

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA
(Fictitious Plaintiff)

VS.

CASE# 10-00320-16-CR-W-DGK

Frank M. Alvarez
(Real Party in Interest)

Motion to Recuse Magistrate Judge Robert E. Larsen

Comes now, Frank M. Alvarez, the flesh and blood, living soul of majority age and sound mind, competent to state the matters set forth herein do affirm that the foregoing is true, correct and complete not misleading with 1st hand knowledge of the facts here with Title 28 U.S.C. 1746 (1) "without the United States" under penalty of perjury, sworn to within the United States of America.

Defendant in error demands the Recusal of Magistrate Judge Robert E. Larsen for violating openly my due process of Law rights and he leaving the bench to assist the prosecution.

Magistrate Judge Robert E. Larson denied my request for a copy of the complaint against me in violation of the bill of rights and rules 3 and 4 of the Federal Rules and Criminal Procedure.

That the Supreme court states that a complaint is the initial document for charging a person with a misdemeanor or felony, State V. Nordin, 2005 ND 189, 705 N.W. 2d 819 (N.D. 2005) Cert. denied, 126 S.Ct 2869, 165 L.Ed. 2d 902 (US 2006)

That the complaint provides "the foundation" for the neutral judgement by a Judicial officer that resorts to further criminal process is justified, State V. Faltynowicz 660 P. 2d 268 (Wyo 1983).

That, the Supreme court has held that if a judge wars against the constitution, or if he/she acts without Jurisdiction, he/she has engaged in treason to the constitution Levine V. United States 362 U.S. 610 80 S. Ct 1038 (1960)
"Justice must satisfy the appearance of Justice.

A departure by a court from those recognized and established requirements of Law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." Wuest V. Wuest, 127 P2d 934, 937

"When a judge knows that he lacks jurisdiction or acts in the face of clearly valid Constitutional provisions or valid statutes expressly depriving him of jurisdiction or judicial capacity, judicial immunity is lost." Den Zeller V. Rankin, 161 S. Ct. 2020 (198).

Magistrate Judge Robert E. Larsen has appeared to be practicing Law from the bench by denying my motion for Bill of Particulars which is my constitutional right to ask, and not allowing the prosecution to rebutt or to positively act, it appears to be prejudice against me Sui Juris at Law.

United States VS. Balistreri, 779 F. 2d 1191 (7th Cir 1985) Sect 455 (a) "is directed against the appearance of partiality, whether or not the judge is actually biased."

That Court also stated that Section 455(a) "requires a judge to recuse himself in any proceeding in which his impartiality might reasonably be questioned." Taylor VS. O'Grady
888 F.2d 1185 (7th Cir 1989)

Recusal under Section 455 is self-executing: A party need not file affidavits in support of recusal and the judge is obligated to recuse himself sua sponte under the stated circumstances.

This motion should be granted based upon the rulings and facts in law of the Superior Courts. Defendant in error invokes the doctrine of stare and ~~decisis~~ and moves this Court to Recuse this Magistrate Judge Robert E. Larson and or Dismiss this Case with prejudice

Certificate of Service

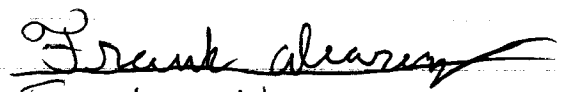
I Frank M. Alvarez, the living, breathing, flesh and blood natural born free state citizen *Sui Juris* at Law comes with this motion Recuse Magistrate Judge Robert E. Larson, being placed before this clerk of court of the United States District Court for the District of Missouri Western Division on this day of ~~5th~~ and month of May in the year of 2011.

Judge Greg Kays
400 E. 9th St
K.C. Mo. 64106

Bruce Rhoades
U.S. attorney's office
400 E. 9th St.
Ste 5516
K.C. Mo. 64106

Chief Judge
400 E. 9th St
K.C. Mo. 64106

Respectfully, without explicit reservations of all my rights without prejudice.


Frank Alvarez.