

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GARY R. WALL,
Plaintiff

CASE NO: 3:09cv1066(DJS)

v.

UNITED STATES DEPARTMENT OF JUSTICE
U. S. ATTORNEYS OFFICE OF NEW HAVEN,
DISTRICT JUDGE JANET C. HALL,
UNKNOWN DISTRICT LAW CLERKS IN THE
MEANING OF BIVENS,
CIRCUIT JUDGE SONIA SOTOMAYOR,
UNKNOWN LAW CLERKS IN THE MEANING
OF BIVENS (3) 42 U.S.C. DEFENDANTS
28 U.S.C. 1361 "ACTION IN THE NATURE OF MANDAMUS

CONGRESSMAN JOHN LARSON (1)
"FEDERAL QUESTION" 28 U.S.C. 1331 DEFENDANT
Defendants

PLAINTIFF'S RESPONSE TO GENERAL COUNSEL HOUSE OF REP.
MOTION TO DISMISS RE: DEFENDANT LARSON PLUS SERVICE
UPDATE DEFENDANT SOTOMAYOR AND DEFENDANT HALL

RESPECTFULLY SUBMITTED BY:

GARY R. WALL 5TH AMEND. PLAINTIFF
60 Carriage Hill Drive
Wethersfield, CT. 06109
860-529-2651

September 28, 2009

RESPONSE

STANDING:

Demonstration for satisfying the Article III case or controversy requirement:

First Prong (a): The “injury in fact” is an invasion of a legally protected interest which is concrete and particularized.

This “controversy” involves the invasion and usurpation of 5th Amendment Due Process Rights by federal judges for the purpose of hiding from public view a self-policing agreement between the Department of Justice and a national trade union which by facts in related cases in front of these judges exposed the agreement to be not only corrupt in addition the agreement was and is a conspiracy against the Lawful Functions of the United States 18 U.S.C. 371(a)(b).

Second Prong (b): The actual injury was to Due Process Rights being usurped by judicial fact frauds and manipulations including docket fraud and the judicial corrupt action of aiding and abetting, trial perjury committed by the defendants¹. The actual injury also includes the plaintiffs litigating against the defendants while the courts (district and Second Circuit) had full knowledge the defendants were using (embezzled 29 U.S.C. 501(c)) membership money which was also a direct violation in violation of the self-policing agreement (“Operating Agreement”) with the D.O.J. In addition federal judges facilitated a (recorded) 29 U.S.C. 530 assault on one of the plaintiffs’ affiants and the extortion act of threatening another affiant to be shot six times in the head. 18 U.S.C. 1951 (both affiants left Local 230 for fear of economic and physical harm).

¹ The material trial perjury facilitated in the district and Second Circuit overturned this plaintiff’s and co/plaintiff’s own case Wall, Cooksey v. Local 230, 224 Fed 3d 168 (2000 2d Cir.). If the 28 U.S.C. 351, 28 U.S.C. 455 Complaints were truly reviewed, the level of judicial corruption would have never reached that degree of usurpation of a plaintiff’s own case; Corrupt Control of the judicial self-policing statutes 28 U.S.C. 351 and 28 U.S.C. 455 add a D.O.J./Judicial press shield and you have the seed of a police state.

Second Prong: The connection between the injury and the conduct complained of is supported by documented facts that because of the fact that the federal judges know they Sub Rosa corruptly control the self-policing statutes 28 U.S.C. 351 and 28 U.S.C. 455 (along with a D.O.J. press shield), they committed flagrant, obvious bold acts of obstructing and usurping of Due Process Rights to a reckless degree that is indefensible if viewed so they hid their corrupt actions by silence knowing they also can corruptly influence the fact that there will be no Congressional Oversight of the Separation of Powers Corruption caused by corrupt control of 28 U.S.C. 351, 28 U.S.C. 455.

Third Prong: If the Oversight Committee reviews the (7) 28 U.S.C. 351 Complaint and the (3) 28 U.S.C. 455 Application for Disqualification the committee will find it is not speculative that the injury will be redressed by a favorable decision subject to the amount and clarity of documented fraud in the 28 U.S.C. 351 Complaint and 28 U.S.C. 455 Application (the complaints and Application can be read on www.unitedstatesproselaw.com) see Chambers v. Time Warner Inc. 282 F.3d 147, 152, 155 (2d Cir. 2002) *contracts that in resolving motion, because of complaint referred and sought interpretation of them*".

In Response to defendant Larson's statement that "*The Congressman is immune under the Doctrine of Sovereign Immunity*" at page 3 of this Rule 12 Motion and also in response to the statement that "*The Congressman is immune under the Speech or Debate Clause*" page 4,5,6 Rule 12 motion. The response is the same.

This instant 5th Amendment Due Process Bivens Complaint is an "*Action in the nature of mandamus*" which authorizes a suit to compel a federal officers to perform the officer's duty see Simmat v. United Stats Bureau of Prisons 413 Fed 1225, 1234, 1236

(1st Cir. 2005). See also in re Cheney 406 Fed 723, 728 (D.C. Cir. 2005), “*Jurisdiction over action in nature of mandamus is strictly confined and is available only in extra ordinary situations in which a plaintiff has clear indisputable right and no other adequate remedy.*”

This is an “*Extra Ordinary Situation*” and the due process plaintiff has a “*clear indisputable right to relief and no other adequate remedy*” by reason of the fact that all adequate remedies have been exhausted for a twelve (12) year period.

This “*Extra Ordinary Situation*” also involves a self-policing agreement between the D.O.J. and Laborers’ International Union of North America (LIUNA) and the corrupt buy out dollars of a 212-page draft OCCA/RICO Complaint. Congress gave permission for the self-policing agreement (McCullom Committee). This plaintiff has shown Congressman Larson documented facts that the self-policing racketeering agreement was procured by perjury committed in testimony in front of the McCullom Committee by its author Robert D. Luskin in his D.O.J. capacity of 18 U.S.C. 1961(7) and as in house prosecutor and General Counsel. This is also an extra ordinary situation by reason of the fact (documented showings) that starting with a Judge Nevas transfer or in doing through obstruction and judicial scheme, obstructed for what it turned out to be an 18 U.S.C. 371(a)(b) proximate harm to this petitioner’s Statutory Rights and Due Process Rights see Marbury v. Madison 1 Cranch 137, 163, “*The very essence of civil liberty is the right of every individual to claim the protection of the Laws whenever he receives an injury.*”

In Response to Defendant Larson’s statement at page 6 and 7 of his Rule 12 Motion:

This plaintiff’s factual allegations are over enough to raise a right to relief above the speculative level every statement is backed by indisputable facts and supported by

indisputable evidence; otherwise this complaint would not have been filed. Therefore, a Rule 12(b)(6) Motion is not applicable to this Extra Ordinary Situation.

Also in response to defendant Larson's statement at page 7 of his Rule 12 Motion, "*the First Amendment does not impose any affirmative obligation on the government to listen...[or] respond*" citing as authority Smith v. Ark. State Highway Employees
Supra

Smith Supra: "*Individuals have no constitutional right to force the government to listen to their views the constitution does not grant to members of the public **GENERALLY** a right to be heard by public bodies making decisions of policy.*"

This Civil Rights Plaintiff does not want anyone to listen to my views and I do not want to be heard. All I requested from Congressman Larson was by reason of the facts I sent him that he perform his duty and obligation to protect Laws of the United States and draft a letter to the Judicial Oversight Committee to investigate this situation concerning the corrupt use of 28 U.S.C. 351 and 28 U.S.C. 455. A very simple and rational act concerning judicial self oversight; see Center for Judicial Accountability "CRITIQUE OF THE REPORT TO THE CHIEF JUSTICE ON THE IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980."

The first paragraph of the conclusion on page 68 of the critique should have been of great interest to Congressman Larson regarding 28 U.S.C. 351 self policing power quote: "*The thousands of judicial misconduct complaints filed under the act by ordinary citizens virtually 100% dismissed by chief circuit judges without appointment of special committees to investigate are the best evidence of how the federal judiciary has corrupted federal judicial discipline. This is why the federal judiciary impedes oversight by*

Congress and the American Public made them confidential. It is also why the Breyer Committee fashioned a “study” where citizens would not be interviewed or have the opportunity to testify about their complaints.” In regard to this plaintiff concerning the Critique see web site www.judgewatch.org see Footnote #36 of the Critique.

In response to Defendant Larson’s statement at page 8 of their Rule 12 Motion that being: *“Congressman Larson has not been properly served.”* Please see return affidavit of service filed in the court August 14, 2009 for Defendant Larson. Rule 12(b)(5) does not apply.

CONCLUSION:

For the foregoing reason the claims against Congressman Larson should [not] be dismissed and someone has to be held accountable! The hiding of judicial injustice protected by the corrupt use of 28 U.S.C. 351 and 28 U.S.C. 455 has gone far enough. This situation is already at a depraved police state level.

SERVICE UPDATE SOTOMAYOR AND HALL

This update is being written for purposes of clarity to inform the Court that as of this writing both defendants Sotomayor and defendant Hall have not filed an appearance in this matter. Both defendant judges are being served in CHAMBERS. This petitioner assumes that defendant Sotomayor is taking service at Supreme Court Chambers because of the letter I sent to the Chief Justice in his capacity as Chief of the Judicial Conference regarding the return of filing from Defendant Sotomayor’s Chambers (letter entered in this court September 8, 2009). Since the letter there has been no filings returned, so I assume the Chief Justice directed defendant Sotomayor to follow the Rules and take

service. Both defendant Sotomayor and Hall are late in their Rule 12 responses by reason of the fact there has been no appearance filed by or for them.

Submitted By:

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CERTIFICATION

This is to certify that a copy of the return has been sent first class postage pre-paid

on this day of August 26, 2009 to:

Department of Justice
New Haven U. S. Attorneys Office
C/O Michelle L. McConaghy
Assistant U. S. Attorney
District of Connecticut
157 Church Street
New Haven, CT. 06510

CHAMBERS
Honorable Judge Janet C. Hall
U. S. Courthouse
915 Lafayette Boulevard
Bridgeport, Connecticut 06604

CHAMBERS
Honorable Sonia Sotomayor
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Washington, D. C. 20548

Congressman John Larson
c/o Kerry W. Kircher
Deputy General Counsel
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SUBMITTED BY:

GARY R. WALL, petitioner

