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Sovereign-State-Parties
In their own Stead[1]

UNITED-STATES-DISTRICT-COURT
NORTHERN-DISTRICT OF CALIFORNIA

Robert-John:Foti as to Counts 1-6 Joe Neufeld as to counts 2,4,5,6 Ken Augustine as to counts 4,5,6 Plaintiffs[2], v. Officer McHugh and other unknown number of unnamed officers of the U.S. Marshall's Service and the Federal Protective Services U.S. Marshall's Service Federal Protective Services (John-Doe: 1-50) Respondents.	CASE-NO: C 04-2567 PJH Layman's Opposition to Defendants Motion to Dismiss Complaint and Demand for Sanctions and to Strike Motion and Declaratory Judgment Date: Wed. Oct. 27, 2004 Time: 9:00 a.m. Courtroom 3, 17th Floor Trial by Jury Demanded THREE JUDGE COURT CR 9(i)[3]

[1] We are not attorneys. We should not be held to the same standard as an attorney and does request from this court an honest judgment. We trust any deficiencies and imperfections that may be contained herein will be liberally construed as the law favors form less than substance. This document is prepared without the assistance of counsel and is subject to whatever corrections are found necessary if and when the court so recommends.

[2] The court said in Pike v. Dickson, 9 Cir. 323 F.2d. 856, at 857: "Chief Judge Sobeloff in United States v. Glass, 4 Cir., 317 F.2d 200, 202 said as follows: `Where the laymen's papers clearly show what he is driving at, it is usually in the interest of justice and

Plaintiffs oppose defendants' motion and demand sanctions against them because they are lying and misrepresenting facts, law, and authorities in an attempt to influence the court or otherwise perpetrate a fraud upon it.

This opposition is based on all other pleadings, evidence and exhibits of this case and which are incorporated herein by this reference.

The Motion is Frivolous

Good Faith effort has been made to confer with the other parties concerning the issues in dispute by way of a request for administrative hearing by Plaintiffs. Issues are: unopposed, unchallenged, non denied, and uncontested by Defendants falling silent to the request. Opposing parties were notified of requested claim, relief and/or remedy. (See request for administrative hearing appended to complaint. They acted in the manner complained of anyway. Opposing parties have defaulted.

Sections of Motion Subject to Sanction

Defendants Argument I. and II. A. B. Must be and Sanctioned

United States Attorneys are highly regarded in all legal circles. They are learned in the law. They are educated. They are professionals and one would think that the positions they hold are reserved for the very brightest of lawyers. They do pleadings for a living. They must be familiar with the rules and ethics of the legal profession. The only conclusion that can be drawn from the following deceptions in defendant's motion to dismiss is that Tracie L. Brown, supervised by Joann M. Swanson and Kevin V. Ryan, have committed deliberate and negligent acts done purposely to sway the court, perpetrate a fraud upon the court, and mess with me. They are not being forthright with the court. They are coming to court with unclean hands. Knowing that we are right and that there is no defense to our allegations, they have resorted to skullduggery and outrageous conduct bordering on criminal concealment.

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may in the long run save time to temper the reading of the papers with a measure of tolerance.' This court has applied the same rule of construction of a layman's pleadings in Thomas v. Teets, 9 Cir. 205 F.2d 236,238. Note 1" Note 1: `Thomas' application being drawn by an inexperienced layman is to be construed to give its allegations effect, though inartfully drawn. Darr v. Burford, 339 U.S. 200, 203, 70 S.Ct. 587, 94 L.Ed. 761; Price v. Johnston, 334 U.S. 266, 292, 68 S.Ct. 1049, 92 L.Ed. 1356'" 370 F.2d. at 40 (1966)

[3] The constitutional claim could be adjudicated only by a three-judge court, but the statutory claim was within the jurisdiction of a single district judge. Hagans v Levine, 415 U.S. 528, 543 (1974) See also: Hohn v. United States 524 U.S. 236 (1998); Connolly v. Pension Benefit Guaranty Corporation 475 U.S. 211 (1986) Summary Dismissal claim court overruled; Walters v. National Association of Radiation Survivors 473 U.S. 305 (1985); Washington v. Confederated Bands and Tribes of the Yakima Indian Nation 439 U.S. 463 (1979); Tully v. Griffin, Inc. 429 U.S. 68 (1976); Whalen v. Roe 423 U.S. 1313 (1975); Atchison,Topeka & Santa Fe Railway Co. v. Wichita Board of Trade 412 U.S. 800 (1973); San Antonio Independent School District v. Rodriguez 411 U.S. 1 (1973); Shapiro v. Thompson 394 U.S. 618 (1969); Reynolds v. Sims 377 U.S. 533 (1964); Stratton v. St. Louis Southwestern Railway Co. 284 U.S. 530 (1932)

To claim that our complaint is brought under the Federal Tort Claims Act and that we are claiming Damages against the agencies themselves is not supported by the complaint is a blatant lie and an attempt to defraud the court. The Plaintiffs have found no evidence the Federal Tort Claims Act has application to Biven's Actions. We are not suing the Federal Protective Services or the United States Marshall's Service for monetary damages. We want the agencies to order all their employees to cease and desist with commands for government IDs and subsequent sanction/punishment when not complied with that are constitutional violations. No waiver of sovereign immunity is needed to stop unconstitutional acts.

The defendants flat lie to the court on page 9 when they represent, in their motion to dismiss, a quote from *United States v Christian*[4], To Wit: "Nothing in our case law prohibits officers from asking for, or even demanding" identification. Note the inventive use of punctuation, the placing of quotation marks in the middle of a sentence. Defendants left out something. The real quote reads: "Nothing in our case law prohibits officers from asking for, or even demanding A SUSPECT'S identification." [EMPHASIS added] Sanctions are demanded.

The defendants are aiming to convince the court they are clairvoyant. The *Hiibel*[5] case the defendants mention on page 9 was decided after this encounter. It gives police the right to demand a name, nothing more. And only if they suspect a crime was committed, or is going to be committed. Innocent people shouldn't suffer such demands. This is what happens when government is given an inch, they take a mile. Their goal is to intimidate people into compliance. Government wants the control that registration gives them. Going into a court or public building is neither a *Terry* nor a *Miranda encounter*. "Government Pappas" don't have to be shown and should not be asked for in this country.

On page 9, defendants put a statement, clearly there to play on the prejudices and fears of the court and the courts judges and officers, "-particularly in the wake of the Oklahoma City Bombing and the events of Sep 11, 2001". Both those events happened outside the buildings ... or did they? Are the defendants confirming the conspiracy theorists beliefs? All the perpetrators of Sep. 11, had ID and looking at them at the airport did nothing. This demands sanction. Demanding "Pappas" has never done anything to save a nation. It has always proved to be tyrannical, whenever it is used. Judges cannot shut their eyes to history. They also make these events appear to be in the *Harlow*[6] decision rendered in 1982. The defendants need to be sanctioned.

Hiibel did not overrule any part of *Carey*[7] as defendants' allege on page 9. But this is Governments mindset; when given an inch, take a mile. This is a gross misrepresentation by defendants (but it demonstrates clearly, their mindset) and demands sanction. The People are too uninformed to know, mainly because all the newspapers reported this case, as "People have no constitutional right to refuse to identify themselves to Law Enforcement Officers."

Defendant's claims on page 9 that, "Plaintiffs were not taken away and arrested; they were simply instructed to leave the area." and that "no allegation of arrest was made" are blatant lies to deceive and defraud the court. A simple reading of the complaint

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[4] 356 F.3d 1103, 1106 (Jan. 2004)
[5] *Hiibel v Sixth Judicial Dist. Court of Nevada*, __ U.S.__, 124 S.Ct. 2451 (2004)
[6] *Harlow v Fitsgerald*, 457 U.S. 800.
[7] *Carey v Nevada Gaming Authority*, 279 F.3rd 873 (9th Cir. 2002)

will verify that an allegation for false arrest was made five times. There were no charges pursued, however. This demands sanction.

Do government attorneys have license for such behavior? We request that the whole motion be stricken as disingenuous and sanctions be imposed on the attorneys responsible.

Specious Arguments

The argument that defendants advance for immunity purposes on page 6, that "...there is no clearly established law prohibiting federal officials from requesting identification at a security checkpoint in a federal courthouse" is specious for two reasons. First, there is no "clearly established law" informing the officers that they can't shoot me at a security checkpoint in a federal courthouse. But, somehow, I think, they know that they cannot shoot someone, falsely arrest someone, deny people access to a court, assault and batter someone, kidnap someone, etc., just because some does not have government issued ID "Pappas", all of which happened to us. Second, the real issue is not asking for it, but the punishment handed down when someone does not have such thing; which there is no requirement to have. Even the other authorities defendants advance to justify their actions, and they admit this also, state that the request "**without more**" comports with the fourth amendment. In Plaintiffs' case, there was more, **much, much more**. Merely relying on orders from their superiors does not excuse them. The officers in the field have got to know the law. The Nuremberg defense is not valid. There is no requirement to "SHOW YOUR PAPPAS" in this country and that is CLEARLY ESTABLISHED LAW. See *Carey*, supra.

Discussion

On page eight of the Motion to Dismiss, defendants make the argument that the regulations allow control of buildings by requiring ID, but, and they admit this, it only pertains to buildings closed to the public and it states government or *other identification.* It's irrelevant for this case, as the courts are not closed to the public, are they? But it admits that government ID is not an exclusive means. This is clearly established.

So nothing in our case law prohibits officers from asking for identification, a quote out of *United States v Christian,* according to Defendants, of course leaving out the SUSPECT PART. Well this is a classic case of giving and inch and taking a mile. Here in Marin, a man I know (who was doing nothing) complied with an officer's request (most people do not know they don't have to comply) and because he did not take it out of the plastic cover, the officers assaulted him. The officers lied and said they were responding to a domestic violence call, but the log did not support their claim. Anyway, they charged my friend with several crimes. Fortunately there were enough witnesses that saw what really happened, and the officers didn't know they were watching. The jury saw through the ruse and acquitted my friend. The point is that the ability to ask always leads to more. At least Hiibel was pretty clear that an officer has to have reasonable suspicion, but that won't stop government. Officers will lie in order to "have it their way." The bad result of Hiibel is that it has chipped away incrementally at the right to remain silent, by compelling one being investigated to tell a name. No documents, but how many people

are going to know that? Pretty soon we will have to handcuff ourselves. But also, the decision in Hiibel is clear, NO DOCUMENTS AND YOU HAVE TO BE SUSPECT OF A CRIME. BUT, THAT HASN'T PERSUADED COPS, MARSHALLS OR THE FEDERAL PROTECTIVE OFFICERS FROM DEMANDING DOCUMENTS.

A liberal reading of the complaint by someone not prejudice will reveal that the aim of the plaintiffs lawsuit is that The People, as that term is used in the Constitution, do not have to "show any Pappas' to conduct their affairs here in America. If the court will not recognize that from the complaint, Plaintiffs will amend their complaint to request that an order stating that The People do not have to "show Papers" in order to conduct their affairs in public buildings or anywhere else. The People do not know because they are intimidated by an "official request" especially if the requestor is carrying a gun. We are becoming a police state and the police think that they can do anything they want, including forcing The People to show their "Pappas" and the courts are encouraging the mentality by being somewhat vague. This is from people sworn to uphold the People's Rights. Maybe its time to make it perfectly clear by making the real people breaking the law pay for their transgressions.

In my other case, C-00-4783SI, on July 9, 2004[8], I was kept out of the courtroom while the clerks and the Marshall's played their little games telling me the other is responsible for my servitude to them to take me to the courtroom. On Sep. 10, 2004, I attempted to access the Clerk's Office in order to secure subpoenas for discovery. I was denied access. On Sep. 24, 2004, I was denied access to a hearing in my case in front of Judge Illston. No one would escort me (involuntary servitude) to the courtroom. The most insulting thing is that for both hearings, I found out what happened from the opposing counsel when I caught the opposition attorney leaving the building. I guess that is the only way Government can win cases, by confounding, confusing and corrupting the issues and keeping the plaintiff out of the courtroom. I have complained to Judge Illston. This constitutes three more counts of the Marshall's denying me "free access to the courts" and Plaintiff's will be amending their complaint accordingly. In this case, as I predicted, I had to suffer the indignity of having an 18-year-old kid act as "runner" to file the complaint and take 4 times the amount of time to do so. No one would escort me and another friend to the clerk's office.

And since the acts of government complained of in this case are capable of repetition, yet evade review; let's not dismiss any of this case. How do I know it is capable of repetition? Because the Plaintiffs will refuse to suffer the insolence of our public servants further by being kept out of their courtrooms they have the perfect right to be in, any more. Does the court want us to be in such position?

What could be the reason for asking for government identifying documents that no one is required to have, except convince everyone by covert behavior that it is required, or foist the Nazi "show your Pappas" or "internal checkpoints" mentality in the consciousness of America (indoctrination). The officers choose to be deliberately ignorant by designed abstinence from inquiry to escape notice (willful blindness).

[8] I asked for an emergency hearing in this court before this date and was ignored.

Summation

The officers do not have immunity because they violated clearly established law when they did "more" after their request to produce government ID was not complied with by people who were not otherwise breaking any law in violation of clearly established law they knew or at the least, should have known. The "Nuremberg" defense is of no avail. Plaintiffs know of no reason declaratory and injunctive relief, only, is prohibited and/or can't be pursued against the agencies.

The answers to the following questions should be dispositive of the issues in this case and preserve scarce judicial resources, so under the Uniform Declaratory Judgment Act and 28 USC 2201-02, Plaintiffs demand full finding of fact and the law declared thereon for the following:

Is it reasonable that all who enter a public building are there to cause harm?

Is there any requirement for the American People to secure, have, or otherwise carry at all times any identifying documents issued by the government, which must be shown at the mere demand of government officials?

Can any form of punishment, penalty, sanction, or retribution be imposed on an otherwise law-abiding man or woman for not complying with an order to "show your papers?" (i.e., can they be kept out of a public building, etc.?

If not, is it reasonable to enjoin government agencies to direct their sycophant employees, who may be acting with or not with orders, to cease and desist in such practice of demanding government identification from People who are not otherwise required to have or to display such? FRCP 57, 65.

I, Robert-John:Foti, Joe Neufeld and Ken Augustine are the Complainants in the above-entitled action and competent men able to state the following: We have read the foregoing and know the contents thereof. The same is true of our own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, we believe them to be true, and we will testify as to its veracity.

The foregoing is true and correct and not misleading under penalty of bearing false witness.

Dated this twenty-ninth day of September in the year of our Lord two thousand and four and of the Independence of America the two hundred and twenty-nine.

Respectively Presented

Robert-John: Foti

Joseph Neufeld

Kenneth Augustine 040929