want to make my ethnicity an issue here.** Tr. 23-24; Petition for Rehearing, these judges identified Officer Cavicchi as an “Italian-American male over 40....,” who, they wrote, applying that trite canard and repeating the agency’s demonstrably false allegations without addressing the withholding of documents and proof that the IA investigation had concluded in 1999, “was suspected of ... associating with persons connected to criminal activity.” In truth, there were no such persons connected to any criminal activity. Only in their minds was Officer Cavicchi’s ethnicity material and relevant.

Eleventh Circuit Judges Thrash (No. Dist. Ga), Tjoflat and Carnes.

The complaints and petitions against Carnes and Thrash are identical—they condoned the fabrication of evidence and the fabrication of the defense, and the conduct of Judges Martinez and Moreno.

Judge Tjoflat demonstrated the topic of his speech at Duke University regarding corrupt prosecutor Nifong and the Duke lacrosse team case. Tjoflat stated, “Prosecutors ... don’t do what he did unless they are absolutely confident that the court will give them free reign.” He aided and abetted the Miami US Attorney’s Office fabrication of the defense, withholding documents, and fabrication of evidence and witness tampering.

Attorney and former Resident Agent-in-Charge, Internal Affairs (legacy Customs), Mark Conrad’s eight page letter detailed Judge Martinez’s and AUSA Bonn’s flagrant misbehavior. As Mr. Conrad stated, “Obviously, I missed something in law school if an attorney is permitted to do this.” **Conrad letter to CJ Edmondson, Compl., Ex 2. at 5.** Tjoflat, Martinez, the chief

judge and the judicial council also permitted Bonn to admit that “critical evidence, i.e., the work and assignments ‘have been destroyed’ then brazenly stated that her admission is ‘inadmissible hearsay.’” *Ibid.*

Judges Tjoflat, Martinez, the chief judge and the judicial council also condoned AUSA Bonn’s conduct wherein she personally delivered official documents in her office and then claimed they were “unauthenticated documents.” *Id.* at 6.

Judge Tjoflat also knew, *inter alia*, that Bonn had falsely certified she filed IA Agent Ives’ deposition and switched Officer Cavicchi’s official deposition for a differently paginated, un-corrected, unsigned deposition. **Compl. at 2.** In fact, the Ives deposition was not filed until long after the deciding judge, US Magistrate Judge Klein, had already made his decision and the case was in the court of appeals. Internal Agent Ives “flatly said the allegations against Cavicchi were ‘unsubstantiated’ when the investigation concluded in 1999.” **Conrad Letter to CJ Edmondson, Compl. Ex. 2 at 4.**

AUSA Bonn knew several months prior to filing the Heinrich declaration that it was materially false:

In fact, the Heinrich declaration, upon which the courts have relied on the agency’s representation of an “ongoing Internal Affairs investigation,” is patently false for other reasons, among them is the statement that Heinrich did not know Gene’s race, age or gender or alleged disability. Gene’s first and middle names, Eugene Alfred, appeared on the job application. For him to have been under the age of 40, he would have had to have been 8 years old when he graduated from Boston Latin and 12 years old when he graduated from Holy Cross. However, in August 2002, Agency Attorney Alvaro faxed to AUSA Bonn Gene’s EEO characteristics, showing his DOB was 1950, that he was white” **Compl. at 3-4.**

The Supreme Court had rejected the Solicitor General’s sole opposition to Officer Cavicchi’s petition for certiorari—*res judicata*. Despite a motion to have the case decided by Judges Hull, Barkett and Black, Tjoflat intentionally kept the case away from them in order to keep their decision intact.

Judge Tjoflat, in addition to the foregoing, stonewalled the allegations before and after the Supreme Court remanded. Tjoflat, who was the presiding judge and signatory for the judicial council saw nothing amiss when a deciding judge, US Magistrate Klein, at the conclusion of a hearing, invited the AUSA into chambers in the presence of Attorney John Cavicchi, who was not invited. Later, both ridiculously claimed that the AUSA was there for the purposes of looking at pictures of his investiture as a US magistrate.

I have briefly described the complaints and petitions for review presently before the Judicial Conference Committee on Judicial Conduct and Disability. I have uploaded them on my personal web site, which is not available to the public:

<http://www.andyamirez.com/judicialcomplaints.htm>

Attorney John Cavicchi, his brother Eugene, Attorney Mark Conrad and I would like to meet with your staff and testify before Congress.

It is our position that the judiciary cannot be trusted to police itself and there must be Congressional oversight. As Thomas Jefferson wrote nearly two hundred years ago:

[B]ut you will have a more difficult task in curbing the Judiciary in their enterprises on the ConstitutionA better remedy I think, and indeed the best I can devise would be to give future commissions to judges for six years (the Senatorial term) with a re-appointmentability by the president with the approbation of *both* houses.

That of the H. of Repr. imports a majority of citizens, that of the Senate a majority of states and that of both a majority of the three sovereign departments of the existing government, to wit, of it's [sic] Executive & legislative branches. **If this would not be independence enough, I know not what would be such, short of the total irresponsibility under which we are acting and sinning now....**

[F]or the judiciary perversions of the constitution will forever be protected under the pretext of errors of judgment, which by principle are exempt from punishment. Impeachment therefore, is a bugbear which they fear not at all.

But they would be under some awe of the canvas of their conduct which would be open to both houses regularly every 6th year. It is a misnomer to call a government republican, in which a branch of the supreme power is independent of the nation....

....

[T]he machine, as it is, will, I believe, last my time, and those coming after will know how to repair it to their own minds. To James Pleasants, Dec. 26, 1821.¹

Respectfully yours,

ORIGINAL SIGNED

Andrew M. 'Andy' Ramirez
Chairman and Founder, FOBP

¹ Thomas Jefferson, *The Works of Thomas Jefferson*, Federal Edition (New York and London, G.P. Putnam's Sons, 1904-5). Vol 12, Chapter: *TO JAMES PLEASANTS*