

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



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CERTIFIED COPY

ORDER

Submitted October 17, 2018

Decided October 17, 2018

Before

DIANE P. WOOD, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

A True Copy

Teste:

Deputy Clerk  
of the United States  
Court of Appeals for the  
Seventh Circuit

IN RE:

ALEX A. CAMPBELL,  
Petitioner.

Nos. 18-3016 & 18-3158

] Petitions for Writ of  
] Mandamus from the Northern  
] District of Illinois,  
] Eastern Division.  
]  
] No. 1:16-cv-00632  
]  
] Robert W. Gettleman,  
] Judge.

The following is before the court:

1. MOTION REQUESTING TO APPOINT COUNSEL DURING PROCEEDING OF PETITION FOR WRIT OF MANDAMUS TO COMPEL RECUSAL OF DISTRICT JUDGE, filed on October 2, 2018, by the pro se petitioner.
2. MOTION FOR VOLUNTARY DISMISSAL AND MOTION SEEKING PERMISSION TO APPEAL DOCKET ENTRY OF MOTION DENIED ON AUGUST 29, 2018, filed on October 1, 2018, by the pro se petitioner.
3. GOVERNMENT'S JURISDICTIONAL MEMORANDUM, filed on October 10, 2018, by counsel for the respondent.

- over -

4. **PETITION REQUEST**, filed on October 9, 2018, by the pro se petitioner.
5. **IN FORMA PAUPERIS AFFIDAVIT**, filed on October 9, 2018, by the pro se petitioner.

Alex Campbell challenges the district court's order denying his request for recusal in appeal nos. 18-3016 and 18-3158. Accordingly,

**IT IS ORDERED** that the two appeals are **CONSOLIDATED** for resolution and this court treats the consolidated appeal as a petition for writ of mandamus challenging the recusal order.

~~**IT IS FURTHER ORDERED** that the petition for writ of mandamus is **DENIED**.~~

**IT IS FINALLY ORDERED** that Campbell's request for counsel is **DENIED** and his request to proceed in forma pauperis in appeal no. 18-3158 is **GRANTED** to the extent that this court waives the filing fee for that appeal.

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Petition for Writ of Mandamus to Compel  
Recusal of District Judge

Appeal No. \_\_\_\_\_

IN THE UNITED STATES  
COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

In re Alex A. Campbell,

Petitioner respectfully request that this Court  
read his petition liberally due to his  
pro se statue.

⇔22863-424⇔

Alex A Campbell  
United States Penitentiary  
PO BOX 33  
Terre Haute, IN 47808  
United States

Pro se

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## ISSUES PRESENTED

1. Must a presiding trial judge who has had a improper ex parte communication with the prosecuting team, off the docket entry with no in camera review, directing the prosecuting team to withhold material of facts pertaing to the case after reviewing and discussing the material with the prosecuting team during the improper ex parte hearing, have to recuse himself from the trial of defendant or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over defendant's criminal trial?
2. Must a judge who has created a structural error when gaining knowledge by improper ex parte communication of disputed material of facts to be "Brady Material" that the prosecuting team alledged judge directed its to withhold the material of facts from the defense, have to recuse himself from the trial of the defendant or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over the defendant's criminal trial?
3. Whether the judge should recuse himself when a defendant has raised several grounds in [his] "Section 2255 Petition" showing substantial constitutional violations of due process committed by the judge during the defendant's criminal trial have to recuse himself from the defendant's "Section 2255 Petition" or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over defendant's petition for relief?

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4. Is the defendant's Constitutional right to a fair and impartial judge enforceable by mandamus under this Circuit precedent?

## RELIEF SOUGHT

Petitioner, Alex A. Campbell, in the District Court action, petitions this Court to issue a writ of mandamus directing the Respondent, the Honorable \_\_\_\_\_ to recuse himself from the proceeding against petitioner in the case of United States v. Alex A. Campbell, Case No.:16-CV-0632, filed January 14, 2016. In the alternative, petitioner seeks a writ of mandamus directing Judge \_\_\_\_\_, to permit discovery and hold an evidentiary hearing regarding the factual base for disqualification issues in petitioner's motion for recusal.

## ARGUMENT

I. JUDGE'S DENIAL OF RECUSAL MOTIONS ARE REVIEWABLE BY PETITION FOR WRIT OF MANDAMUS

A. Authority recognizes that mandamus is the appropriate remedy.

- . An appellate court is authorized to issue a writ of mandamus pursuant to the All Writ Act, 28 U.S.C. § 1651(a).

Petitioner-Campbell's right to the requested disqualification relief is clear and indisputable under governing precedent of the Supreme Court and this Circuit.

Like the vast majority of circuits, this Court holds that a district judge's denial of a motion for recusal is reviewable by petition for writ mandamus. See, e.g., United States v. Bremers, 195 F.3d 221 (5th Cir. 1999) (vacating conviction because trial judge should have recused himself under sec. 455(a)); Cooly, 1 F.3d at (same); United States v. Brown, 539 F.2d 467 (5th Cir. 1976) (same).

The jurisdiction of this court to take action to guarantee a fair and impartial trial is no longer open to question. Upon an adequate showing, this court has held that it has the "power and inescapable duty," whether under the all writs statute, 28 U.S.C. § 1651, or under its inherent power of appellate jurisdiction, to effectuate what seem to us "to be the manifest ends of justice." (citations omitted).

Accordingly, the Court routinely addresses the merits of mandamus petitions seeking review of denials of motions for recusal without separately considering the appropriateness of the otherwise extraordinary mandamus remedy. See, e.g., Nuelsen v. Sorensen, 293 F.2d 454, 462 (9th Cir. 1961) (citation and quotations (208 F.3d 652) omitted). 2. As this Court did in Niedert and Brown, and as the Ninth Circuit did in Nuelsen, so too have other circuits acknowledge that they may, when justice requires it, raise critical issues of law sua sponte. 3. The Ninth Circuit wisely cautioned that this power must be "exercised sparingly." Nuelsen, 293 F.2d at 462. This Case, however, is the sort of exceptional case that cast new light on procedures previously taken for granted.

B. Fundamental nature of rights justifies mandamus relief.

An even more significant justification for immediate review, however, is the importance of the value at stake: the fundamental "guarantee of a fair and impartial trial." Citation omitted. As the Supreme Court has noted, the concern for an impartial judge embodied by the recusal statute "has constitutional dimensions." Citation omitted.





II. JUDGE OF THE NORTHERN DISTRICT OF ILLINOIS  
SHOULD BE DISQUALIFIED FOR BIAS AND PREJUDICE

A. judge \_\_\_\_\_ of the Northern District of Illinois were/ became  
"tainted."

The issue posed by this case is simply stated: Must a presiding judge who, has had an improper ex parte communication with the prosecuting team, off the docket entry record, with no in camera review, directing the prosecuting team to withhold material of facts pertaining with the case after reviewing and discussing the material with the prosecuting team during the improper hearing, have to recuse himself from the trial of defendant or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over defendant's criminal trial?

For the judge to allow the prosecuting team to solicited him, the well becomes poison and defendant's trial can not be consider any longer fair and impartial when the facts of the misconduct involved.

B. The significance of the improper ex parte communication effect on defendant's trial can not be side-step, as simply harmless error, when in fact the defendant was sentenced to life by the judge that joined the prosecuting team to convict the defendant. The well becomes poisoned when facts and rules of laws are disregarded.

The Judicial Code 28 U.S.C. S. § 455(b)(1) is directed to the judge and is self-excuting. It requires the judge to disqualify himself if he has personal bias or prejudice concerning the party. The language impose a duty on the judge to act sua sponte, even if no motion of affidavit filed.

C. During petitioner's second trial a motion for recusal was filed by the defense. Eventhouhg, petitioner's defense attorney fail to include in the motion for recusal the improper ex parte hearing and the misconduct during the hearing. The judge were aware of his misconduct for almost two years and two trials of defendant. Section 455(b) also requires recusal if the judge has personal knowledge of disputed evidentiary facts.

1. The judge gained knowledge of disputed evidentiary facts during the improper ex parte communication; 2. whether the judge did in fact directed the prosecuting team to withhold the evidentiary material of facts from the defense, [he] were aware the that the disputed material of facts to be pertaining to defendant's trial and were being withheld from the defendant; 3. when defendant's attorney gained knowledge of the disputed evidentiary facts it was informed by the prosecuting team that alledge the misconduct of the judge to the defense on and off the record. Which itself is a disputed material of facts that affected the defendant's



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trial. See e.g., Cobell v. Norton, 334 F.3d 1128, 1144-45 (D.C. Cir. 2003)(Judge's impartiality reasonably questioned because judge engage in ex parte communication and stated opinion about case. Also see 28 U.S.C. § 455(b)(1); see e.g. Edgar v. K.L., 93 F. 3d 256, 258 (7th Cir. 1996) (per curiam)(§ 455 recusal required because judge recieved off-record briefing on relevant facts from appointed panel of experts); Murray v. Scott, 253 F. 3d 1308, 1313 (11th Cir. 2001) (§ 455 recusal required because judge was counsel of record in earlier related case and may have knowledge of disputed facts).

2. In this petition for recusal of judge \_\_\_\_\_ is the same as the cited cases above in support of the judge \_\_\_\_\_ recusal. The judge off-record engaged in ex parte communication, stated his opinion, discussed relevant facts pertaining to the case and directed experts of prosecutors to withhold questionable "Brady Material" from the defendant and defense. Now the judge's refusal to recuse himself from presiding over defendant's submitted "Section 2255 Petition" only allow the judge's bias, prejudice and impartiality to spill-over into defendant's petition seeking relief. See Appendix A. Pages 1-7, attached to Motion to Recuse Docket Entry [36]. Actual court transcripts of ex parte hearing.

ISSUES PRESENTED: #3. Whether the judge should recuse himself when a defendant has raised several grounds in [his] "Section 2255 Petition" showing substantial constitutional violations of due process committed by the judge during the defendant's criminal have to recuse himself from the defendant's "Section 2255 Petition" or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over defendant's petition for relief?

In sum there is no question that a reasonable person supplied with all the facts of this case would harbor doubt about Judge \_\_\_\_\_ prejudice and bias.



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III. JUDGE OF THE NORTHERN DISTRICT OF ILLINOIS  
SHOULD BE DISQUALIFIED FOR EXTRA-JUDICIAL PERSONAL KNOWLEDGE

Under 28 U.S.C. § 455(b)(1), a judge must disqualify himself if he has personal knowledge of evidentiary facts that will be disputed at trial. The motion for recusal, district's court transcripts and the affidavit shows that the district judge has this knowledge and must, therefore recuse himself.

1. The judge's knowledge of the disputed material of facts disqualify him to hold "the Court role in the matter to be confined to issues of law," due to his exceptance of the solicitation of the prosecuting team to be a member with its team to prosecute the defendant. Futhermore, not only does Judge \_\_\_\_\_, have knowledge of the prosecuting team to be violating "Brady Material" during defendant's trial, the judge encouraged the prosecuting team to violate Brady Materail that he would rule over later during defendant's trail not to be Brady Material.

2. The judge was to be be as a practical matter, be called on to make many sorts of ruling in defendant's case that was directly affected by the extent of his personal knowledge.

. Rulings about how much and what type of evidence may be presented consistent with Rule 404(b) of the Federal Rules of Evidence.

Defendant for two trial Motion For Brady Material See, Case 1:10-CR-00026 Document#:117 Filed: 05/11/11 Page 1 of 3 PageID#: 359-361. Judge \_\_\_\_\_, knowingly and voluntarily violated: Brady v. Maryland, 373, U.S. 83 (1963) and the Constitution of the United States requiring the United States to disclose and produce to the defense any and all material of nature which is or may be considered favorable to the defense, and pursuant to Giglio vs. United States, 405 U.S. 150 (1972).

A particular question can be ask with this Court in concern of material of facts that were withheld from defendant during a critical stage of going into trial. Judge \_\_\_\_\_ position during the hearing of the improper ex parte hearing and the withheld material of facts was he did not recall the improper ex parte hearing to occurred. How were judge \_\_\_\_\_ able to rule the disputed material of facts not to be "Brady Material" without ever recessing to view the material of facts, unless the prosecuting team's alledging that the improper ex parte did occured and the judge did view the material of facts is true?

3. Another case decided by this Court also compels the conclusion that disqualification under § 455(a) is required . In United States v. Benabe, 654 F.3d 753, 768 (7th Circuit 2011)(citing Illinois v. Allen, 397 U.S. 337, 338, 90 S.Ct. 1057, 25 L.Ed 2d



353 (1970), see also United States v. Neff, 10 F.3d 1321, 1323 (7th Cir. 1993) The government ex parte off the docket denied defendant the right to be present. Defendant has no way of even knowing what was said during the improper ex parte of if other ex parte hearing between the judge and government exist. On review, the Court held that it was a violation of Fed. R. Crim. P. 43 and therefore error for the judge to meet the jury outside the presence of the appellant. Because there was no record of exactly what was said in those meetings, the Court could not determine if the error was harmless and therefore remanded for new trial.

Similar concerns apply in the present case. See United States v. Alex A. Campbell Case No.: 16-CV-0632. Whereas judge \_\_\_\_\_'s continuation to preside of petitioner's Section 2255 Petition, it would be eminently reasonable for a member of the public to suspect that judge \_\_\_\_\_ bias, prejudice and impartiality. See, Appendix A. Pages 1-7, attached to Motion for Recusal docket entry [36] of actual transcript of ex parte hearing.

ISSUES PRESENTED: #2. Must a Judge who has created a structural error during defendant's trial when [he] has gained knowledge by way of improper ex parte communication of disputed evidentiary material of facts to be questionable "Brady Material" that the prosecuting team have alleged the judge directed its to withhold the disputed material of facts from the defense, have to recuse himself from the defendant's criminal trial or may the judge consistent with 28 U.S.C. § 144 and 455 and the Due Process Clause of the Fifth Amendment to the Constitution continue to preside over the defendant's Criminal trial?

. Petitioner-Campbell has demonstrated that the challenged order is not effectively reviewable at the end of the case, whereas petitioner's prior filings of complaints in concern of judge \_\_\_\_\_'s misconduct to the : The Seventh Circuit Appeal Court to the Chief Judge. See, Case No. 07-16-90025. In the Chief judge's response to the complaint cited : For the reason stated in the accompany memorandum, this complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). Thereafter, petitioner filed a review of the chief denial to the Judicial Council Of the Seventh Circuit. See, Case No. 07-16-90025. The Judicial Council response was " The Judicial Council has reviewed the Complaint's Petition for Review Pursuant to Article V of Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Petition for Review is denied. This is the final decision." Petitioner requested thru several letters for his Court appointed attorney for filing petitioner's direct appeal. However, direct appeal attorney refused to file the misconduct against the judge in petitioner's direct appeal. See, Case No. 16 CV 632, petitioner raised the issues in his submitted "Section 2255 Petition".

Without the Writ of Mandamus, petitioner will suffer irreparable harm. Petitioner has no other adequate remedy.





IV. JUDGE \_\_\_\_\_ OF THE NORTHERN DISTRICT OF ILLINOIS MAY NOT PRESIDE OVER THIS CASE CONSISTENT WITH DUE PROCESS AND THE FIFTH AMENDMENT

Continued participation by judge \_\_\_\_\_ in this case will violate the Due Process Clause as well as the recusal statutes. The precise relation between the Due Process Clause and the federal recusal statutes is unsettled, and as a general matter a court should decide cases under the recusal statutes when they apply before reaching the constitutional issue. Nevertheless, because it is clear that the Due Process Clause proscribes a judge from sitting in the present circumstance-in which the judge has been directly and adversely involved and affected the defendant's trial-consideration of constitutional matter is required if the Court decline to decide this matter on the basis of the statutes.

Like the recusal statutes, the Due Process Clause forbids both partiality in fact and the appearance of partiality by a judge. See, Bud Wolf Chevrolet, Inc. v. Robertson, 519 N.E. 2d 135 (Ind. 1988); Orkin Exterminating Co. v. Traina, 486 N.E.2d 1019 (Ind. 1986); Travelers Indem. Co. v. Armstrong, 442 N.E.2d 349 (Ind. 1982).

Issue Presented Is the defendant's Constitutional right to a fair and impartial judge enforceable by mandamus under this Circuit precedent?

CONCLUSION

For the foregoing reasons, petitioner-Campbell requestes that this Court issue a writ of mandamus disqualifying judge \_\_\_\_\_ of the Northern District Of Illinois, from futher participation in these proceeding and ordering reassignment of this case to another judge. In the alternative, the petitioner request the issuance of a writ of mandamus ordering judge \_\_\_\_\_ to permit discovery an hold evidentiary hearing regarding the factual bases for disqualification issues raised in the petitioner's motion for re- cusal.

Dated: 09-21-2018

*Alexis Campbell*



**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.2  
Eastern Division**

**APPENDIX B1**

United States of America

Plaintiff,

v.

Case No.: 1:16-cv-00632

Honorable ~~James R. ...~~

Alex A. Campbell

Defendant.

**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Tuesday, September 11, 2018:

MINUTE entry before the Honorable ~~James R. ...~~: Defendant Alex A. Campbell's motion [36] for Recusal of Trial Judge Presiding Over Defendant's Motion to Vacate, Set Aside or Correct Sentence ("Section 2255 Petition") is denied. Mailed notice (cn).

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.2  
Eastern Division**

B2

United States of America

Plaintiff,

v.

Case No.: 1:16-cv-00632

Honorable Robert W. Gettleman

Alex A. Campbell

Defendant.

---

**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Tuesday, October 9, 2018:

MINUTE entry before the Honorable Robert W. Gettleman: Petitioner Alex Campbell's motion [47] to voluntarily dismiss his motion[43] seeking permission to appeal docket entry of motions denied on August 29, 2018, is granted and motion [43] is terminated. Petitioner's request [44] to appoint counsel during proceeding of petition of writ of mandamus to compel recusal of district court and motion [46] for permission to appeal *in forma pauperis* are denied as moot. Mailed notice (cn).

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**SEP 07 2018**

**B3**  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
ILLINOIS EASTERN DIVISION

**THOMAS G. BRUTON**  
CLERK, U.S. DISTRICT COURT

Case No.: 16-CV-0632

UNITED STATES OF AMERICA,

V.

ALEX A. CAMPBELL

} Judge Robert W. Gettleman  
} Magistrate Mary M. Rowland

} Title of case: Motion to Vacate  
} Set Aside or Correct Sentence  
} by a Person in Federal Custody  
} Pursuant to 28 U.S.C. § 2255  
}

---

**MOTION FOR RECUSAL OF TRIAL JUDGE PRESIDING OVER  
DEFENDANT'S MOTION TO VACATE, SET ASIDE OR CORRECT  
SENTENCE ("SECTION 2255 PETITION")**

---

Now comes Petitioner Alex A. Campbell, "Pro se", seek leave and  
move this Court Pursuant to 28 U.S.C.S. § 455, "recusal".

In support of this motion, Petitioner states the follows:

1. Petitioner, thru trial counsel filed a motion with the  
district court for recusal during petitioner's trial. follow up  
by a mandamus to the Seventh Circuit Court of Appeals.
2. Campbell was convicted among other things, sex trafficking  
following a jury trial and was sentence to life imprisonment.  
United States v. Alex A. Campbell, No. 10 CR 26. Campbell's  
conviction was affirmed on appeal United States v. Alex A. Camp-  
bell, 770 F. 3d 556 (7th Cir. 2014).
3. On Jan. 14, 2016, Campbell filed a Section 2255 Petition  
United States v. Alex A. Campbell, No. 16 CV 632. The govern-  
ment filed a late response to the Section 2255 Petition. Campbell  
Filed a Reply (Docket Entry No. 20). and a Motion for discovery  
and appoint counsel (Docket Entry No. 4 and 8). Campbell proceed  
pro se.

memorandum, appendix and affidavit attached.



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MEMORANDUM

1. During Campbell's trial by jury, at Campbell request of trial counsel to file with the district court a motion of recusal of the presiding trial Judge R. W. G., to recuse himself. The Judge denied the motion. Thereafter, Campbell requested of trial counsel to appeal the denial to the Seventh Circuit Court of Appeals, for the recusal of the judge. However, in doing so Campbell's attorney withheld from the motion and affidavit of the disclosed information that the prosecuting team had informed the defense that a improper ex parte communication had accured between it and the trial judge. Inaddition, the prosecuting team informed the defense that material of facts were discussed during the improper communication, and that it was directed by the judge to withhold the material from the defense. See attached appendix of exhibit of the trial transcripts of the hearing concerning the improper ex parte communication. Had Campbell's attorney included the material of facts in the motion to the Seventh Circuit Court of Appeals, the outcome of Campbell trial would have been different aswell as the outcome of the Seventh Circuit Court denying Campbell's motion for recusal.

The Judicial Code, 28 U.S.C.S. § 455(b)(1) is directed to the judge and is self-excuting.

It requires the judge to disqualify himself if he has personal bias or prejudice concerning the party. The language impose a duty on the judge to act sua sponte, even if no motion or affidavit is filed.

2. Campbell filed a Section 2255 Petition No. 16 CV 632. (Docket Entry 18). and Reply (Docket Entry 20). Raising numerous

and substantial constitutional violations of the involvement of the presiding judge that denied Campbell a fair trial, including misapplied enhancement during sentencing. See Campbell's Section 2255 Petition Grounds #2, #3, and #8 and Campbell's Reply.

3. On or about Jan. 29, 2016, Campbell filed for discovery (Docket Entry 4) and on May 6, 2016, Campbell motion to appoint counsel to assist in obtaining discovery to support merits raised in his 28 U.S.C. § 2255 (Docket Entry 8). However, 1) because the discovery has material of facts that reveals and support Campbell actual innocence and fully support [his] merits; 2) because an appointment of counsel will help prepare and present the claims will result in Campbell being entitled to relief, the motions remains pending.

4. On or about March 24, 2016, Campbell filed to the United States Court of Appeals for The Seventh Circuit, a judicial misconduct complaint against the presiding judge R.W.G., of cognizable misconduct in concern of the improper ex parte communication and directing the prosecuting team to withhold "Brady" material from Campbell's defense. (See complaint No. 07-16-900 25). And on May 12, 2016, Campbell sought for a review. Section 455(b) also requires recusal if the judge has personal knowledge of disputed evidentiary facts.

#### Case Citations:

Cobell v. Norton, 334 F.3d 1128, 1144-45 (D.C. Cir. 2003) (Judge's impartiality reasonably questioned because judge engaged in ex parte communication and stated opinion about case).

28 U.S.C. § 455(b)(1); see e.g., Edgar v. K.L., 93 F.3d 256,

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259 (7th Cir. 1996) (per curiam) (§ 455 recusal required because judge recieved off-record breifing on relevant facts from appointed panel of experts); Murray v. Scott, 253 F. 3d 1308, 1313 (11th Circuit 2001) (§ 455 recusal required because judge was counsel of record in earlier related case and may have knowledge of disputed facts).

There is no time limit  
on a motio for recusal  
under 28 U.S.C.S. § 455.

When a judge denies a motion to disqualify himself under the Judicial Code, 28 U.S.C.S. § 455(a), the moving party's sole recourse is to apply to this court immediately for a writ. madamus.

WHEREFORE, Petitioner-Alex A. Campbell, respectfully as the Judge R.W. G., to recuse himself from petitioner's submitted Section 2255 Petition.

Respectfully submitted,  
Alex A. Campbell.

Alex A. Campbell  
(signature)

08-31-2018  
(date)

# APPENDIX C1

## EX PART HEARING COMMUNICATION OFF THE RECORD AND OFF DOCKET:

2

1 (Proceedings in open court., Jury out.)

2 THE COURT: Something to do before we bring the jury in?

3 MS. WINSLOW: Yes, Your Honor.

4 MR. GRIMES: Very minor, Judge.

5 Steve Grimes, John Richmond, and Diane MacArthur on  
6 behalf of the United States.

7 Judge, we disclosed in the course of discovery in this  
8 case a number of A files as well as Department of State  
9 documents. It is our understanding that there is actually a  
10 piece of the US Code that forbids disclosure of those documents,  
11 and it doesn't provide an exception for defense counsel.

12 We believed that we have an obligation under our rules  
13 and constitutional authority, so we disclosed them. We're asking  
14 the Court for just an order nunc pro tunc to when we did it.

15 THE COURT: Granting you permission to do?

16 MR. GRIMES: Granting us permission to disclose.

17 THE COURT: Why don't you draft such an order, show it  
18 to Ms. Winslow, and I assume that there will be no problem with  
19 it.

20 MS. WINSLOW: I have no problem with that.

21 MR. GRIMES: Thank you, Judge.

22 THE COURT: I'll be happy to enter it.

23 MS. WINSLOW: My turn?

24 THE COURT: Your turn.

25 MS. WINSLOW: Judge, Mr. Campbell has again asked me to

1 submit a motion to dismiss his case to Your Honor. I'll submit  
2 it to Your Honor via your clerk, but I'd like to actually raise  
3 the issue myself, because it was an issue that we had planned on  
4 bringing to Your Honor's attention. This comes, arises out of  
5 the ex parte discussions that occurred in January of 2011. Your  
6 Honor was presented with a letter on January 17th, 2011, which I  
7 have a copy of thanks to the government at the moment, asking  
8 Your Honor to review certain evidence. And that evidence was a  
9 recording between a Bo Liu and the witness who was on the stand  
10 when the last trial exploded.

11 In that recording, there is discussions of the sale of  
12 the witness known commonly as Diamond and Bo Liu expressly and  
13 explicitly denies that there was ever any agreement for the sale  
14 of Diamond.

15 Going through the transcripts, we realized that there is  
16 extensive testimony by Diamond and another individual regarding  
17 this supposed deal for sale. So it's obviously our contention  
18 that this was discoverable and should have been disclosed at the  
19 time. It is also our belief that the government has elicited  
20 perjured testimony from these individuals based on this. I have  
21 the transcript of the recording and the recording and the letter  
22 if Your Honor wishes to refresh your recollection.

23 THE COURT: It would be helpful, yes.

24 MS. WINSLOW: I would assume so. So I would tender  
25 those. I actually didn't have the good sense to make a copy.

1 THE COURT: Well, I'll have to go back. You know, I  
2 have the file from the last case. I reviewed actually some of  
3 the orders on the motions in limine and that sort of thing just  
4 so that I was familiar with them. But I don't remember this.

5 MS. WINSLOW: Well, Judge, part of the reason you  
6 probably don't remember this, as I understand it, and I'm willing  
7 to be corrected, but as I understand it and based on my review of  
8 the docket, this was an ex parte conversation that for some  
9 reason the government solicited from Your Honor. I can't imagine  
10 why they would undertake that procedure knowing that Mr. Campbell  
11 has the right to be present at all critical stages of his trial.  
12 If they wanted an in camera review, they should have moved for an  
13 in camera review and informed defense counsel at the time.

14 But for whatever reason, it's still a mystery to me,  
15 they didn't do that, and they provided this to Your Honor along  
16 with a letter, which is essentially not only wildly inaccurate as  
17 to its characterization of the evidence, but it's legal argument.  
18 And Mr. Campbell had a right to be present at the time.

19 From my review of the docket, and I believe the  
20 government agrees with me probably solely on this point, there is  
21 no ruling on the docket with respect to this particular piece of  
22 evidence. As I said, it's our contention --

23 THE COURT: Was there a transcript of any in camera  
24 discussion?

25 MR. GRIMES: Judge, I don't believe so. And I will

1 respond more generally and I think will answer this point when  
2 Ms. Winslow is finished.

3 MS. WINSLOW: I'm largely finished. Go ahead.

4 MR. GRIMES: Judge, let me respond to a couple points.  
5 The government, first and foremost, at the time that this letter  
6 and attached transcript was disclosed, there was an ongoing  
7 investigation. That was the reason for bringing it to the  
8 Court's attention as opposed to erring on the side of caution and  
9 just disclosing this.

10 It is our contention, and we believe it's very clearly  
11 laid out in this document, that this is far from Brady. This is  
12 actually a very damaging recording. On the recording Mr. Liu  
13 says that defendant Campbell beat the women that worked for him,  
14 that he tried to save some of the women including Diamond, but he  
15 didn't have enough money. There are a number of statements that  
16 make this recording damaging.

17 There are mixed in with those statements statements  
18 where Bo Liu also says there was no explicit, words to the effect  
19 of there was no explicit agreement. Put in context, Judge, it is  
20 not Brady. But erring on the side of caution we disclosed it to  
21 Your Honor and asked that if Your Honor felt that this should be  
22 disclosed, please tell us.

23 My memory, I have a memory, and I don't know if it's a  
24 correct memory, but I believe at some point Your Honor told us  
25 after a court hearing that you reviewed it, and that we did not

1 have to go forward. I've spoken with my co-counsel, and they  
 2 don't remember that. So I may be mixing things. I don't think I  
 3 am. I do have that memory. I could be wrong. But in any event  
 4 we have now disclosed this recording. It was disclosed a week  
 5 ago on January 3rd I believe.

6 MS. WINSLOW: Correct.

7 MR. GRIMES: Our view is this is inadmissible evidence.  
 8 It's a recording that was made after an investigation was known  
 9 of somebody who is not involved in this trial. It would not be  
 10 permissible to play the recording.

11 THE COURT: That somebody being?

12 MR. GRIMES: Bo Liu.

13 THE COURT: Well, he's on their witness list.

14 MS. WINSLOW: He is on their witness. We do intend to  
 15 call him and produce the recording.

16 THE COURT: Is he available?

17 MS. WINSLOW: That's a point, that's a point in  
 18 contention at the moment, Judge. We're trying very hard to make  
 19 him available. His lawyer I think is looking out for other  
 20 interests at this point.

21 THE COURT: No. I understand.

22 MR. GRIMES: Judge, I'm sorry, just if I may one more  
 23 point on that? The defense was clearly aware of Bo Liu all  
 24 along.

25 THE COURT: Well, that's for sure. Here, let me do



1 this, because I'd like to bring the jury in. There is nothing I  
2 can do about this right now. I will take a look at this. I'll  
3 go back and look at my notes and any transcripts we have around  
4 that period of time and check with Jenny, because there may have  
5 been a transcript of some sort that we didn't get typed up, or I  
6 don't know.

7 MS. WINSLOW: I don't have any problem with that. I  
8 would add that it's clear from reading the transcript that I've  
9 given to Your Honor that Bo Liu's comments about the beatings  
10 come from his reading of the newspaper. But my concern was that  
11 the government was going to raise this issue about the sale of  
12 Diamond in their opening statement.

13 MR. GRIMES: Judge, we may. I don't see how this has  
14 any -- I mean, we have evidence of that. We have very  
15 substantial evidence that Your Honor has heard.

16 THE COURT: You have a witness who is going to testify  
17 about that regardless of what Bo Liu said..

18 MR. GRIMES: A number of witnesses.

19 MS. WINSLOW: Obviously if we come to find out during  
20 the course of this trial that that's not true, we'll just raise  
21 it in closing.

22 THE COURT: Sure, of course. But I want to make sure  
23 that we've adequately addressed the issue of this communication.  
24 I'm just going to have to go back and --

25 MS. WINSLOW: I understand.

# APPENDIX D1

## AFFIDAVIT

I, Alex A. Campbell, swear under penalty of perjury, that what I am stating is the truth. Transcripts of Campbell's criminal trial shows the material of fact that the government gained during its investigation of the sell of alleged victim known as "Diamond" to a man known as "B. L.", was in fact Brady Material and exculpatory evidence that Petitioner-Campbell, did not sell "Diamond" to "B. L.". However, during a motion to dismiss the charges the judge ruled that the material was not Brady Material.

The prosecuting team known as the "Government", had in advance put the cart before the horse of promoting a high-profile case publicly of its discovering of a black man trafficking white women. During its investigation it revealed to the prosecuting team that its was conclusively wrong about petitioner human trafficking anyone. The prosecuting team knew it had caused irreparable harm to petitioner-Campbell's personal and public life. The prosecuting team decided to fabricate the evidence to support what its had high profile to the public.

Instead of owning up to the fact that its had stereo type and racial profile petitioner due to petitioner-Campbell's race. It decided to take the "low road""back alley" approach, to cover its mistake. So, the prosecuting team went through the back door to visited with the presiding trial judge \_\_\_\_\_, with the material of facts it had gather during its investigation of "B. L.", but not without altering the material of facts first, before the judge viewing it. The prosecuting team did alteration to

a written transcript of what was suppose to be a read along transcript of the conversation being recorded (unknown to "B. L.") between "B. L." and a CI known as "Luda", provided to the judge while listening to the recording. However, the alter written transcript as the prosecuting team intended would decieved the judge and form a mind-set of the judge of petitioner-Campbell, to have beaten white women into forced prostitution.

The material of facts shown to the judge and the unknown conversationbetween the judge and the prosecuting team during the improper ex parte communication fuel the judge's passion enough form him to form a alliance with the prosecuting team to assure the conviction of petitioner-Campbell, and placa [him] in prison for life.

During petitioner's first trial, any supporting motion filed by [his] attorney that of material requested, witnesses to be reviewed, extension of time, or bond to prepare for a valid defense were denied favorable to the prosecuting team.

Strang enough, the first trial was interrupted, when one of the government's witnesses announced during petitioner's trial that she knew petitioner's attorney on a personal level. The trial was declared a mistrial due to conflict of interest between attorney and defendant. A new attorney was appointed to petitioner, but no mentioning of the improper ex parte communication to petitioner or [his] new attorney.

During the preparation of the second trial, the judge repeated [his] denial of petitioner's filing of supporting motions as [he] did in petitioner's first trial. Petitioner and [his] attorney

notice the unusual behavior and comments of the judge's continuous ugly remarks directed about Campbell deciding to go to trial, (comments made during held hearings of preparing for trial). The remarks-comments were pretty clear and convincing that the judge had a mind-set that Campbell was guilty of the charges offenses. Campbell and his defense attorney suspected something really fishy was going on in concern of the trial, the judge and the prosecuting team. Campbell's defense attorney motion to the district court requesting the judge to recuse himself from the trial due to defense belief of bias, prejudices and impartiality. The judge refused to recuse. Campbell requested of his attorney to seek compel rerusal with the Seventh Circuit Court of Appeals. Campbell defense informed the court and prosecuting team of the appeal recusal decision. After Campbell and the judge departed from the courtroom for the day is when one member of the prosecuting team gave Campbell's attorney the withheld material of facts of the undercovering wired recording and transcripts. In addition, informed Campbell's defense of the improper ex parte communication that transpired, also mentioning that the judge had directed the prosecuting team to withhold the material of facts from Campbell's defense. Campbell's attorney did the motion to recuse the judge, but withheld the discovery of the improper ex parte, material of facts, and the judge's misconduct of directing the prosecuting team to withhold "Brady Material" from the motion to recuse the judge. It's Campbell's belief that his attorney believed that once the judge discovered the "cat was out of the bag" the judge would recuse himself. However, during a motion to

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dismiss the case based on the newly discovered evidence. However, the judge tried to pretend he knew nothing of the sort of an improper ex parte communication that alledged his involvement. Incidentally, one member of the prosecuting team step-up on record and tried to remind the judge that in fact the improper ex parte communication did occured and the judge was asked should the team turn-over the material of facts to the defense and the judge "told the prosecuting team that they did not have too." Other members notice the judge's resisting to own-up to the event of the improper ex parte communication and indicated to the prosecutor to stop talking on record. See, Campbell's Appendix A. pages 1-7, attached to Campbell's Motion to recuse the judge from presiding over his "Section 2255 Petition". Docket Entry at [36]. Campbell motion to the district court for discovery, evidentiary, and appoint counsel. The judge denied all the motion without any opinion of material as to the denial of the above motion and only notified Campbell of the denial of motions with a clerk's "Notification of Entry".

I, Alex A. Campbell, Declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the above stated facts are true and correct.

Executed on 09-21-2013

Alex A. Campbell  
(Signature)