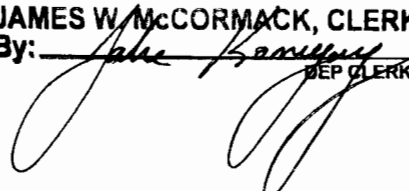


FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

SEP 16 2015

DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

Case: 15-00521

JAMES W. McCORMACK, CLERK
By:  DEP. CLERK

Frederick Smith

Vs.

ARKANSAS BOARD OF ELECTION COMMISSIONERS *et al*

OBJECTION TO DISMISS PARTIAL RECOMMENDATION DISPOSITION

COMES NOW; Petitioner, to *object* and dismiss in specific particularity the 'Partial Recommendation Disposition' of James M. Moody, herein says....

FEDERAL RULES OF EVIDENCE 401

Relevant Evidence

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

A) Mary McGowens' order does not pass the 'test' of legal reasoning. Problems of her order of relevancy call for an answer to the question whether an item of evidence, which defendants rely on for allowing her to be let out of case. That in the event this court allows her out would violate the Federal Rules of Evidence, RICO, and Judicial Ethics where a complaint must be filed with the "Office of Administrative Courts of U.S. Judges" in Washington, D.C. Where, when tested by the processes of legal reasoning, possesses sufficient probative value to justify receiving it in evidence. Thus, assessment of the probative value of evidence that a person purchased a revolver shortly prior to a fatal shooting with which he is charged is a matter of analysis and reasoning.

B) Judge D.P. Moody is attempting to allow Mary McGowen out of the case because of he and the other defendants are begging that this court do so to allow them to get off of the charges against them that shows without a doubt that they are "guilty" without remedy. Plus, for the interest of justice that this court take judicial notice to the "Facts" that there is no conviction against petitioner. Then and now furthermore, if there is,

pursuant to “*Subpoena Duces Tecum*” motioned herein, that a certified order showing petitioner being “Convicted” be produced to verify to this court, D.P. Moody, Mary McGowen, Mark Martin, Mike Bebe, Candace Martin, et al, that petitioner was not “Convicted” thus, pursuant to this “Objection”, she may not be allowed out of the suit.

- 1 Mary McGowen cannot be let out of the suit because her order is “void” and she submitted it deliberately. Furthermore, there is no verified or certified order showing a conviction. Mary McGowen neither can produce a valid order showing a conviction for Fred Smith *aka* Frederick Smith.
- 2 April 9th 2014 Judge **Mary Spencer McGowan** deliberately adhered to her own personal prejudice in GOOD FAITH, that was “non-judicial” that she thought she had jurisdiction and in her personal bias preference instead of the law and saying for the record “...*This court agrees with counsel for Fred Smith in that it now appears that Mr. Smith’s case has been dismissed and he does not have a felony conviction on his record. However, regardless of this court’s opinion on the legality of the Dismissal Order entered on March 14th, 2012, at the time of filing, there was no expunction of the finding of guilt by the Court and therefore, Mr. Smith was ineligible at the time of filing on March 1st, 2012...*”
- 3 She violated AC 5-51-205 where she “uttered”, “declared”, in open court false statements of law and encouraged the people of Pulaski & Crittenden Counties, clerk of court, court officers, the infliction of personal injury – Mr. Smith’s reputation as a State representative. His name, character, ignored clearly established law-no conviction or charge, knowing, Fred Smith did not a felony conviction she invoked her bias & prejudice against Fred Smith.
- 4 Judge knew or should have known that she may not bring any frivolous, groundless, malicious prosecution where such as is that she done violating AC 5-53-131. [see her order April 9, 2012]
- 5 Judge made a legal determination without authority to do so, by order granting a defendants motion request, to not count the votes for Mr. Smith ‘voter tampering’ or impeding the will of the people who have the final say so, not **Mary Spencer McGowan** who violated AC25-16-1101. There was no conviction by her own mouth and only applies to a public servant who pleads guilty. And any assumed guilty plea was done and is done under threat, duress, and coersion.
- 6 Judge committed a false imprisonment order where there neither is nor was any conviction and no record of any crime. Therefore, the need to ‘expunge’ anything is ludicrous; with no lawful authority, she allowed Mr. Smith to stay in jail several days without cause, violating AC 5-11-104.

- 7 Judge **Mary Spencer McGowan**, behaved with corruption in public office by harming Mr. Smith's name, reputation, character, Privilege, and right to serve his constituency where she knew by her above statements from her order, violating **AC 5-52-107**.
- 8 Judge McGowan has contempt for the judicial system of Pulaski & Crittenden County and its Citizens in that, she knowingly encouraged malicious prosecution that she was going to ignore that there was no conviction violating **AC 5-53-131** all under color of law.
- 9 There is an established "Tax Event" associated with the state case brought against Fred Smith, and a "Tax Event" established by the action brought to the state claims commission. Those events require a fiduciary trustee whom Mike Bebe, Mark Martin, **Mary Spencer McGowan** are pursuant to Title 26 sec. 1781 and FRCP 28(b) on the Convention of the Taking of Evidence in Civil or Commercial matters under Chapter 1 Article 1 to Notice you that a Taxable Event has occurred in case 14-254 (this federal action) on the trade receivables and payables on account 14-254 by the recent Conversion, Sale, and Transfer under the *Miller Reassurance Agreement* in favor of the United States through standard forms 275, performance bond 273, payment bond 274 by the United States Attorney under Title 28 sec. 2041, 2042 to asset and commercial backed securities.
- 10 The informational tax documentation is required from Mike Bebe, Mark Martin, **Mary Spencer McGowan**, and this Federal Court to Now, I am not assuming the tax liability for this Conversion and Transfer, Sale as a taxable event, I am requesting that you order the District Court, Appeals Court or Prosecuting Attorney to send to me Certified Copies of the United States Informational Tax Forms 1096, and the accompanying 1099 OID's and Tax forms 8300 for any cash payments over \$10,000 – such is this case over \$100,000. The 1009 OID's will identify who the payor and recipient of the funds or cash proceeds were under SFAS [Statement Financial Accounting Standards] form 95 and IAS [International Accounting Standards] form 746, containing the inflows and outflows of cash and cash equivalents on the balance sheet Form 2046 from Securitization of the off balance sheet receivables and payables which identify both the source and principal which, the funds or cash proceeds were derived from.

Take Judicial Notice Rules of Evidence 201

- 1 Defendant or any other party cannot produce any certified order, Judgment that says in clear concise, un-altered, "certified" ruling from a judge saying "Fred Smith was convicted" or "Fred Smith is convicted".

- 2 Defendant cannot produce any order TODAY that Fred Smith is convicted. Cannot produce any official "Certified" record that Fred Smith was, is, and now is convicted.
- 3 Being there is no dispute of "material fact", to give defendant a pass to get out is absurd. It violates the rules of evidence 406 HABIT:
 - a. Mary McGowen has been from Evidence... *of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.*
 - b. Defendant displayed a "Habit" to defraud, abuse, defame, damage, with his corrupt activity to implement an order that was and is void pursuant to "Rule of Law", "Federal Rules of Civil Procedure", "Federal Rules of Evidence", 42 USC 1983, 1985, RICO and Article 4, sec. 2 Constitution of the United States.
 - c. The "**scheme**" was to acknowledge that there is no felony conviction on petitioner but from her volition of bias & prejudice that the opinions of this court no expungement has been filed. If there is no conviction there is no need to "expunge" anything.
 - d. Always, every time, all the time, that has become the "Custom" of the Judge Mary McGowen that has established this as a "pattern of corrupt activity" or "policy" that is hidden from the laws of Arkansas, behind the Constitution of Arkansas, and until brought out *i.e.* this case, becomes violations of 42 USC 1983, 1985, 1986, RICO & Sherman Act and, Article 4, sec. 2 Constitution of the United States *inter alia*.
 - e. Mary McGowen too, like T. Benton Smith attorney for DPA, has criminal charges pending with the U.S. Attorney Christopher Thyer Little Rock, AR.
 - f. Defendant took no "reasonable diligence" to prevent, stop, the corrupt action which by displaying that behavior, she "neglected" to provide "reasonable diligence" that makes her "liable" under federal law.
- 11 Absolute judicial immunity applies only to the judicial function of Mary McGowen, where she clearly went outside of that and stated she was going to... *"...However, regardless of this court's opinion on the legality of the Dismissal Order entered on March 14th, 2012, at the time of filing, there was no expunction of the finding of guilt by the Court and therefore, Mr. Smith was ineligible at the time of filing on March 1st, 2012..."* Mary McGowen

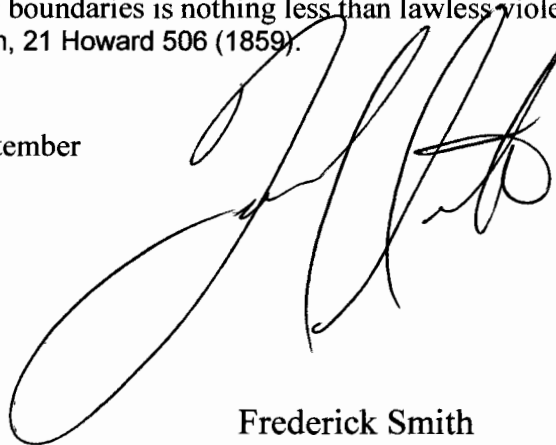
ignored the judicial "record" and opinion on legality of dismissal order. This says if a judge can receive evidence that there is no conviction and go against that on their own, then there is no law in this country, and the District Court is a farce. Because there is no law, and the alleged judges of state or otherwise can do whatever they want to. That there is a "selective" adherence to judicial rulings in favor of whom that judge wants convicted or released shocks the conscious.

- 12 Petitioner has NOT claimed malice or bad faith, but her "good faith" decision was implemented against petitioner, which was a "non-judicial action" that Judge McGowen acted outside of her duties of a judge by evidence of her order.
- 13 Judge McGowen a judge; when a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites she may be held civilly liable for abuse of process even though her act involved a decision made in good faith, that she had jurisdiction. *State use of Little v. U.S. Fidelity & Guaranty Co.*, 217 Miss. 576, 64 So. 2d 697
- 14 This is the claim of petitioner because she felt she was acting in "good faith" that she thought she had "jurisdiction" to do so, but she did not have such.

CONCLUSION

- 1 Dismiss the request for partial recommended disposition as *void ab initio*.
- 2 Allow Mary McGowen to remain in the suit for interest of justice, and "Rule of Law".
- 4 Dismiss the request for there is no judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence. See case *Ableman v. Booth*, 21 Howard 506 (1859).

This 14th of September

A large, stylized handwritten signature in black ink, appearing to read 'F. Smith', is written over the signature line.

Frederick Smith

DUE PRESENTMENT UNDER NOTARY SEAL
NOTICE TO AGENT IS NOTICE TO PRINCIPAL
NOTICE OF SETTLEMENT
RR 267 263 622 US

STATE OF ARKANSAS]
]
CRITTENDEN COUNTY]

From: Notary Public/Acceptor **Re:** Objection to Partial Recommendation
Disposition

James M. Moody U.S. DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS,
600 W Capital Ave. A149 Little Rock, Arkansas

Dear James M. Moody, *dba* U.S. DISTRICT COURT, please copy
Pursuant to UCC 3-508, 3-509, 510, 1-202, 202, *inter alia* **due presentment** is hereby
made of:

PRIVATE SETTLEMENT INDEMNITY BOND # 15-00521
Notice

***OBJECTION TO PARTIAL RECOMMENDATION DISPOSITION**

***OFFERED FOR VALUE, FOR CASE 15-00521**

originating with Receipt or agents thereof noted Bond by Frederick Smith with the
makers' request to credit the full value of the case, forward it to payee Jacob Lew
Secretary of the Treasury within five (5) days of presentment, and exhibit to the maker a
check, money order, warrant, order or comparable Statement of Account reflecting the
credit indicating posting of the asset so it is received by the undersigned notary public at
the address noted above no later than ten (10) days beyond the postmark of this
presentment. Non-performance will be certified. Fiduciary responsibility is upon James
M. Moody to completing 1099 OID.

Thank you kindly for your cooperation.

Bernice Marshall (Seal) NOTARY PUBLIC

My commission expires: 7/25/2018

