

United States Court of Appeals

For the Eighth Circuit

Thomas F. Eagleton Courthouse

111 S. 10th Street

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400

FAX (314) 244-2780

<http://www.ca8.uscourts.gov>

August 23, 2011

Ms. Ann Thompson, Clerk
U.S. District Court
Rm. 1510
400 E. 9th Street
Kansas City, MO 64106

Case: United States v. Frank M. Alvarez
District Court Case Number: 4:10-cr-00320-DGK-16

Dear Ms. Thompson:

Enclosed for processing by your office is "Motion to Recuse Magistrate Judge Robert E. Larsen" that was forwarded to this court by Frank Alvarez. The motion was received in the appellate court on August 22, 2011, but should be filed in the district court.

Sincerely

Michael E. Gans
Clerk of Court

bdg

cc:

Mr. Frank Alvarez

#14667-045

Corrections Corporation of America

Leavenworth Detention Center

100 Highway Terrace

Leavenworth, KS 66048

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)

Administrative 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.

It is of major importance that the aggrieved Defendant in Error, Frank Alvarez a Real Party in Interest demands the immediate Recusal of Magistrate Judge Larsen for a multiplicity of unlawful infractions in said case (Supra).

1) Magistrate Larsen has been blocking Defendant in Errors filings, Sui Juris (Prose), which reflects badly against the Government.

2) Magistrate Larsen is practicing law from the bench, in violation of 28 USC § 454, as well as in violation of the "Pro Se Rule" and the "Do No Harm" standard.

RECEIVED

AUG 22 2011

Defendant in Error also moves this court to produce the Bonafides of the Judge in this case. The matter at hand is serious, as a biased court would constitute structural error of the highest kind and would require an immediate reversal by an court, district or Appellate.

3) Magistrate Larson has denied my request for Certified Copies of the Complaint and affidavit of Probable cause for this alleged case

"Satterwhite v. Texas, 486 U.S. 245, 256 (1988)"

"In conducting harmless error analysis of constitutional violations in direct appeal and habeas Corpus cases, the court . . . repeatedly has reaffirmed that some constitutional violations . . . by their very nature cast so much doubt on the fairness of the trial process that, as a matter of Law, they can never be considered harmless."

"Neder v. United States, 527 U.S. 1, 7 (1999)"

We have recognized a limited class of fundamental constitutional errors that defy analysis by "harmless error" standards . . . Errors of this type are so intrinsically harmful as to require automatic reversal (i.e. affect substantial rights) without regard to their effect on the outcome!"

The Judicial bias in this case, structural error in itself, require the judge to recuse himself voluntarily. To date, despite the conflicts that have been created and violation of the Oath of office to uphold the Constitution, the court has refused to do so

4) Magistrate Larsen has moved the Proceeding forward without the government establishing on the Record their Jurisdiction over me.

5) Magistrate Larsen knows pursuant to Rule 12 (b) (6), that the Government has failed to state a claim for which relief can be granted to the Defendant in Error.

6) Magistrate Larsen has willfully denied said Defendant in Error's Due Process which is a violation of Title 18 USC § 1346 "Scheme or Artifice to Defraud", by perpetrating a scheme or artifice to deprive another of the intangible right of honest services. Openly denying my 5th and 14th amendment right!

"United States V. Balistreri, 779 F.2d 119 (1983) Section 455(a), "is directed against the appearance" of partiality, whether or not the Judge is actually biased". 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.

Any Justice or Judge appointed under the authority of the United States who engages in the practice of Law is guilty of a high misdemeanor. Any Justice Judge or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might be reasonably be questioned. The legal grounds for this motion is the well settled rule that pro se proceedings are to be liberally construed in the pro se's favor. "Flanines V. Kerner, 404 U.S. 519, 30 L. Ed 2d 652, 92 S. Ct. 594 (1972), Bong V. McDougall, 454 U.S. 364, 70 L. Ed. 2d 551, 162 S. Ct. 700 (1982).

In conclusion Defendant in Error, has established as a matter of Law that the Magistrate Judge Larsen is now practicing Law from the Bench and fraudulently acting as an Article III Judge also acting as a 2nd prosecutor and denying Defendant in Error's Due Process rights. Based upon these facts found in the Court docket / Record and his open display of bias towards defendant in Error's filings, this action must be done immediately or Dismiss this case against Frank Alvarez immediately with Prejudice.

Certificate of Service

I Frank M. Alvarez the living, breathing, flesh and blood, natural born free citizen Sui Juris at Law comes with this motion to Recuse Magistrate Judge Robert E. Larsen being placed before this ~~CLERK~~ of Court of the United States District Court for the Western District of Missouri Western Division on this day of 17th and month of August in the year of 2011

Judge Greg Kays
400 E 9th St
KC. Mo. 64106

Chief Judge
400 E. 9th St
KC. Mo. 64106

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

Frank Alvarez
Frank Alvarez

Bruce Rhoades
U.S. Attorney's office
400. E. 9th St
KC. Mo. 64106

Eighth Circuit of Appeals clerk
Thomas F. Eagleton United States Court
House.
111. South Tenth Street, Room 24.329
St. Louis Mo. 63102-116

Frank Alvarez-14667-045
100 Hwy TERR
Leavenworth, KS. 66048



Eighth Circuit of Appeals clerk
Thomas F. Eagleton United States Court House
111. South Tenth street. Room. 24. 324
St. Louis mo. 63102-116

631024125

