

**FILED**

FEB 21 2023

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JEREMIAH VAN TASSEL,

Petitioner,

v.

MICHAEL CLARK, et al.,

Respondents.

)  
) C.A. No: 1:21-172 Erie  
)  
) SUSAN PARADISE BAXTER  
) United States District Judge  
)  
) RICHARD A. LANZILLO  
) United States Magistrate Judge  
)  
) **REQUEST FOR DISCLOSURE**  
)

Comes now the Petitioner in the above-entitled action, Jeremiah Van Tassel,  
and would show this Court the following:

28 U.S. Code § 453 - Oaths of justices and judges

Each justice or judge of the United States shall take the following oath  
or affirmation before performing the duties of his office: "I, \_\_\_\_, do  
solemnly swear (or affirm) that I will administer justice without respect to  
persons, and do equal right to the poor and to the rich, and that I will  
faithfully and impartially discharge and perform all the duties incumbent upon  
me as \_\_\_\_ under the Constitution and laws of the United States. So help me God."

Violation of that oath is grounds for impeachment. *U.S. Code  
Congressional and Administrative News*, p. 6895 (1991).

Plaintiff strongly suspected that he would be denied relief by a law clerk  
after reading the following information.

If this is a correct statement, then no judge could have possibly authored the  
Order of January 19, 2023.

Plaintiff's suspicions about law clerks were confirmed as a fact. See Eric Segall, *Law Clerks, Judicial Power, and the Code of Silence*, dorfonlaw.org (Jan. 2, 2018).

One excerpt:

I clerked in the Northern District of Georgia from 1983-1985. I loved my judge who happened to also be the Chief Judge of the District at the time. He was a conservative Republican, and a man of honor, good judgment, common sense, courage, and fairness. He once enjoined President Reagan from sending a plane of Cuban refugees back to their own country where they were going to be persecuted. He was reversed immediately by the 11th Circuit, and then two weeks later he did it again because he was so affronted by the government's refusal to present their arguments to him. He was reversed again.

There were twelve federal district court judges in Atlanta at the time. I knew at least one clerk in every chamber. Eleven of the judges treated legal pleadings such as motions for summary judgment, motions to dismiss, and motions for judgment notwithstanding the verdict, in the same manner. A law clerk would grab the completed pleadings from a shelf or file drawer, decide how the motion, often dispositive, should be resolved, write a draft opinion, and then put it on the judge's desk.

*Id.*

A federal judge – not a law clerk – should address these issues. Some of those issues are summarized, *infra*.

The right to adjudication before an Article III Judge is an important constitutional right. *United States v. Mortensen*, 860 F. 2d 948, 950 (9<sup>th</sup> Cir. 1988), cert. denied, 490 U.S. 1036, 109 S.Ct. 1935, 104 L.Ed.2d 406 (1989).

Law clerks writing opinions for expediency in the federal courts is troubling, not only to pro se litigants, but to those few willing to speak out and alert the public.

And Rob Johnson, who was the single clerk for an intermediate state appellate court and who served three judges by himself back in the days when “I’m not sure we even had an electric typewriter,” is more blunt. “I don’t like the idea of wild-eyed twenty-four- and twenty-five-year-olds, who come right out of law school, tinkering with the law in a way that might affect my life,” he says.

David Crump, *How Judges Use Their Law Clerks*, New York State Bar Journal 43, 45 (May 1986) (footnotes omitted).

Plaintiff suspects this Court has allowed some “wild-eyed” amateur to thwart justice with no repercussions. There are apparently no consequences for anyone receiving a salary in this Court from the taxpayers while they “tinker with the law” and deprive the rights of those who ask for their protection.

Such behavior on the part of governments is nothing new.

As for my people, children are their oppressors, and women rule over them. O my people, they which lead thee cause thee to err, and destroy the way of thy paths.

Isaiah 3:12, King James Bible

That children – mere wet-behind-the ears law school graduates – are oppressing those of us ensnared in the court system is hardly open to debate.

Now consider the damage a federal judge can do to his own law clerk(s) if a law clerk displeases him. A law clerk with such concerns (and they all have) can certainly expect to cringe.

Plaintiff expected to have his case heard, not by a law clerk, but by an Article III federal judge.

Plaintiff is well aware that *another* law clerk will— more than likely— continue to play “cat in the sand box” with his case in order to “cover” for the *first* law clerk who robbed him of the judgment that was rightfully his. I.e., Plaintiff suspects that it will take an Act of Congress to stop this nonsense. In the meantime, Plaintiff’s Request for Disclosure should eventually show members of Congress the extent of the problem. Should this Request For Disclosure be granted, Plaintiff would ask for:

1. The name of each person (judge, magistrate, or law clerk) who worked on his case and denial of any ruling on the actual issues raised;
2. The *amount of time* each individual spent on this case;
3. How much time (if any) federal judge Susan Paradise Baxter actually spent reading and researching Plaintiff’s pleadings.

There is some case law that this Court should address:

Judge Cook found that Horen’s work product did not meet her expectations. On one occasion, Horen failed to recognize mandatory statutory language. Because of her reliance on Horen’s work, Judge Cook issued an opinion in contravention of the statute. Judge Cook thereafter

granted a motion for reconsideration to correct the error

*Horen v. Cook*, No.12-4544 (6<sup>th</sup> Cir. 2013)

On one occasion? Plaintiff suspects that this takes place on multiple occasions.

1. Law clerks spend the vast majority of their time doing legal research, preparing bench memoranda, drafting orders and opinions editing and proofreading the judge's orders and opinions, verifying citations, and discussing and conferring with the judge about pending cases and decisions, all in a relationship based upon complete confidentiality, accuracy and loyalty. Alvin B. Rubin and Laura B Bartell, *Law Clerk Handbook I*, 16 (1989).

*Hager v. Pike County Bd. of Educ.*, 286 F.3d 366, 378 (6<sup>th</sup> Cir. 20002)

How much time did judge Baxter actually put in on this case, if any?

Lastly, we address defendants' request for sanctions alleging that Mr. Duran's pro se brief was actually "ghost-written" by his former attorney, Harry Snow. We issued a show cause order requesting that Mr. Duran and Mr. Snow show cause as to why this court should not sanction this behavior. We have received and considered the parties' response.

This court is concerned with attorneys who "author[] pleadings and necessarily guide[] the course of the litigation with an unseen hand." *Johnson v. Bd. of County Comm'rs*, 868 F. Supp. 1226, 1231 (D. Colo. 1994). Fed. R. Civ. P. 11(a) requires that "[e]very pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or if the party is not represented by an attorney, shall be signed by the party."

*Duran v. Carris*, 238 F.3d 1268, 1271 (10<sup>th</sup> Cir. 2001)

A quote from an earlier Chief Judge of the Eighth Circuit bears repeating:

Richard Arnold of Arkansas, a judge who sits on the U.S. Court of Appeals for the 8th Circuit, is a product of the Old South school of courtly manners. He is equally comfortable holding forth on an early 19th-century British case, the U.S. Constitution or a richly embellished anecdote. But he is less genteel when talking about what is happening to the federal courts. Speaking at the Drake University Law School last week, Arnold was asked about a story in The New York Times reporting that because of crushing workloads, some federal appeals courts are resorting to perfunctory one-word rulings—"Affirmed" or "Denied"—with no written opinion giving the court's reasoning.

The practice is an "abomination," Arnold said. He told of participating recently in a court session where more than 50 cases were decided in two hours. "We heard many, many cases with no opinions or unpublished opinions," Arnold said. "I felt dirty. It was a . . . betrayal of the judicial ethos. It makes me feel terrible."

*Perfunctory justice: Overloaded federal judges increasingly are resorting to one-word rulings, Des Moines Register (March 26, 1999).*

### The Magistrate Problem

#### **Explainer | Why judges get lifetime jobs**

**Kevin Wagner**

*Q. Why do judges get lifetime jobs?*

*A.* Article III, Section 1 of the Constitution reads, "The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office." The key term here is "good behavior" which has come to mean that federal judges get to serve until and unless they are removed from office through the impeachment process, which is rare.

Judges are expected to follow the law which can result in unpopular decisions. The purpose of giving federal judges such extraordinary job security is to remove them from political pressures. This is intended to help ensure that the decisions they make are guided by law and judgment rather

than trying to placate political interests to save their job. A judge or justice must be seen as fair and independent.

<https://www.palmbeachpost.com/story/opinion/2022/06/19/civics-column-explains-why-supreme-court-justices-get-lifetime-jobs/7645371001/>

This is intended to help ensure that the decisions they make are guided by law and judgment rather than trying to placate political interests to save their job. A judge or justice must be seen as fair and independent.

Save whose job?

a (c) The appointment of any individual as a full-time magistrate judge shall be for a term of eight years, and the appointment of any individuals as part-time magistrate judge shall be for a term of four years,

*The Selection, Appointment, and Reappointment of United States Magistrate Judges*, Judges Information Series No. 2, p. 78

What is to keep the Hon. Susan Paradise Baxter from telling a magistrate judge, "Get rid of this one, doing it rights will create too much work for me." ? Of course the Magistrate would find his equitable tolling argument to be "wholly unavailing". Why? How?

I don't want to know what the law is, I want to know who the judge is.

Roy M. Cohn, quoted in *New York Times Book Review*, 3 Apr. 1988, at 24.

Mr. O'CONNOR of New York.... I am against the bills to create additional Federal judges, having been consistently against such bills, because I am a Democrat. Being a Democrat, I can not reconcile my Democratic principles with voting to increase the Federal judiciary when I recall the tyranny of its past and its deplorable present, its interference and



usurpation of State and local rights. Nor can I understand how any Democrat can vote for any bill to augment the Federal judiciary. I welcome an opportunity to vote to abolish it....

Congressional Record, Vol. 72, pg. 9,980 (June 3<sup>rd</sup>, 1930)(71<sup>st</sup> Congress, 2<sup>nd</sup> Session)

What the Court did not address:

### Certificate of Appealability

Jurists of reason would not find it debatable?

ju-ris-t

/jʊr ɪst/

*noun*

1. an expert in or writer on law.

#### o NORTH AMERICAN

a lawyer or a judge.

<https://www.google.com/search?q=jurist+definition&oq=jurist+definition&aqs=chrome..69i59j0i512j0i22i30l2j0i15i22i30l6.4971j1j15&sourceid=chrome&ie=UTF-8>

Apparently someone in the Erie County District Attorney's Office is not a jurist of reason. Page two, paragraph three, Magistrate's Report and Recommendation.

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can



not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.” *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 *Moore’s Federal Practice*, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated “a decision produced by fraud upon the court is not in essence a decision at all, **and never becomes final.**”

*See Hutto v. Davis*, 454 U.S. 370, 375, 102 S.Ct. 703, 706, 70 L.Ed.2d 556 (1982) (per curiam) (“unless we want anarchy to prevail within the federal judicial system, a precedent of this Court must be followed by the lower federal courts. . . .”). The American judiciary has long placed a premium upon the doctrine of stare decisis, especially its “vertical application,” which commands trial courts to adhere to its jurisdiction’s appellate court precedents and ultimately, those of the United States Supreme Court. *See* Thomas W. Merrill, *Judges Opinions as Binding Law as Explanations for Judgments*, 15 CARDOZO L.REV. 43, 44 (1993).

*Concerned Cit. for Equality v. McDonald*, 863 F. Supp. 393, 404 n.22 (E.D. Tex. 1994)

#### Certificate of Appealability

4. A certificate of appealability is hereby issued.<sup>2</sup>

<sup>2</sup> A movant who seeks to appeal a final order of a district court must obtain a certificate of appealability for each claim the movant wishes to present to the Court of Appeals. 28 U.S.C. § 2253(c)(1)(B). A certificate of appealability should be granted only when reasonable jurists could debate procedural or substantive dispositions of a movant’s *habeas* claim. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). A movant satisfies this “standard by demonstrating that jurists of reason could disagree with the district court’s resolution of the case or that the issues presented were adequate to deserve encouragement to proceed further.” *Miller-Elv. Cockrell*, 537 U.S. 322, 323 (2003). The movant, however, need not demonstrate that the appeal will succeed. *Id.*

*Artache v. Pennsylvania*, Civil Action 16-3753, at \*1

(E.D. Pa. Feb. 17, 2022)

WHEREFORE, Plaintiff moves this Court to grant him the relief he requests.

Respectfully submitted,

Date: February \_\_\_\_, 2023

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Jeremiah Van Tassel  
ND 0329  
SCI ALBION  
10745 ROUTE 18  
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Respectfully submitted,

Date: February \_\_\_\_, 2023

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33733

### **Certificate of Service**

This certifies that I have on this \_\_\_\_ day of February, 2023 placed a true and exact copy of my

#### **REQUEST FOR DISCLOSURE**

in the U.S. Mails, first-class postage prepaid, addressed to:

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814-451-6483  
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Jeremiah Van Tassel