

No. _____

USDC No. 4:16-CR-462-1

IN THE
SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C. 20543

Michael Ojegba Agbonifo
(Petitioner)

vs.

United States District Court
Southern District of Texas
Houston Division & et cetera
(Respondent)

United States Court of appeals for the 5th Circuit
(NAME OF COURT THAT LAST RULED ON YOUR CASE)

On Petition for Stay of Lower Court Order
Application to individual., Cheif Justice, John Robert

By: Michael Ojegba Agbonifo
Reg No. 14675479
MCFP Springfield
P.O.Box 4000
Springfield, MO 65801
Phone # 2818184370
Care of, Mr. Francis Agbonifo

QUESTION(S) PRESENTED

- 1). Whether a stay of judgment is warranted when lower courts ORDER was NOT only unambiguously done in bad-faith but also was very detrimental and irreparable harm could occur if circuit justice does NOT grant application.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1). Mr. Smith M, Warden of MCFP Springfield
P.O.Box 4000
Springfield, MO 65801
- 2). Dr. Sarranzin, The Chief Psychiatrist at MCFP Springfield
P.O.Box 4000
Springfield, MO 65801
- 3). Dr. Tyna. E, the Chief Psychologist at MCFP Springfield
P.O.Box, 4000
Springfield, MO 65801
- 4). United States Court of Appeals for the 5th Circuit and deputy Clerks
600 S. Maestri Place
New Orleans, LA 70130.

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INDEX TO APPENDICES

APPENDIX A	is the attached Court of Appeals final judgment.
APPENDIX B	is the attached involuntary medication ORDER in dispute.
APPENDIX C	is the attached involuntary medicated information.
APPENDIX D	is the evidence proving that the deputy clerks of the appellate court knowingly deprived petitioner his autonomy to further litigate his interest in the Court of the United States with some self rule makings.
APPENDIX E	is the proof that defendant had every time filed a notice or asserted to appeal each time he discovers some ex parte or secret judgment against him.
APPENDIX F	is the complaint for Judicial Misconduct under rule 6 that was ignored by these same appellate court deputy clerks for no just cause.
APPENDIX G	is the motion for reconsideration filed in this matter but was also kicked back by these same appellate court deputy clerks
APPENDIX H	is the principal-appellant's brief in this case but was NOT allowed by these same appellate court deputy clerks.

TABLE OF AUTHORITY/ CITED

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR STAY OF JUDGMENT

Petitioner respectfully prays that Chief Justice John Robert issues an emergency ORDER to stay District Court Judgment of on June 26, 2018 which involuntary medicated petitioner because it was not only shocking, unconstitutional but was also done in bad-faith.

OPINION BELOW

☒ For cases from **federal courts**:

The opinion of the United States Court of Appeals appears at Appendix (A) to the petition; and is

☒ reported at the attached Appendix (A); or,
☐ has been designated for publication but is not yet reported; or *N/A*
☐ is unpublished. *N/A*

To wit:

- 1). IT IS ORDERED that the appellant's motion to dismiss the appeal is GRANTED because the appeal is untimely, which does NOT make any sense because my appeal was timely and evidence can overwhelmingly show that I never requested to dismiss my own appeal, Court imposed sham Counsel apparently did to retaliate against me and the court of appeal knowingly and deliberately supported sham counsels absurdity down the road and see also the attached motion for relief from judgment to treatise more
- 2). That the Court will NOT take any action for my motion for relief from judgment, that court impose sham Counsel who has been shamelessly and publicly fighting against me his supposed client would be the decision maker in my own interest. see the attached appendix (D) to clarify more.
- 3). The Court even ignored my motion for staying ORDER for no reason and I am not surprised because it is very apparent that it has conspired to obstruct justice against me, in this matter. See the attached appendix (F) to clarify more.

The opinion of the United States district court appears at Appendix (B) to the petition and is

[X] reported at the attached Appendix (B) _____; or,

[] has been designated for publication but is not yet reprinted; or, N/A

[] is unpublished. N/A

To wit:

- 1). That if a trial of right is conducted, federal agent Matthew S Boyden would be implicated with sexual assault allegation., this court can subpoena court appointed former counsel Mary. E. Conn to clarify more.
- 2). That defendant volunteered for psychiatry treatment in a agreed motion without any evidence that defendant waived his rights, consented to it, was informed or physically present at the said competency hearing. See the District Court Order of on April 28, 2017 to clarify more.
- 3). The District Court repeated the same unconstitutional and prejudicial Judgment again after appointing a new Counsel, saying that it is good for Counsel to waive defendant autonomy to know and be present at his own proceeding. See the court ORDER of on December 29, 2017 to clarify more.
- 4). Because defendant filed a writ of mandamus, and also trying to litigate further, the Court have to grant government's motion for involuntary medication since defense counsel is unopposed and counsel is justified in waiving defendant's autonomy to be informed or physically present to witness his own Self-hearing proceeding.

In that said., I the defendant was never informed neither did they take me to Court to witness any of my proceedings. Court imposed counsels that I have never met or even spoken to perpetually waived my autonomy and joined hands with the prosecuting counsel and the court to prejudice me, just because I was sexually assaulted by a federal agent and the court made it a priority to obstruct justice in ORDER to cover up for the AGENT.

" Nothing More "

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 15, 2018.

[X] Petition for rehearing was timely filed in my case but the Deputy Clerk kicked it back in bad-faith.

[X] A motion to stay involuntary medication was filed on 10/19/2018 but the 'Clerk' also either did not present it or the Court in bad-faith ignored it.

This court's Jurisdiction, is invoked under Supreme Court Rule 23 which made a provision for application to an individual Justice in a Civil or Criminal matter pursuant to 28 USCS § 2101(f), " providing for stay of execution or enforcement of judgment subject to review by United States Supreme Court on Certiorari, See 2 ALR Fed 657 and besides, this 'Court' already had this case pending in form of mandamus application before the said ORDER was entered. See also 28 USCS § 1651.

Wherefore, No matter how it is weighed, it is imperative, for the interest of justice and defendant safety when a court retaliates by issuing an involuntary medication that is unambiguously harmful to the defendant without no just reason and most shockingly, Defendant was Not informed neither was he physically present as usual to witness his own supposed proceeding. We conclude that the Jurisdiction of this Court is unambiguously justified.

" The Laws are sets for a Reason "

STATEMENT OF THE CASE

I. INTRODUCTION

Movant Agbonifo Michael, filed a pro se motion or request to stay involuntary medication ORDER and execution on Oct., 19th, 2018, which was either NOT presented by the Deputy Clerk or was ignored by the Court of appeals on purpose.

In that motion, movant exclaimed bitterly on the detrimental side effects of the involuntary medication and also attacked the unlawfulness of that ORDER and no matter how it is weighed.,

" A Court cannot issue such a dreadful or detrimental ORDER without the accused or defendant's knowledge or having him present to witness the involuntary medication proceeding"

Therefore, it is NOT only "bad-faith" but must be speedily stayed for the interest of defendant safety and justice.

However, the attached would unambiguously show that Movant on numerous accessions tried to resolve this matter ordinarily with the lower Courts that would have avoided this action but the Court of Appeals deputy clerks have indeed engaged their personal interest in this matter which apparently shows conspiracy to obstruct justice by all means and we need NOT to reach an answer if whether Movant's allegations are true, However as, individual Justice review from this Court is the only remedy.

See the attached drug information exhibit (Exhibit.C.) to prove the emergency of this action.

The threshold of the matter is how do the government intends to restore movant back to competency when the administered drugs side effect says it makes patients "not able to focus" ?

And if it's NOT bad-faith, then what is it called? we need NOT to reach an answer, however as, it must be stayed for the interest of personal safety and justice.

Honorable Ellison inter alia ORDER on about December 29, 2017 to extend movant's civil commitment for no just cause but most ridiculously placing the reasons for his decisions on Counsel waived defendant's autonomy to know and be physically present and Counsel, was unopposed as usual.

But **note:**

At this time, defendant did NOT have a clue that Mr. Ellison had appointed him another Counsel, and the question is if, Mr. Ellison terminated the first Counsel's appointment because she probably mis-led the Court, then why allowing the newly appointed Counsel to do the same thing if actually Mr. Ellison is a neutral tribunal? We need NOT to reach an answer, however as, obstruction of justice was deliberate just to cover up for agent Matthew S. Boyden sexual misconduct.

However, when movant filed a recusal and complaint under rule 6 in the same district court which is still pending till date, Mr. Ellison ORDERED movant to be transported back to Texas, locked up in the detention administrative segregation for no just cause, organized a **kangaroo involuntary medication hearing**, without informing movant, neither was he brought to court as usual to witness his own proceeding and Mr. Ellison as usual ORDERED movant to be involuntary medicated with undefined psychotropic drugs because movant counsel waived movant's autonomy and counsel was unopposed as usual. **AND:**

Since, this psychotropic medication ORDER was not only done as a retaliation but the drugs itself is very harmful to movant, we demand that it must be stopped and stayed for the interest of movant's health safety and the judicial reputation at large. See the attached drug information to clarify more.

" Even the said Sell v. United States used in this matter abolished the act committed by Mr. Ellison in this matter " (emphasis added)

II. FACTUAL AND PROCEDURAL BACK-GROUND

On about September 13, 2016, A federal agent named Matthew S. Boyden sexually assaulted movant in an aggravated way and we need NOT to elaborate more because treatise details have been submitted to this very court in movant's pending writ of mandamus request.

Furthermore, Honorable Keith P. Ellison, the supposed presiding judge in movant's allegation of federal violation by this very agent which movant alleged that allegation was fabricated because he was never apprehended committing or attempting to commit any crime, neither was there any prior investigation nor was there a warrant in relation to the said wire fraud crime and most shockingly, that he could never have singularly commit a conspiracy., Which Mr Ellison noticed and decided to obstruct justice with statute 4241, saying even if movant is presumed guilty, agent Matthew S Boyden would be implicated with sexual assault allegation if trial is conducted. See the attached appellate Brief to treatise more if necessary and we need NOT to reach a convincing debate rather to draw inference from the perpectual shocking conducts that happened "after the fact".

It is unambiguously noted that Mr Ellison used movant's bad-faith court imposed counsel who movant had requested for the termination of counsel's representation., to waive movant's autonomy to know and be present in his own competency hearing or agreed motion hearing according to Mr. Ellison, and as such is construed NOT only inappropriate but deliberate just to circumvent or obstruct justice in this matter. **Note: there is never a reported cases that defendant can be deprived the right to be informed and also to be present in court to witness his own competency hearing.**

" The laws were sets for a Reason "

REASONS FOR GRANTING THE PETITION

Because it has been enacted that a single Justice of the Supreme Court may properly stay lower court ORDER only under extraordinary circumstances as asserted in this case. See [Per Blackmun, J., as Circuit Justice] CBS Inc. v. Davis, 510 U.S. 1315, 114 S.Ct. 912, 127 L.Ed.2d 358 (1994) ; Breswick & Co. v. United States 75 S.Ct 912, 100 L.Ed 1510 (1955)

Although with regards to application to individual Justice for stay of lower Court's Judgment pending disposition for certiorari, applicant bears burden of persuasion as whether there is hardship in applicants's situation and as to whether four justice of the Supreme Court will likely vote to grant certiorari; applicant's burden is particularly heavy when stay has been denied by the lower Courts. New York Times Co. v. Jascarevich , 439 U.S 1304, 98 S.Ct. 3060 56 L.Ed.2d 12 (1978) See also [Per Rehnquist, Ch. J., as Circuit Justice]. Packwood v. Senate Select Comm. on Ethics, 510 US 1319, 114 S.Ct 1036, 129 L.Ed 2d 530 (1994) and However, this Court would only entertain application for stay only if:

- 1). The individual Justice can predict whether four justices of the Supreme Court would likely vote to grant certiorari should incase the Court of appeals affirms the District Court's ORDER without modification.
- 2). Predicts whether Supreme Court would set-aside ORDER and
- 3). Balances the so called "stay equities". See [Per O Corner J., as Circuit Justice] INS v. Legalization Assistance Project of the L.A. County Fed'n of Labor, 510 U.S 1301, 114 S.Ct 422, 114 Ct 433, 126 L.Ed 2d 410 (1993) and see also John Doe Agency v. John Doe Corp. 488 U.S. 1306, 109 S.Ct 852, 102 L.Ed 2d 952 (1989).

Meaning, "no matter how it is construed" the Supreme Court Rule 23.3 permits this application and movant has no way caused any prejudice to this very court nor the adverse parties involved.

To wit:

It is very axiomatic that the writ of certiorari is NOT a matter of right rather a discretion because the duty of the Supreme Court is to resolve the controversial opinions between different lower courts or remedy any constitutional violation that could detriment the public reputation of the judicial proceeding which brings us to the question of how would the public construe the reputation of the judicial proceedings when ..,

- 1). Four justice cannot vote to hear a case /grant a certiorari where arguments show that defendant was deprived autonomy to be informed and prevented from attending any of his own proceedings in the Court of the United States who is supposed to be an impartial tribunal. "Therefore, if that is NOT an hostage under the color of law then what is it called?" and we need NOT to reach an answer rather to.,
- 2). inter alia that any reasonable man would be able to predict that:
 - i) the District Court cannot retaliate just because defendant filed a complaint under rule 6 and ORDER an involuntary medication that is apparently harmful to the defendant without the defendant knowing or been present in court to witness that hearing.
 - ii). that the court of appeals cannot conspire with sham impose defense counsel to fight against defendant and depriving defendant his God given autonomy to direct appeal without having defense counsel to file an anders brief because the decision of the court of appeals against defendant doesn't just make any sense. See the attached motion for relief from judgment to clarify more.

The crux of the matter is., any Justice would easily predict that a writ of certiorari would be likely meritorious whenever issues presented poses a serious doubt on how the public may view the reputation of the independent judiciary system.

Be it known that In Re Packwood v. Senate Select Comm. on Ethics, 510 US 1319, 114 S.Ct 1036, 129 L.Ed 2d 530 (1994): the Court emphasized in the number (3) prong-test of that case that defendant shoulders the burden to prove whether likelihood of irreparable harm assuming correctness of applicant's position, if judgment is NOT stayed permits us to show this very court the following facts and circumstances:

- 1). Due to the side effect such as defendant, losing focus and development of breast like a female is absolutely irreparable that would warrant a law-suit against the Court if extraordinary measures are NOT taken to remedy this absurdity against defendant or movant.

"Risperdal" is not a medication that court can force on any individual because, apart from the numerous harmful side effects, it causes gender disorder, and as such must be discontinued. See the attached exhibit (Exhibit.C.) to clarify more again., AND :

- 2). It has never been reported in the history of this country, judicial proceeding that, involuntary medication hearing can be done without defendant's knowledge or physical appearance to witness such hearings.

As earlier argued in my attached appellate brief that was ignored,

I re-emphasized that this very Supreme Court ruled in Sell v. United States, (2003) 539 U.S 166, 156 L.Ed 2d 197, 123 S.Ct 2174, 2003

CDOS 5131, 2003 Daily Journal DAR 65 12, 16 FLW Fed S 359, 188 ALR Fed 679, on remand, remanded (2003, CA8) 343 F.3d 950 of which you **Chief**

Justice John Robert joined the opinion that "Government cannot administer antipsychotic drugs involuntarily to defendant to stand trial for serious,

Involuntary medication has never been justified where the administered drugs is potentially to cause side effects on defendant and moreover, how do the Government intends to restore defendant back to competency where the administered drugs says "not able to focus"? of which defendant is currently experiencing that side effect and so many others as well.

but nonviolent crime where it was unknown whether side effects were likely to undermine fairness of trial.

To wit:

- i). Every one knows that bank fraud or wire fraud crime is NOT a violent crime and this Supreme Court affirmed, in United States v. Akers (1996, DC Colo) 945 F.Supp 1442, app dismd without op (1991 CA10 Colo) 106 F.3d 414, reported in full (1997, CA10 Okla) 1997 US App LEXUS 951 and Subsequent app (2000, Ca10 Colo) 215 F.3d 1089, 200 Colo JC&R 3377, cert den (2000) 531 US 1023, 148 L.Ed.2d 506, 121 S.Ct 591 that motion for independent psychiatry evaluation in a bank fraud or wire fraud cases must be denied, even though defendant intends to introduce mental condition, because bearing upon specific intent to defraud alone, Courts cannot find authority to ORDER such evaluation under 18 USCS § 4241 or 4242 or under F.R.Cr.P. 12.2(c) and see also United States v. Deters (1998, CA10 Kan) 143 F.3d 577, 1998 colo JC&R 2177. Meaning there wasn't supposed to be any mental health evaluation in this matter, nor an involuntary medication because this case has nothing to do with violence, that is why the District Court deprived defendant the autonomy to know or be present in all his proceedings and putting excuses on shame counsel would be a strong ethical violation, See McCoy v. Louisiana to calrify more.
- ii) This very Supreme Court emphasized on the second prong-test of that In re Sell v. United States., that "involuntary medication will significantly further two concomitant state interests, and administration of drugs is substantially unlikely to have side effects that will interfere

The Court cannot find Jurisdiction to Order any psychiatry evaluation on wire or bank fraud cases and even if, defendant must be aware and present at such hearings because it is a strong ethical violation and denial of the 6th amendment right when counsel waives defendant's autonomy just like in McCoy v. Louisiana and perhaps., the Sell v. United States used in this matter also prohibits what happened to defendant in this matter.

significantly with defendant's ability to assist Counsel in conducting trial defense, thereby rendering trial unfair., which pushes us to ask this very court that how do the government or the district court intends to restore defendant to competency when the administered drugs side effects says it makes defendants **"not able to focus"** ?

It is very ridiculous and terrible and most strikingly., when defendant complained about the side effects of the involuntary administered drugs, DR. SARRANZIN doubled the dosage.

In that said we pray that this motion should be speedily GRANTED because defendant's LIFE is debilitating from this involuntary bad-faith drugs and it is unambiguously apparent that the system is very desperate to obstruct justice in ORDER to cover up for agent Matthew S. Boyden sexual misconduct against defendant. **" It is very transparent "**.

CONCLUSION

Petitioner/Movant Agbonifo prays that the application to stay involuntary medication ORDER from the District Court should be speedily **GRANTED.**

Petitioner/Movant further prays that this court should ORDER his immediate release because his incarceration is definitely in violation of the U.S. Constitution. See Herrera v. Collins, 506 U.S. 390 (1993); Barefoot v. Estelle, 463 U.S. 880 (1983)., meaning this petition can be incorporated as habeas corpus petition under 28 USC. § 2241, Supreme Court Rule 20.4 if this court so desire, since there is still a mandamus petition pending before this same court.

The summary is., you cannot restore defendant back to competency when the administered drugs says "not able to focus" and because the Doctors increased or doubled defendant's dosage for complaining about the side effects he was getting concludes us to suggest that this petition should also be construed as habeas corpus, since one of the objectives is to set defendant free from federal custody and..; it is also a matter of serious life jeopardy.

FOOTNOTES

- 1). There is no rebuttal evidence or claims that defendant was NOT actually sexually assaulted by federal agent Matthew S. Boyden.
- 2). There is no indication or evidence that defendant had any modicum of mental health history or was suffering from any type of disorder at any time of the proceeding or before the said proceeding.
- 3). There is no modicum of proof that defendant was ever informed or taken to court to witness any of his proceedings since the very day he pleaded NOT guilty.
- 4). There is no indication or modicum of evidence that defendant knowingly or even unknowingly waived any of his autonomy or rights rather the court records only unambiguously show that defendant at every time objected to the Court's absurdity down the road.
- 5). There is no record or any modicum of indication that defendant was at any point violent even both in free world or prison where he is unlawfully housed.
- 6). Moreover, evidence can apparently show that even the said MCFP Springfield Doctors declare defendant NOT to be eligible for involuntary medication in their own due process hearing on about August/September 2017 and this evidence would be submitted if requested and there is also no indication that defendant acted irrational after the fact., meaning The said Selil hearing that was later conducted by the District Court was just to retaliate because defendant filed a complaint and also came to the Supreme Court with mandamus request.

Mean while, how do the government intends to restore defendant back to competency where the administered drugs says " not able to focus "

- 7). Most shockingly, when defendant even complained about the side effects of the involuntary medication on him, Dr. SARRANZIN doubled the dosage.
- 8). Also when defendant complained to the court of appeals as required by rule of law, the deputy clerks in bad-faith kicked him out with the influence or power of their office.,

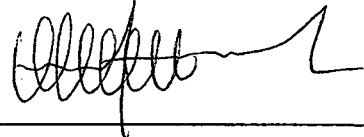
In that said, If defendant cannot seek justice in the court of the United States, neither can he be informed nor taken to Court to witness his own proceedings., Then where should he go or what can he do?

We need NOT to reach an answer to that question, However as, this is the only remedy for the interest of personal safety and justice.

EXECUTED ON THIS 15 Day January, 2019

RESPECTFULLY SUBMITTED

" Without Prejudice "



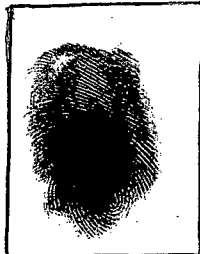
Michael Ojegba Agbonifo

The Applicant on Pro se.

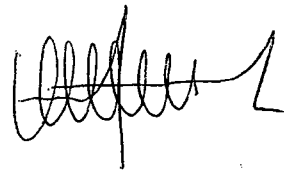
I Michael Ojegba Agbonifo, hereby declare under the penalty of perjury of the United States of America that the aforementioned is true and correct.



Left Thumb



Right Thumb



Michael Ojegba Agbonifo

Date: 01/15/2019

No. _____

USDC No. 4:16-CR-462-1

IN THE
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543

Michael Ojegba Agbonifo — PETITIONER
(Your Name)

VS.

USDC & et cetera — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ to stay Order without prepayment of costs and to proceed *in forma pauperis*.

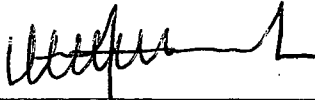
[X] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

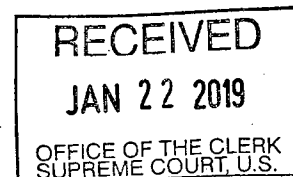
United States Court of Appeals
For the fifth circuit
600 S. Maestri Place
New Orleans, LA 70130

United States District Court
for the Southern District of Texas
Houston, Division.
P.O.Box 61010.

[] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

 01/15/19
(Signature)



**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Michael Ojegba Agbonifo, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Self-employment	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Income from real property (such as rental income)	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Interest and dividends	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Gifts	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Alimony	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Child Support	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Disability (such as social security, insurance payments)	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Unemployment payments	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Public-assistance (such as welfare)	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Other (specify): _____	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Total monthly income:	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
NIA	NIA	NIA	\$ NIA
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
NIA	NIA	NIA	\$ NIA
			\$
			\$

4. How much cash do you and your spouse have? \$ NIA
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
NIA	NIA	\$ NIA	\$ NIA
		\$	\$
		\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value NIA

☐ Other real estate
Value NIA

☐ Motor Vehicle #1
Year, make & model NIA
Value NIA

☐ Motor Vehicle #2
Year, make & model NIA
Value NIA

☐ Other assets
Description NIA
Value NIA

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
<u> </u>	\$ <u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>	\$ <u> </u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>NIA</u>	<u>NIA</u>	<u>NIA</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>NIA</u>	\$ <u>NIA</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>NIA</u>	\$ <u>NIA</u>
Home maintenance (repairs and upkeep)	\$ <u>NIA</u>	\$ <u>NIA</u>
Food	\$ <u>NIA</u>	\$ <u>NIA</u>
Clothing	\$ <u>NIA</u>	\$ <u>NIA</u>
Laundry and dry-cleaning	\$ <u>NIA</u>	\$ <u>NIA</u>
Medical and dental expenses	\$ <u>NIA</u>	\$ <u>NIA</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>NIA</u>	\$ <u>NIA</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>NIA</u>	\$ <u>NIA</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>NIA</u>	\$ <u>NIA</u>
Life	\$ <u>NIA</u>	\$ <u>NIA</u>
Health	\$ <u>NIA</u>	\$ <u>NIA</u>
Motor Vehicle	\$ <u>NIA</u>	\$ <u>NIA</u>
Other: <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Installment payments		
Motor Vehicle	\$ <u>NIA</u>	\$ <u>NIA</u>
Credit card(s)	\$ <u>NIA</u>	\$ <u>NIA</u>
Department store(s)	\$ <u>NIA</u>	\$ <u>NIA</u>
Other: <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Alimony, maintenance, and support paid to others	\$ <u>NIA</u>	\$ <u>NIA</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>NIA</u>	\$ <u>NIA</u>
Other (specify): <u>NIA</u>	\$ <u>NIA</u>	\$ <u>NIA</u>
Total monthly expenses:	\$ <u>NIA</u>	\$ <u>NIA</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? NIA

If yes, state the attorney's name, address, and telephone number:

NIA

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? NIA

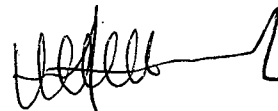
If yes, state the person's name, address, and telephone number:

NIA

12. Provide any other information that will help explain why you cannot pay the costs of this case. Because I am incarcerated with no job and even if I do get a job, the take home wages is still insufficient to cover up the required fees and I do not have any helper from the free world who could have assisted me with my monetary needs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 15, 2019



(Signature)

Date: 01/15/2019
Time: 06:11:51 AM

Location: SPG

Federal Bureau of Prisons
TRULINCS Account Transactions - Commissary
Personal Inmate Information

Inmate No: 14675479		Inmate Name: AGBONIFO, MICHAEL OJEGBA		Available Balance: \$16.11	
Date	Reference #	Transaction Type	Sender Last name	Amount	
01/15/2019	TL0115	TRUL Withdrawal		-\$10.00	
01/11/2019	TL0111	TRUL Withdrawal		-\$2.00	
01/08/2019	65	Sales		-\$13.75	
01/07/2019	TL0107	TRUL Withdrawal		-\$2.00	
01/05/2019	TL0105	TRUL Withdrawal		-\$2.00	
01/03/2019	46	Sales		-\$20.30	
01/02/2019	TL0102	TRUL Withdrawal		-\$2.00	
01/01/2019	TFN0101	Phone Withdrawal		-\$1.00	
01/01/2019	TFN0101	Phone Withdrawal		-\$2.00	
12/31/2018	33418365	Money Gram	AGBONIFO	\$50.00	
12/30/2018	TL1230	TRUL Withdrawal		-\$2.00	
12/30/2018	TFN1230	Phone Withdrawal		-\$1.00	
12/27/2018	TFN1227	Phone Withdrawal		-\$2.00	
12/27/2018	TL1227	TRUL Withdrawal		-\$2.00	
12/22/2018	TFN1222	Phone Withdrawal		-\$2.00	
12/21/2018	TL1221	TRUL Withdrawal		-\$2.00	
12/19/2018	42	Sales		-\$6.90	

Inmate #: 14675479

No. _____

USDC No. 4:16-CR-462-1

IN THE
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543

Michael Ojegba Agbonifo --PETITIONER
(Your Name)

VS.

USDC & et cetera --RESPONDENT(S)

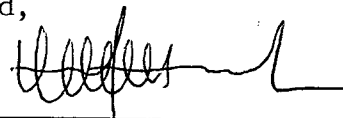
PROOF OF SERVICE

The petitioner **Michael Ojegba Agbonifo** in pursuant to the Supreme Court Rule 29 and 28 USC § 1746, hereby declare under the penalty of perjury that the following **writ to stay lower court's order** and the attached appendices was placed in the prison's mail box at the United States Medical Center for Federal Prisoners Springfield, for delivery by United states Mail, First Class postage, pre-paid, on this, 15 day of January, 2019, and properly addressed to the following:

Office of the Clerk	Warden Michael Smith	Mr. David J. Bradley
United States Court of Appeals For the 5th Circuit	MCFP Springfield	United States District Court
600 S. Maestri Place	P.O.Box 4000	515 Rusk Avenue, Room 5300
New Orleans, LA 70130	Springfield, MD 65801	Houston, TX 77002. Who is responsible in notifying the rest of parties involved.

Date: 01 / 15 / 2019 .

Signed,



Michael Ojegba Agbonifo
The petitioner on pro se



01/15/19

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-20066



UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

MICHAEL OJEGBA AGBONIFO, also known as Steve French,

Defendant - Appellant

A True Copy

Certified order issued Nov 15, 2018

Styl W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

Appeal from the United States District Court
for the Southern District of Texas

Before DENNIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the appellant's motion to dismiss the appeal is
GRANTED because the appeal is untimely.

Note: The Principal Appellant in this case never at any time requested the dismissal of his own appeal and perhaps., this very appeal was timely filed & These Jurists know and instead., they engaged in improper secret discussion with defense counsel who was openly fighting against the principal appellant/client despite the defendant numerous objections., The court still circumvented the rule of law and permit sham counsel to dismiss client's appeals that is apparently against client's wishes without even filing an obligated anders brief or giving client the chance to antoginize because he is the principal and as such guaranteed him the central figure of his defense by the 6th amendment right of the constitution.

" This fact is under the penalty of perjury "

Appendix (A)



W. Cayce 01/15/19

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON ,D.C. 20543

USDC No. 4:16-CR-462-1

Michael Ojegba Agbonifo
Reg No. 14675479
MCFP Springfield
P.O.Box 4000
Springfield, MO 65801.

Attn: Jacob C. Travers
The Clerk or Deputy Clerk
1 First N.E Street
Washington, D.C. 20543

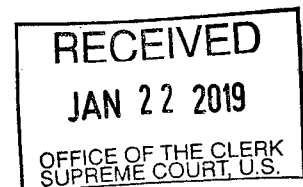
Dear Mr. Travers

The attached are my applications and petitions before this Court and also be advised that I am representing my self in this matter before your Court as pro se.

Therefore, if any Counsel or individual attempts to represent me as done so without my consent and should be construed as fraud or bad-faith.

I also want to remind you that this very application is for Chief Justice John Robert to preside & it is a matter of **emergency** because my personal health has been badly injured and if extraordinary measures is not taken., I might possibly die.,

Perhaps, I am also cognizance of the fact that I still have a pending petition for a writ of mandamus with this Court and I need NOT to ask of the status rather to inform you that: "Because I filed a complaint under Rule 6, against the district court and petitioned for a writ of mandamus from this



very court"., The District Court retaliated by conducting an involuntary medication hearing secretly, without my slightest knowledge and as usual was NOT taken to court and the Court indeed ORDERED me to be involunatry medicated.

However, when I complained about the side effects of the involuntary administered drugs, you won't believe this., The Doctors **doubled my dosage.**

But most frustrating part of it is, I tried obtaining remedy from the appellate court as demanded by the rule of law, shockingly., the deputy clerk in apparent bad-faith shut me down for no overwhelming or just reason. " It was very transparent that they were all engaging their personal interest or abusing the privileges of their office to obstruct justice"

To be very precised, If I had another solution, I wouldn't be coming to this very supreme court with my worries.,

And most importantly., If I wasn't involuntary medicated with apparent harmful drugs that is debilitating me on every minute as If I am facing a death penalty execution., "I still wouldn't have bothered you Mr Travers"

The inevitable fact is, I must not ignore this shady D.O.J employees silencing me under the color of their office just because they are trying to cover up for a colleague's sexual misconducts.

Please review the attached appellate decision and my motion for reconsideration or relief from judgment in ORDER to advise me if filing a writ of certiorari would be meritorious, or NOT.

My questions to be presented before this very Court is very simple:

1) Can a district court actually conduct all proceedings in a criminal or civil case, including involuntary medication hearing exparte? meaning defendant was NOT even informed neither was he ever present in court to to witness his own proceeding.

"If defendant was in the free world, that burden lies on him NOT the court., but in this matter., defendant is under the custody of the same very court and we need NOT to argue or elaborate further, but however:

2) Can the appellate court jurists engage in improper discussion with sham defense counsel who openly admitted she was fighting against her client and the court supported counsel to dismiss client direct appeal witout having counsel to file an anders brief as required by rule of law?

Apart from the fact that defendant objected to misconduct down the road, defendant also filed a motion for reconsideration and even complaint under rule 6., But the shady deputy clerks as usual abused the use of their office to kick defendant out for no just reason.

I have attached my complaint for judicial misconduct in ORDER to get advise on what to do about it.

If I am to make a wish., I would want you to present it before the chief justice of this court as well because an investigation is definitely required in that very matter.

Wherefore., I pray that you kindly assist me as usual. God bless you

Dated: 01/15/19



Left Thumb



Right Thumb

Sincerely

A handwritten signature in black ink, appearing to read "Michael Ojegba Agbonifo".

Michael Ojegba Agbonifo

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

MICHAEL OGJEBA AGBONIFO
aka STEVEN FRENCH

Reg. No. 14675-479

§
§
§
§
§
§
§

Criminal No. 4:16-CR-462-S1

ORDER

The United States filed a Motion for Forced Medication of the Defendant to Restore Competency. *Defendant's counsel is unopposed.* The Court finds that the Defendant has been diagnosed with a mental illness that is currently rendering him mentally incompetent to stand trial and to meaningfully participate in his defense.

The Court also finds that the following four factors for forced medication, as set forth in *United States v. Sell*, 539 U.S. 166, 179 (2003), are met: (1) important governmental interests are at stake; (2) involuntary medication will significantly further those interests; (3) involuntary medication is necessary to further those interests; and (4) the administration of the drugs is medically appropriate. Moreover, the necessary administrative procedures for forced medication have been exhausted. See *United States v. White*, 431 F.3d 431, 435 (5th Cir. 2005).

It is therefore ORDERED that the Defendant remain committed to the custody of the Attorney General of the United States pursuant to 18 U.S.C. § 4241 for further treatment.

It is further ORDERED that pursuant to the Speedy Trial Act, the Court finds that the ends of justice are served by further treatment of the Defendant and that this outweighs the best interests of the public and the Defendant in a speedy trial. Thus, the Court finds that the time between the date of the Defendant's first evaluation finding the Defendant incompetent for trial on April 19,

Page 1 of 2

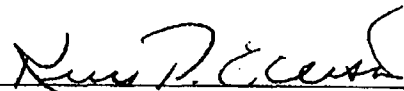
App.-1-(B)

Please turn to the next page for notes:


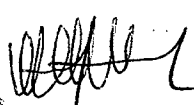
2017, until the time the Defendant is restored to competency is excludable under the Speedy Trial Act, 18 U.S.C. § 3161(h).

It is ORDERED that the Attorney General of the United States shall involuntarily medicate the Defendant as is medically appropriate for an individual with the Defendant's condition and in accordance with the Competency Report dated May 25, 2018 to render the Defendant competent to stand trial.

SIGNED at Houston, Texas, on the 26th day of July.


KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

- Notes: 1). The Judge or whoever signed this ORDER appended with his/her own hand writing, that "Defendant's Counsel is unoppose" meaning it was like an agreed motion between all the parties that conducted this secret hearing.
- 2). The defendant himself was NOT informed neither was he present in this hearing that was supposed to be his own proceeding.
- 3). The April 28, 2017 ORDER says "It was an agreed motion" meaning defendant volunteered to be civilly committed because the Court ordinarily did NOT find defendant incompetent but NOW the COURT is saying that defendant was diagnosed with a mental illness and even at that., the question now is who diagnosed defendant of mental illness? and why was he never in court to witness any of his own proceeding?
- 4). This ORDER also OMIT the paramount clause that says involuntary administered drugs must NOT have any side effect that might significantly affect defendant's ability to assist Counsel on his defense from Number(2) prong-test of the Sell v. United States used in this matter.



01/15/19

Read this medicine information sheet carefully each time you get this medicine filled. You must carefully read the "Consumer Information Use and Disclaimer" below in order to understand and correctly use this information. This information is for MALE patients only. It does NOT include important information for FEMALE patients.

Risperidone Tablets

Pronunciation (ris PER i done)

Brand Names: US Risperdal.

Warning

- There is a higher chance of death in older adults who take this drug for mental problems caused by dementia. Most of the deaths were linked to heart disease or infection. This drug is not approved to treat mental problems caused by dementia.

What is this drug used for?

- It is used to treat schizophrenia.
- It is used to treat bipolar problems.
- It is used to treat irritation that happens with autistic disorder.
- It may be given to you for other reasons. Talk with the doctor.

What do I need to tell my doctor BEFORE I take this drug?

- If you have an allergy to risperidone or any other part of this drug.
- If you are allergic to any drugs like this one, any other drugs, foods, or other substances. Tell your doctor about the allergy and what signs you had, like rash; hives; itching; shortness of breath; wheezing; cough; swelling of face, lips, tongue, or throat; or any other signs.

This drug may interact with other drugs or health problems.

Tell your doctor and pharmacist about all of your drugs (prescription or OTC, natural products, vitamins) and health problems. You must check to make sure that it is safe for you to take this drug with all of your drugs and health problems. Do not start, stop, or change the dose of any drug without checking with your doctor.

What are some things I need to know or do while I take this drug?

- Tell all of your health care providers that you take this drug. This includes your doctors, nurses, pharmacists, and dentists.
- Avoid driving and doing other tasks or actions that call for you to be alert until you see how this drug affects you.
- To lower the chance of feeling dizzy or passing out, rise slowly if you have been sitting or lying down. Be careful going up and down stairs.
- It may take several weeks to see the full effects.

- High blood sugar or diabetes, high cholesterol, and weight gain have happened with drugs like this one. These changes may raise the chance of heart and brain blood vessel disease. Talk with the doctor.

- Check your blood sugar as you have been told by your doctor.
- Avoid drinking alcohol while taking this drug.
- Talk with your doctor before you use other drugs and natural products that slow your actions.
- Dizziness, sleepiness, and feeling less stable may happen with this drug. These may lead to falling. Broken bones or other health problems can happen from falling. Talk with the doctor.

- Low white blood cell counts have happened with drugs like this one. This may lead to a higher chance of getting an infection. Deadly infections have rarely happened. Tell your doctor if you have ever had a low white blood cell count. Call your doctor right away if you have signs of infection like fever, chills, or sore throat. Talk with your doctor.

- Some people who take this drug may get a very bad muscle problem called tardive dyskinesia. This muscle problem may not go away even if this drug is stopped. Sometimes, signs may lessen or go away over time after this drug is stopped. The risk of tardive dyskinesia may be greater in people with diabetes and in older adults, especially older women. The risk is also greater the longer you take this drug or with higher doses. Muscle problems may also occur after short-term use with low doses. Call your doctor right away if you have trouble controlling body movements or if you have muscle problems with your tongue, face, mouth, or jaw like tongue sticking out, puffing cheeks, mouth puckering, or chewing.

- Older adults with dementia-taking drugs like this one have had a higher number of strokes. Sometimes these strokes have been deadly. This drug is not approved to treat mental problems caused by dementia. Talk with your doctor.
- If you are 65 or older, use this drug with care. You could have more side effects.

What are some side effects that I need to call my doctor about right away?

WARNING/CAUTION: Even though it may be rare, some people may have very bad and sometimes deadly side effects when taking a drug. Tell your doctor or get medical

Wolters Kluwer Clinical Drug Information

Note: When defendant complained about the side effect he is getting from this drugs, the Doctors doubled the dosage and please turn to the next page to see more unbelievable side effects.

This statement is made under the penalty of perjury.

help right away if you have any of the following signs or symptoms that may be related to a very bad side effect:

- Signs of an allergic reaction, like rash; hives; itching; red, swollen, blistered, or peeling skin with or without fever; wheezing; tightness in the chest or throat; trouble breathing, swallowing; or talking; unusual hoarseness; or swelling of the mouth, face, lips, tongue, or throat.
- Signs of high blood sugar like confusion, feeling sleepy, more thirst, more hungry, passing urine more often, flushing, fast breathing, or breath that smells like fruit.
- Very bad dizziness or passing out.
- Change in how you act.
- Mood changes.
- Shakiness, trouble moving around, or stiffness.
- Not able to pass urine or change in how much urine is passed.
- Trouble swallowing or speaking.
- Not able to focus. *(Note this very effect)*
- Seizures.
- Change in eyesight.
- Shortness of breath.

Drooling

- Enlarged breasts.
- Sex problems like lowered interest in sex or ejaculation problems.
- Nipple discharge.
- Call your doctor right away if you have a painful erection (hard penis) or an erection that lasts for longer than 4 hours. This may happen even when you are not having sex. If this is not treated right away, it may lead to lasting sex problems and you may not be able to have sex.
- A very bad and sometimes deadly health problem called neuroleptic malignant syndrome (NMS) may happen. Call your doctor right away if you have any fever, muscle cramps or stiffness, dizziness, very bad headache, confusion, change in thinking, fast heartbeat, heartbeat that does not feel normal, or are sweating a lot.

What are some other side effects of this drug?

All drugs may cause side effects. However, many people have no side effects or only have minor side effects. Call your doctor or get medical help if any of these side effects or any other side effects bother you or do not go away:

- Weight gain.
- Restlessness.

- Feeling sleepy.
- Dizziness.
- Anxiety.
- Upset stomach or throwing up.
- Belly pain.
- Loose stools (diarrhea).
- Constipation.
- Dry mouth.
- More hungry.
- Feeling tired or weak.
- Stuffy nose.
- Runny nose.
- Nose and throat irritation.
- Headache.
- Not able to sleep.
- Back pain.
- Muscle pain.

These are not all of the side effects that may occur. If you have questions about side effects, call your doctor. Call your doctor for medical advice about side effects.

You may report side effects to the FDA at 1-800-FDA-1088. You may also report side effects at <http://www.fda.gov/medwatch>.

How is this drug best taken?

Use this drug as ordered by your doctor. Read all information given to you. Follow all instructions closely.

- Be careful in hot weather or while being active. Drink lots of fluids to stop fluid loss.
- Take with or without food.
- To gain the most benefit, do not miss doses.
- Keep taking this drug as you have been told by your doctor or other health care provider, even if you feel well.

What do I do if I miss a dose?

- Take a missed dose as soon as you think about it.
- If it is close to the time for your next dose, skip the missed dose and go back to your normal time.
- Do not take 2 doses at the same time or extra doses.

How do I store and/or throw out this drug?

- Store at room temperature.
- Protect from light.
- Store in a dry place. Do not store in a bathroom.
- Keep all drugs in a safe place. Keep all drugs out of the reach of children and pets.

[Signature]
01/15/19

the attorney general intends to restore defendant back to competency with this type of medication?

breast like a female, but most shockingly, the medication says "not able to focus" as one of the side effects and the question is how do

help right away if you have any of the following signs or symptoms that may be related to a very bad side effect:

• Signs of an allergic reaction, like rash; hives; itching; red, swollen, blistered, or peeling skin with or without fever; wheezing; tightness in the chest or throat; trouble breathing, swallowing; or talking; unusual hoarseness; or swelling of the mouth, face, lips, tongue, or throat.

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• Very bad dizziness or passing out.

• Change in how you act.

• Mood changes.

• Shakiness, trouble moving around, or stiffness.

• Not able to pass urine or change in how much urine is passed.

• Trouble swallowing or speaking.

• Not able to focus. *(Note this very effect)*

• Seizures.

• Change in eyesight.

• Shortness of breath.

• Drooling

• Enlarged breasts.

• Sex problems like lowered interest in sex or ejaculation problems.

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• Call your doctor right away if you have a painful erection (hard penis) or an erection that lasts for longer than 4 hours. This may happen even when you are not having sex. If this is not treated right away, it may lead to lasting sex problems and you may not be able to have sex.

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• Weight gain.

• Restlessness.

Feeling sleepy.

Dizziness.

Anxiety.

Upset stomach or throwing up.

Belly pain.

Loose stools (diarrhea).

Constipation.

Dry mouth.

More hungry.

Feeling tired or weak.

Stuffy nose.

Runny nose.

Nose and throat irritation.

Headache.

Not able to sleep.

Back pain.

Muscle pain.

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• Store at room temperature.

• Protect from light.

• Store in a dry place. Do not store in a bathroom.

• Keep all drugs in a safe place. Keep all drugs out of the reach of children and pets.

Evidence of the deputy clerks practicing in bad-faith

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

December 07, 2018

#14675479
Mr. Michael Ojegba Agbonifo
MCFP Springfield
1900 W. Sunshine Street, P.O. Box 4000
Springfield, MO 65801-4000

No. 18-20066 USA v. Michael Agbonifo
USDC No. 4:16-CR-462-1

Dear Mr. Agbonifo,

We will take no action on your motion for Motion for Relief from Judgment. Only your attorney can file motions or other documents on your behalf. Your motion is being forwarded to your attorney for whatever action he deems necessary.

Sincerely,

LYLE W. CAYCE, Clerk

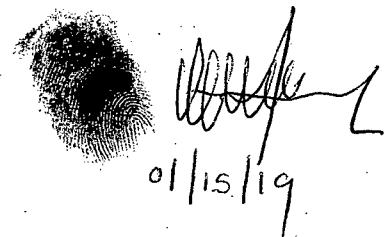


By: _____
Monica R. Washington, Deputy Clerk
504-310-7705

cc: Ms. Nicole Wignall DeBorde
Ms. Carmen Castillo Mitchell

Note: It is very ridiculous because how would any reasonable man expect the same attorney who openly in bad-faith dismiss the clients appeals without the client's consent to still file the supposed motion for reconsideration or why would that attorney be the central figure or the decision make in the clients defense? If so, then what is the dividends of the 6th amendment right that was enacted to be guaranteed to the accused?. "The deputy clerks are absolutely NOT making any modicum of sense because the prejudice itself is very transparent"

" This fact is stated under the penalty of perjury"



01/15/19

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States of America

versus

Case Number: 4:16-cr-00462

Judge Keith P. Ellison

Michael Ojegba Agbonifo

NOTICE OF THE FILING OF AN APPEAL

An appeal has been filed by Michael Ojegba Agbonifo. The following appeal and related motions are pending in the District Court:

Notice of Appeal – Judgment and Sentence – #111

If the appellant fails to comply with the following requirements, then the Clerk of Court will submit a certificate of noncompliance to the Fifth Circuit Court of Appeals.

FILING FEE:

A filing fee is required to proceed on appeal. If the filing fee has not already been paid, then it must be paid or a motion to proceed *in forma pauperis* must be filed, unless appellant is an United States government agency.

TRANSCRIPTS:

If hearings were held in this case and the transcripts were not already produced, then transcripts must be ordered. Pursuant to FRAP 10(b)(1), a transcript order form must be filed within 14 days of the filing of the notice of appeal. Under Fifth Circuit Rule 10, the appellant's order of the transcript must be made on a DKT-13 Transcript Order form. The DKT-13 must be filed regardless of whether there were hearings or transcripts needed. A link to the DKT-13 form and additional instructions for ordering transcripts are available on the court's website at www.txs.uscourts.gov/page/OrderingTranscripts.

If there were no hearings or no transcripts are needed, file the DKT-13 form with the appropriate box marked to indicate so. For cases where transcripts are needed, prepare a separate DKT-13 for each reporter from whom you are ordering transcripts. All transcripts for electronically recorded proceedings may be ordered on one form. Each form should indicate the exact dates of the proceedings to be transcribed by that reporter.

This case had hearings. Reporter(s): ERO; F. Warner; K. Miller; L. Webster; B. Slavin.

EXHIBITS:

The Fifth Circuit requires exhibits admitted into evidence be included in the electronic record for transmission to the Fifth Circuit. Exhibits in the custody of the court will be electronically filed by court staff. Exhibits previously returned to the parties must be electronically filed in this case by the attorney, using event Exhibits in the Trial Documents category in ECF.

Date: September 24, 2018.

Appendix (E)

David J. Bradley, Clerk

Note: This is the evidence that the defendant at every point in time filed a notice of appeal by himself each time he discovers the government in collusion with the COURT and sham defense counsel had conducted a secret hearing without his consent, knowledge or physical appearance.
Perhaps All proceedings in this very matter was conducted without defendant's knowledge, consent or physical presence.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Michael Ojegba Agbonifo

Complainant

v.

Complaint under Rule 6

Hon. Keith P. Ellison

USDC Houston, Texas

Defendant (1)

Judge DENNIS, SOUTHWICK, and HIGGINSON

U.S Court of Appeals 5th Circuit Judges

Defendant (2)

COMPLAINT FOR MISCONDUCT

COMES NOW Michael Agbonifo, the complainant pursuant to Federal Rules of Civil Procedure Rule 6, do solemnly declare under the penalty of perjury that the following statement stated herein is true and correct.

That because this circuit local Rule 4 (a) former 5th Cir.R.1(c)(1) permits any individual who must have been prejudiced by misconducts of District Court Judges or Circuit Court judges within this circuit's jurisdiction must file an official complaint for review, however the case may be,

Perhaps, the judicial conference of the United states, after public comment enact a statute, 28 U.S.C §§ 331 and 358, to establish standards and procedures for addressing complaints filed by

complainant or identified by chief judge under the judicial conduct and disability act, 28 U.S.C. §§ 351-364

The scope of this Rule is to determine whether a covered judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts or is unable to discharge the duties of office because of mental or physical disability.

This statute defines misconduct as follows:

- a). Using the Judge's office to obtain or grant special treatment to friends, colleagues or relatives.
- b). Accepting bribes, gifts, or other personal favor related to the office.
- c). Having improper discussion with parties or Counsel for one side in a case
- d). Treating litigants, attorneys, or others in a demonstrably egregious and hostile manner.
- e). Engaging in partisan political activity or making inappropriate partisan statements.
- f). Soliciting funds for organization
- g). Retaliating against complainants, witnesses, or others for their participation in this complaint process e.t.c

However, the summoned judges have knowingly or deliberately engaged in the conducts stated above without remorse and as such warranted this complaint for interest of personal safety and justice.

The first Question is what happened?

In Summary, the aboved summoned judges knowingly and deliberately in bad faith engaged in a conduct shocking and prejudicial to the

effective and expeditious administration of the business of the court just to obstruct justice and cover up for an aggravated sexual assault committed against complainant by federal agent Matthew S. Boyden, and whether evidence must prove that this federal agent is a relative or friend to these summoned judges or NOT, I need not to reach a fact, Rather to draw inference from their deliberate and perpetual misconduct and any investigation would definitely be meritorious to this complaint. " Their prejudice is just too apparent and shocking" and their reasons don't just make any sense.

In support of this complaint, I hereby show this panel the following facts and circumstances:

- 1). They used mental health evaluation statute to circumvent just to tag me delusional and avoid public knowledge about agent Boyden's sexual misconduct. But:

The ridiculous part of this is, they stated that i volunteered to mental health treatment when overwhelming evidence can deduce that i have no history of mental illness, making their opinion to be moot.

- 2). They denied me right to proceed pro se and imposed apparent sham counsels on me without my knowledge and this counsels openly fought against me and these judges supported counsel down the road.
- 3). These Judges conducted all crucial proceedings without me knowing or even present in court to witness any of my proceedings.
- 4). They repeatedly issued shocking and prejudicial orders against me, always claiming that counsels waived my right to be in court and counsel was always unopposed.
- 5). They deliberately did not only denied my right to be informed and

physically appeared in court to have atleast witnessed any of my proceedings, but they also denied me my autonomy to appeal of right.

6). Most shockingly, they ordered me to be involuntary medicated with detrimental psychotropic drugs, claiming that imposed counsel waived my autonomy to be informed or physically appear in court to witness my supposed sell hearing and counsel was un opposed as usual, and i need not reach an answer, if this kind of misconduct have been seen in the history of america judicial proceeding because it doesn't just make any sense.

Why would any court have a sell hearing in the first place if it was meant to be an un opposed argument?

Or has any court ever had a sell hearing without informing the defendant or having the defendant in court to witness that hearing?

Of course NO

I was just arrested from the street while driving, the said agent then took me to my apartment and sexually assaulted me in an aggravated manner while i was fully handcuffed both hands behind my back and two legs restrained as well, then instituted a federal violation charges on me, but still refused me a trial of right and the summoned individuals aided that circumvent with the power of their judicial office.

And the question is, if this is not hostage under the color of law, then what is it called? I need not to reach an answer rather to promulgate that any modicum of investigation would definitely be meritorious.

The second question is, When and Where the relevant event happened?

And to be concised, It was from, on and before April 28, 2017 till present in the Houston area, United States District Court Houston Division and in this very fifth circuit. The courts own docket might specify more as to dates and venue.

But however, the detailed and attached information below would help any investigator check the facts of this case:

The threshold of the matter is, before April 28, 2017, Counsel Mary E. Conn told me that Hon. Ellison vowed not to grant me trial of right because my intention is to implicate agent Matthew S. Boyden with sexual assault allegation.

In furtherance to that vow, Hon. Ellison did order me to be civilly committed under 4241(d) statute claiming that I volunteer, meaning Mr. Ellison ordinarily did not find me incompetent to stand trial, And the question is, has any court ever ordered direct 4241(d) treatment without (i). Addressing the defendant; (ii). Making sure that defendant was informed or having evidence of defendant's consent (iii). Having the defendant present in court to atleast witness his own proceedings? AND:

Can any attorney either in apparent conflict with the client or NOT waives client's autonomy to crucial matters in the court?

Of course NO and i need not to reach a fact rather to employ any investigator to read my attached brief for more clarification.

Perhaps, when i objected and threatened to file a writ of

mandamus, Mr. Ellison hurriedly terminated Counsel Mary E. Conn's appointment and appointed Counsel Nicole Deborde to do the same misconduct. At Mr. Ellison's second prejudicial order that extended the involuntary psychiatry treatment, which doesn't just make any sense because if you know that Counsel Nicole DeBorde is going to do the same thing that Counsel Mary E. Conn did, then why did you terminate Counsel Mary E. Conn's appointment? AND:

I need not to reach an answer to that question, Rather I filed a recusal and complaint against Mr. Ellison in the District Court under Rule 6, but most shockingly:

Mr. Ellison retaliated by ordering me to be locked up in the shoel in TEXAS for a period of about 5 months, Ordered an involuntary medication in some ex parte sell hearing claiming that Counsel Nicole DeBorde waived my autonomy to be informed, present and she was un opposed as usual.

The question now is:

If the first Counsel Nicole DeBorde misconduct was an accident then why didn't you correct it in the sell hearing?

If you know that I was not going to be informed or be physically present in court as usual, then why did you move me to TEXAS?

And finally, If you know that counsel was going to agree with the prosecution's request, then why did you conduct a sell hearing?

You should have just issued the order from the convenient of your offices, Because it doesn't just make any sense. See also the attached appellant's brief to treatise more.

However, the inter alia to this complaint is, the named circuit judges knowingly colluded in this cover up because I objected to their improper and ex parte discussions with imposed counsel who openly promulgated of retaliating against me.

These judges used the power of their office to uphold counsel's secret filings down the road.

But the question now is, If am not required to be furnished with whatever claim counsel and the prosecution have against me in my own litigation, then what is the point of entertaining the matter in the first place?

They claimed that I requested to dismiss my appeal because it was untimely filed which doesn't just make any sense because the said appeal was timely filed and the evidence was right in front of them by the court's own record. See, the attached motion for relief from judgment and court's order to treatise more.

CONCLUSION

It is axiomatic that the federal judiciary could be sometimes frustrating but that doesn't mean, it should be shady as well. These summoned judges over-reached the privilege of discretionary abuse and automatic reversal is the only remedy in this case.

Wherefore it is unambiguously apparent that they have conspired to obstruct justice and cover up for agent Matthew S. Boyden's sexual misconduct and even if I previously didn't have overwhelming evidence against the said agent, what these summoned judges have done is more than enough to justify my claims on merit because their

conducts is not just only inappropriate but just don't make any sense. Why will you force medicate me with **Risperdal**, when you know that it would not only cause me to lose focus, seizures e.t.c but also make me to develop breasts like a female.

RELIEF SOUGHT FOR

- 1). I want an emergency order to stay involuntary medication because I am fast debilitating from the side effects of the administered drugs. See the attached **drug information** as my evidence.
- 2). I want my motion for relief from judgment of on Nov., 15 2018 to be speedily granted to enable me proceed with my appeal of rights. **Note:** This Court deputy Clerks are biased against me in this matter.
- 3). I want this court to retain my attached appellant's brief so that it can be reviewed on its merits.

PRAYER

I hereby pray that this committee grants my relief speedily because ordinarily, it is my autonomy on merit and that has no way caused this committee, neither the summoned judges, nor the government any prejudice.

I hereby declare under the penalty of perjury that the following claims are true and correct.

EXECUTED ON 26 Day November, 2018.

RESPECTFULLY SUBMITTED

" Without Prejudice "



Michael Ojegba Agbonifo

The Complainant

Reg no. 14675479

MCFP Springfield.

P.O.Box 4000

Springfield MO, 65801

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

December 28, 2018

Michael Ojegba Agbonifo
Reg. #14675-479
MCFP Springfield
P.O. Box 4000
Springfield, MO 65801

Dear Mr. Agbonifo:

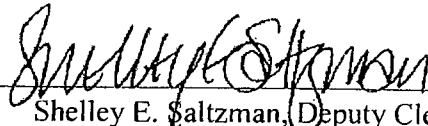
Further to our letter of December 19, 2018 acknowledging receipt of your complaint of misconduct against United States District Judge Keith P. Ellison, please be advised that before a complaint is transmitted to the Chief Judge for consideration, the Clerk conducts a preliminary review for compliance with the enclosed Rules for Judicial-Conduct and Judicial Disability Proceedings and for clarity of the allegations.

A review of the proceedings underlying your complaint indicates that issues raised in the complaint overlap with assertions made in a notice of appeal docketed in 5th Cir. No. 18-20654. Fifth Circuit Procedure 8 of the Rules For Judicial-Conduct and Judicial-Disability Proceedings provides: "If a complaint raises issues which are also raised in pending litigation, the circuit clerk will advise the complainant that the complaint shall be (or is being) held in abeyance pending disposition of the litigation, including appeals, and that the complainant must advise the clerk in writing of the disposition of the litigation."

Please note that the Clerk will not transmit your complaint to the Chief Judge for consideration until after you have notified the Clerk of the final disposition of 5th Cir. No. 18-20654 (including any appeal to the U.S. Supreme Court). To expedite processing of any such notice, please mark the envelope "ATTENTION: Shelley Saltzman."

Sincerely,
LYLE W. CAYCE, Clerk

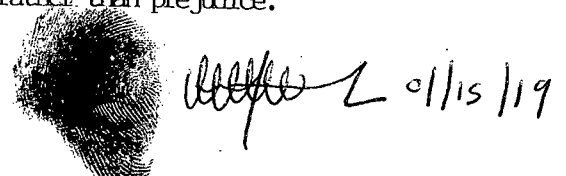
By



Shelley E. Saltzman, Deputy Clerk

Note: How would the deputy Clerk wants to wait or talk about some appeal that they have in bad-faith failed to process? Ever since the notice was filed which is about 5 months now., they have refused to update defendant any thing about the appeal neither did they schedule defendant for a briefing. It is very ridiculous but who knows., May be they have done secret or ex parte proceedings with the said appeal as usual. because the deputy clerk is NOT just making any sense, rather than prejudice.

" This statement is made under the penalty of perjury "



United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

December 19, 2018

Michael Ojegba Agbonifo
Reg. #14675-479
MCFP Springfield
P.O. Box 4000
Springfield, MO 65801

Dear Mr. Agbonifo:

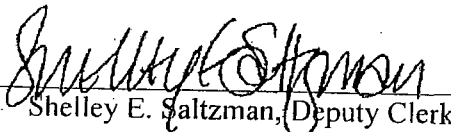
We acknowledge receipt of your judicial misconduct complaint against United States District Judge Keith P. Ellison and United States Circuit Judges James L. Dennis, Leslie H. Southwick, and Stephen A. Higginson.

Please be advised that before a complaint is transmitted to the Chief Judge for consideration, the Clerk conducts a preliminary review for compliance with the Rules for Judicial-Conduct and Judicial Disability Proceedings and for clarity of the allegations.

After we have reviewed your complaint, we will advise you in writing if the complaint does not comply with the Rules or if further clarification of your claims is required or, if there are no such deficiencies, we will advise you of the complaint number allocated to this matter.

Sincerely,
LYLE W. CAYCE, Clerk


By


Shelley E. Saltzman, Deputy Clerk

Note: No matter how it may be construed., this is apparently a devised or invoked strategy to circumvent justice because a complaint of judicial misconduct under Rule 6 is meant to be reviewed by the circuit chief judge meaning., "Frivolous or Not"/"5th circuit Rule or no 5th circuit rule" the deputy clerks power is limited when it comes with issue of judicial misconduct complaints. **Perhaps,** this same deputy clerks have in bad-faith ignored or refused to file petitioner's application to stay involuntary medication ORDER that was filed on _____ and none of them wants to talk about this issue instead, they are busy blocking defendant's interest down the road.

" This information is stated under the penalty of perjury "




01/15/19

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-20066

United States of America,
Plaintiff-Appellee

v.

Motion under F.R.Civ.P 60(b)

Michael Ojegba Agbonifo
Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas

USDC No. 4:16-GR-462-1

MOTION FOR RELIEF FROM JUDGMENT OF NOV., 15, 2018

COMES NOW, Michael Agbonifo the Movant/Appellant in this action, pursuant to fourteenth Amendment right to **due process** of law and Fed. R. Civ. P 60(b), as in *PLYER v. DOE*, 437 U.S. 202, 72 L.Ed.2d 786, 102 S.Ct. 2382 (1982) and *Price v. Philpot*, 420 F.3d 1158 (10th Cir. Okla 2005) respectively, hereby request for a relief from court's judgment of on Nov., 15, 2018 because it was a **structural error**. In support of this request, Movant/Appellant respectfully shows this court the following **facts** and circumstances:

Perhaps, the jurisdiction of this court was invoked pursuant to 18 USCS § 3742 (a) or 28 USCS § 1291 and since a timely notice of appeal was filed despite the fact that the said District Court Judgment in contest was done **ex parte**.

Although reconsideration of courts previous order is extraordinary

remedy to be employed sparingly in interest of finality and conservation of scarce judicial resources. Global View L.t.d. Venture Capital v. Great Cent. Basin Exploration L.L.C 288 F.Supp 2d 48 (S.D.N.Y) 2003.

And also reconsideration is properly granted to correct clear error, prevent manifest injustice or review court's decision in light of availability of new evidence. See Dipasqual v. Milin, 303 F. Supp 2d 430 (S.D.N.Y. 2004),

In this case, the errors of the court is not only clear but also **structural** because it affected appellant's fundamental autonomy and substantial rights.

To wit:

The 6th amendment right to the U.S Constitution guarantees any accused the following;

- i). Right to speedy and public trial by impartial jury of state and District wherein crime is committed.
- ii). Right to be informed on nature and cause of accusation
- iii). Right to compulsory process
- iv). Right to effective assistance of counsel.

It is well noted that all these aforementioned rights were violated in this matter and the details are as follows:

- i). Appellant/Movant has been denied right to trial for over 2yrs now just because he pleaded NOT Guilty
- ii). Appellant/Movant was never informed of any of his proceedings neither was he ever taken to court to witness any of his hearings which is un seen in the history of United States judicial proceedings.

iii). There was no single **due process** of law that was observed in this case

iv). Appellant/Movant was denied right to proceed pro se and also the right to enjoy effective assistance of counsel, **rather** was imposed a detrimental counsel that openly prosecuted the appellant her supposed client, down the road and this very court supported counsel's prejudice down the road.

Moreover, movant would want to remind this court that the 9th amendment of the U.S. Constitution guarantees him the right to have an **autonomy** while the 10th amendment guarantees the **power** secured by that autonomy. And what that means is; even if the law has now changed, movant still merits relief from the judgment of on Nov., 15, 2018.

Although the enabling Act of June 19, 1934 C. 651 §§ 1, 2 (48 Stat. 1064), 28 U.S.C. Former §§ 723b, 723c, now § 2072 gives the Supreme Court the power to prescribe, by general rules..., the forms of process, writs, pleading, and motions, and the practice and procedure in civil actions at law, "such rules, however, must not abridge, or modify substantive rights. See Kohl v. United States, 91 U.S. 367, 23 L.Ed 449 (1875).

In **McCoy**, it was noted that the 6th amendment guarantees any accused two major fundamental things:

- 1). The right on how to so plead
- 2). The right to direct appeal. And if any of this rights is abridged, a **structural error** has occurred and it requires automatic reversal. See Black's Law Dictionary definition of structural error to treatise more.

The threshold of the matter is, movant/appellant is cognizance of the fact that timely filing of a notice of appeal is mandatory and jurisdictional. *United States v. Robinson*, 361 U.S. 224, 4 L.Ed. 2d 259 (1974) and in some circuits, one day late can be very fatal. See. *Brainerd v. Beal* (7th Cir. 1974) 498 F.2d 901.

But this very circuit ruled in numerous number of cases that, because right to appeal must not be lost by mistake of mere form, therefore, so long as the function of notice is met by filing of a paper indicating an intention to appeal, the substance of the rule has also been complied with. See *Cobb v. Lewis* (5th Cir. 1974) 488 F.2d 41 and *Hulley v. Capps* (5th Cir. 1972) 468 F.2d 1366. e.t.c

Furthermore, appeal must not be denied and notice of appeal are construed liberally where appellant's intent is apparent and adverse party is not prejudice. *Scherer v. Kelley*, 584 f.2d 170, 26 Fed. R. Serve 2d (callaghan) 1312 4 media L Rep (BNA) 1580 (7th Cir. III. 1978) cert. denied, 440 US 964, 99 S.Ct 1511, 59 L.Ed.2d 778 (U.S 1979).

And in this case, any reasonable man would agree that appellant intention to appeal would have been unambiguously apparent if; the judgment in question wasn't done ex parte and any appeal cannot cause the government any prejudice because it was not a plea matter.

Perhaps, Fed. R. Civ. P. Rule 4(a) and (4) specifies that the period during a notice of appeal may be filed in court is 30 days or 60 days as the case may be, following the date of judgment or order appealing from.

However, the **crux of this matter** is very simple:

1). I filed a timely notice of appeal on or before 30 days from the the date the judgment in question was entered and the evidence is right there in front of this very court from this court's own record even when the said judgment was secretly / done ex parte.

To wit:

It is unambiguously erroneous for any court to promulgate that any appellant would want to dismiss his own appeal because it was untimely filed. Ordinarily is appellees or clerks of courts that do that NOT appellants. " it doesn't just make any sense ".

Moreover, no matter how it may be construed, a notice of appeal filed in the court by a prisoner without the assistance of counsel is always held sufficient. See Halfen v. United States, 324 f.2d 52 (10th Cir. 1965).

And because appellant was represented by court imposed counsel throughout the whole proceeding in question, it is the duty of counsel to have avoided any prejudice NOT appellant himself and we need not to reach an answer while this court thinks that it is proper to support counsels retaliation against the client down the road.

But in conclusion. movant/appellant would want to ask this very courts just two questions:

Although it is agreeable that if counsel finds an appeal wholly frivolous, court should grant counsel's request to withdraw, and either dismiss appeal or proceed to decision on merits. It must prior to decision, afford indigent accused assistance of counsel to argue appeal. Anders v. California (1967) 386 U.S 738, 87 S.Ct 1376, 18

L.Ed.2d 493, reh den (1967) 388 U.S 924 87 S.Ct 2094 18 L.Ed 2d 1377.

The first question now is:

Was this procedure demanded in Anders v. California followed?

Of course NO, even when appellant repeatedly advised this court to order counsel to file an Anders brief, instead this court deliberately engaged in improper and ex parte dealings with apparent sham counsel to retaliate against client or appellant and we need not to go in details why such shocking misconduct happened, rather to promulgate that **structural error** has accrued and relief should be speedily granted.

To wit:

The Supreme Court also ruled that the constitutional requirement of substantial equality and fair process requires four prong-test:

- 1). Appointed counsel must advise the court that appeal is frivolous and request permission to withdraw.
- 2). Request must be accompanied by brief referring to anything in record that might arguably support appeal.
- 3). Copy of counsel's brief must be furnished to indigent with the time allowed to raise any points that he may choose to raise and
- 4). Court, after full examination of all proceedings, decide whether case is wholly frivolous or NOT. Pennsylvania v. finley (1987)

481 U.S 551, 95 L.Ed.2d 539, 107 S.Ct 1990..., which now brings us to the second or last question?

Did this very court or counsel satisfied any of the aforementioned prong-test?

The answer is ~~unambiguously~~ NO

In summary, this Nov., 15, 2018 ORDER would have been held sufficient only if the **appellee** or the **clerk of court** had filed the alleged motion to dismiss, because there had been no reported cases in the history of America Judicial Proceeding that would suggest, appellants had any time filed motions to dismiss their own appeals because it was untimely filed. **"It doesn't just make any sense"** And if appellant's counsel did in this case, then the court erred for not following the constitutional requirement for fair process as treatised above.,

Wherefore, appellant/movant request this court to grant a speedy relief because what has happened in this proceeding is very farce, mockery, and shocking to the conscience of the judiciary system and and automatic reversal is the only remedy in order to uphold the confidence and public reputation of the independent judiciary.

See. U.S. v. Calyerley, 37 F.3d 160 (5th Cir.)(en banc).

PRAYER

Appellant request that this court restore his autonomy to proceed with his direct appeal of right because this court's own record can overwhelmingly prove that his notice of appeal was timely filed and no matter how it is weighed, he cannot possibly would want to dismiss his own appeal saying, it was untimely filed. **" It doesn't just make any sense".**

Appellant/movant prays for general relief that might be due to him in this proceeding if this court finds it meritorious.

EXECUTED ON 26 Day November, 2018.

RESPECTFULLY SUBMITTED

" Without Prejudice "



A handwritten signature in black ink, consisting of stylized cursive letters.

Michael Ojegba Agbonifo

The Movant.

Reg no. 14675479

MCFP Springfield

P.O.Box 4000

Springfield MO, 65801.

CERTIFICATE OF SERVICE/ PROOF OF SERVICE

I, Michael Ojegba Agbonifo, the undersigned hereby certify that a true and correct copy of that foregoing motion: Motion for relief from judgment of Nov., 15, 2018

_____ was placed in the
Prison mail box at the United States Medical Center for Federal prisoners Springfield, for delivery by
United States Mail, First Class postage, pre-paid, on this, 26 day of November, 2018, and
properly addressed to the following:

Office of the Clerk
United States Court of Appeals
600 S. Maestri Place
New Orleans, LA 70130

Mr. David J. Bradley
United States District Court
515 Rusk Street Room 5300
Houston, TX 77002

AND

I hereby certify under the penalty of perjury the foregoing is true and Correct under 28 U.S.C. §1746.

Date: 11 / 26 / 2018.

Signed,

Ullrich

Name: Michael O. Agbonifo

Reg. No. 14675479

Federal Medical Center for Prisoners.

P.O. Box 4000

Springfield, Missouri 658011

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States of America

v.

Michael Ojegba Agbonifo

ON APPEAL TO VACATE THE JUDGMENT OF THE DISTRICT
COURT AND SET APPELLANT FREE FROM FEDERAL CUSTODY

PRINCIPAL-APPELLANT BRIEF PURSUANT TO Rule 28.1 (e)

USDC No. 4:16-CR-462-1

Jurisdiction

This Court has Jurisdiction pursuant to 18 USCS § 3742 (a) or
28 USCS § 1291.

By: Michael O. Agbonifo
Reg No. 14675479
MCFP Springfield
P.O.Box 4000
Springfield MO, 65801

QUESTION(S) PRESENTED

1]. Can a Court Conduct a Mental Health Competency Hearing, Involuntary Medication Hearing or numerous hearings or has any Court ever conducted these aforementioned hearings in a bank-fraud case or any other case without informing the defendant or having the defendant to atleast witness one these numerous proceedings against him?

2]. Can any defense counsel who is apparently in conflict with the client OR Can this Counsel who openly admitted that her actions is in contrary to the client's wishes, still be allowed to keep retaliating against the client?

We need not to reach an answer, however as, this appellate brief explains it all & this is not a conviction appeal that might require ineffective assistance of counsel to be addressed under habeas petition.

OPINION BELOW

1]. The opinion of the District Court is that "If defendant is granted trial of right, Agent Matthew S. Boyden would be implicated with sexual assault allegation, that is why the said 4241 statute was used to circumvent and we need NOT to reach a conclusion, however, taking inference from the repeated misconduct after the fact.

2]. That defendant's counsel at all the time, waived client's autonomy to be informed and physically present in court to witness his own proceeding and counsel was all the time un opposed.

CORPORATE DISCLOSURE, Rule 26.1.1 (5th Circuit)

- 1). Michael Ojegba Agbonifo, the principal appellant belongs to no corporation
- 2). The U.S Attorney, belongs to the Department of Justice.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America

Plaintiff-Appellee,

v.

Michael Ojegba Agbonifo

Defendant-Appellant.

Appeals No. _____

USDC No. 4:16-CR-462-1

Appeal from the United States District Court
for the Southern District of Texas

INTRODUCTION

HERE COMES Mr. Michael Agbonifo, the Principal Appellant in the above named cause, hereby files this **brief** in compliance with Rule 32(a)(7) or Rule 28.1 (e) and every other necessary Rules as required by federal rules of appellate procedure to reverse or vacate the judgment of the District Court and set appellant free from federal custody as a consolidated relief for the cruel, unusual punishment, torture and deliberate or malicious misconduct to obstruct justice against appellant's complaints. In support of this appeal, appellant hereby shows this court the following facts and circumstances:

Jurisdictional Statement;

That the jurisdiction of this Court is invoked pursuant to 18 USCS § 3742 (a) or 28 USCS § 1291 and besides, a timely notice of appeal was filed in this matter despite the fact that the said judgment in contest were all done ex parte or secretly.

Although, in this case, the matter of jurisdiction has NOT be promulgated to be an issue and appellant is cognizance of the fact that the timely filing of a notice of appeal is mandatory and Jurisdictional. United States v. Robinson, 361 U.S 224, 4L.Ed 2d 259 (1960) and Also filing of a notice of one day late could be fatal. See Brainerd v. Beal (7th Cir. 1974) 498 F.2d 901.

But however, it is more important that the right to appeal must NOT be lost by mistake of mere form., that is why this very circuit ruled in numerous number of cases and it has been held that so long as the function of notice is met by filing of a paper indicating an intention to appeal, the substance of the rule has also been complied with. See Cobb v. Lewis (5th Cir. 1974) 488 F.2d 41; and Hulley v. Capps (5th Cir. 1972) 468 F.2d 1366. Note: "the proposed amendment would give recognition to this practice".

Furthermore, Courts have also ruled that the right to appeal must no be denied and notices of appeal are entitled to be construed liberally where appellant's intent is apparent and adverse party is not prejudiced. See Scherer v. Kelley, 584 F.2d 170, 26 Fed R. Serve 2d (callaghan) 1312 4 media L. Rep (BNA) 1580 (7th Cir. III. 1978) vert. denied, 440 US 964, 99 S.Ct 1511, 59 L.Ed.2d 778 (U.S. 1979).

But in this case, the Judgment in contest were all entered ex parte; meaning, appellant was not even informed, neither was he physically present in court to have witnessed any of the said proceedings which automatically satisfy the "intent to appeal clause" because ordinarily, defendant would have filed an immediate notice of appeal if the District Court had followed the Rules of law and besides, the incomplete compliance with Federal Rules of Appellate Procedure Rule 3(c), should not result to loss of intended appeal on merits. See Wright v. American Home Assurance Co, 488 F.2d 361, 1974 Life Cars (CCH)379 (10th Cir. Utah

1973)., Neither should failure to prepay the statutory filing fee constitute a Jurisdictional defect. See *Parissi v. Telechron*, 349 U.S. 46 (1955); *Gould v. Members of N.J Division of Water Policy & Supply*, 555 F.2d 340 (3d Cir. 1977). Similarly under present Rule 12, failure to pay the docket fee within the time prescribed maybe excused by the Court of Appeals. *Warker v. Matthews*, 546 f.2d 814 (9th Cir. 1976).

Let it be reminded that appellant filed this notice of appeal on or before 45 days from the date of this ex parte judgment by himself alone and it has been long ruled that notice filed in court of appeals by a prisoner without assistance of counsel, is held sufficient and we need NOT to remind this court the shady role counsel played instead in this case. See *Halfen v. United States*, 324 F.2d 52 (10th Cir. 1965) .

And since the time for the filing of a notice of appeal by other parties is measured by the time at which the Judgment is properly entered., The Supreme Court then ruled that when a notice of appeal is filed, the clerk should ascertain whether any Judgment designated has been entered in compliance with Rule 58, and 79(a) and if NOT, so advised all parties and the District Judge and because there is no record that Mr. Agbonifo was even advised of non-compliance with the aforementioned rules, we hold that this appeal must go forward. See *Bankers Trust Co. v. Mallis* 431 U.S. 928 (1977) .

Perhaps, these same rules of appellate procedures state that upon a finding of excusable or good cause, the District Court would ordinarily, before or after the time to appeal has expired, with or without motion, extends the time to file a notice of appeal for a period NOT to exceed, 30 days from the expiration of the time otherwise prescribed by this rule 4(b). See *North Uumberland Mining Co. v. Standard Accident Ins. Co*, 193 F.2d 951 (9th Cir. 1952); *Cohen v. Plateau*

Natural Gas Co., 303 F.2d 273 (10th Cir. 1962); Plant Economy, Inc. v. Mirror Insulation Co., 308 F.2d 275 (3d Cir. 1962).

Notes to Rule 4(a)(2) and 94): The period during which a notice of appeal may be filed is 30 days or 60 days as the case maybe, following the judgment or order appeal from.

In that said, no matter how it is weighed, Notice of Appeal filed on or before 45 days from the date of judgment in a civil matter is held sufficient, even without any ex parte allegation and the defendant has no way cause the court or adverse party any prejudice.

Wherefore, we conclude that this court of appeals has a justifiable jurisdiction pursuant to 18 USCS § 3742(a) or 28 USCS § 1291 as earlier stated, as long as there is "arguable basis" for subject matter. See Kocher v. Medical Co, 132F. 3d 1225, 1230- 31 (8th Cir. 1987).

SUMMARY OF THE CASE

It is very shocking that a Court of the United States would collude with assistant U.S Attorney, appointed counsels for the defendant and some other DOJ employees to obstruct justice and circumvent with mental health statute in a Bank fraud case.

The question of how many white collar crimes have courts found it necessary to order a mental health evaluation before trial cannot be overruled. And **let it be reminded** that, F.R.Cr.P.... Rule 12.2 only permits examination to determine defendant's competency at time of offense See. United States v. Jines..., which makes it disturbing because white collar crimes cannot possibly be committed by incompetent or insane defendants, that is why courts cannot find authority to order such evaluation under 18 USCS § 4241 or 4242 or under F.R.Cr.P. 12.2(c) even if defendant intends to introduce expert testimony relating to mental health condition at trial, However, bearing upon issue of specific intent to defraud if true, defendant is construed competent. See United States v. Akers (Supreme Court) To wit:

It is also shocking that in this case, defendant was never informed, neither was he ever brought to court to have witnessed atleast one of his numerous proceedings in question.

It is well alleged that the District Court Judge vowed that defendant would never get a trial of right because defendant's intention is to implicate agent Matthew S. Boyden with sexual assault allegation and we need not to reach a conclusion rather to draw inference from the misconducts that happened after the fact. Moreover, it is well noted that the district court placed all the shocking conducts on known and unknown appointed counsels on numerous accessions where it could have ordinarily avoided repetition of misconduct concludes us to promulgate conspiracy

to obstruct justice in this matter.

To wit:

Can any competent defendant work with any antagonist or anonymous counsel ?

Or can the said counsel presume defendant to be incompetent or insane and repeatedly waives defendant's autonomy despite the apparent conflict of interest between the said counsel and defendant?

The answer is NO, and

Perhaps, even if all prejudicial conducts are circumvented with legal fiction as usual: The question of how many federal courts have conducted Sell Hearing and issued involuntary medication order based on an opposed motion without informing defendant or having defendant present in court to witness the said hearing can also not be overruled.

However, It is well noted that the collusion to obstruct justice in this case is very apparent and no matter how it is weighed, the said 4241 statute is meant to be a due process which benefits most defendants alleging insanity for the cause of an offense NOT the government as seen in this case.

In that said, we conclude that what was done by court, defense counsel and the prosecution made proceeding farce, mockery and shocking to conscience of court, and automatic reversal is the only remedy for the damages incurred.

STATEMENT OF THE CASE

On about 09/13/16, Appellant was arrested by the Houston Police Officers while driving, and after a couple of minutes, Agent Matthew S. Boyden, a United States postal inspector tricked the police officers that he was taking appellant to jail, rather he took appellant to appellant's apartment and sexually assaulted him in an aggravated manner with the assistance of a fire arm while appellant was

securely handcuffed both hands behind his back and two legs restrained as well. Treatise details have been previously submitted to this court, the district court and law enforcement.

On about February, 2017. Mr Agbonifo broke the silence and reported this assault to the U.S. Marshals service, Houston Texas Division who can positively testify to this allegation before the District Court Circumvented justice with 4241 statute in contest.

To wit:

It is well reported that Hon. Keith Ellison, the presiding judge in the said matter vowed that Mr. Agbonifo would never get a trial of right, because if a trial of right is conducted, agent Matthew S. Boyden would be implicated with sexual assault allegation and that is why Mr. Agbonifo's autonomy to be aware or be present in court to witness his supposed proceedings was denied down the road.

Firstly, on about 04/28/17, Hon. Ellison ordered a direct mental health treatment under 18 USCS § 4241(d) without ordinarily finding defendant incompetent, claiming that his decisions was based on alleged "agreed motion" meaning defendant volunteer when records can reflect that defendant was not informed neither was he in court to witness the agreed motion hearing and we need not to reach a fact, Rather to remind this court that, Mr. Agbonifo had requested for a pro se status and termination of this attorney's appointment before the said agreed motion hearing.

However, when Mr. Agbonifo objected and threatened to file a writ of mandamus, Honorable Ellison terminated the said counsel's appointment but still ignored the pro se request and appointed another counsel who aided in the court's second prejudicial judgment against Mr. Agbonifo.

The question is, if you know that the new counsel was going to do the same thing like the previous counsel, then why did you terminate the previous counsel's

appointment? and we need not to reach an answer, However, as this discretion doesn't make any sense.

On about January 2018, Mr. Agbonifo filed a timely notice of appeal and also numerous misconduct complaints against Hon. Ellison and court appointed counsels before and after the second order in contest was entered and we need not to reach a conclusion, However as the retaliation continued.

It is well noted that... counsel Nicole DeBorde filed a secret motion to dismiss appellant's appeal, her supposed client, claiming that notice was untimely filed, which ordinarily is the job of the appellee or the clerk of courts NOT counsel for the appellant and the said circuit judges aided counsel's misconduct down the road and we need not to reach an answer to why such conspiracy happened, Rather to add that Hon. Ellison shockingly conducted a sell hearing ex parte and issued an involuntary medication order ex parte, claiming that notorious counsel Nicole DeBorde waived defendant's autonomy to be present and she was un opposed as usual.

Note: It may be overruled in some cases when misconducts happened for the first time or second time, but would be construed malicious or structural error however the case may be if prejudice keep occurring.

In this case, Mr. Ellison ignored appellant's autonomy to proceed pro se as secured in the Supreme Court rulings e.g Faretta v. California.., Illinois v. Allen..., e.t.c just to impose impose sham counsels that would sabotage and aid Mr. Ellisons's prejudice and retaliations against Mr. Agbonifo.

To wit:

Records had shown that Mr. Agbonifo was unambiguously not qualified for the said involuntary medication because this same MCFP Springfield Doctors or evaluators denied involuntary medication order in their own due process hearing, August 2017.

And the evidence was even presented to Mr. Ellison before the said sell hearing which indeed justifies the allegation of retaliation because if you say, the defendant is not qualified for an involuntary medication, and there was no record indicating any irrational behavior from the defendant after the fact:

The question now is, why the ex parte sell hearing? Because it doesn't make any sense if it's NOT a retaliation for filing a complaint of misconduct.

But however, the summary to this case is very simple:

The U.S. Supreme Court categorically warned, In re United States v. Sell..., that involuntary medication order cannot be approved when administration of drugs is substantially to have side effects that will interfere significantly with the defendant's ability to assist Counsel in conducting defense, thereby rendering trial fundamentally unfair concludes us to employ this court to evaluate the side effects of the involuntary drugs administered to Mr. Agbonifo.

One of the drugs side effect says "not able to focus". And the question is, how do you intend to restore, defendant back to competency when the administered drug says "not able to focus" and we need not to reach an answer because the bad-faith is too apparent.

Wherefore, we conclude that the appeal to vacate the judgment of the District Court and set appellant free from federal custody for violation of speedy-trial should be speedily granted for the interest of appellant's personal safety and justice, because the noted misconduct in this case was knowingly and deliberately.

" The laws are sets for a Reason "

REASON FOR GRANTING THE CASE

In most cases when defendants or counsels are un opposed to the proponent party, it could be construed as plea of nolo contendere, and plea of nolo contendere is the same as guilty plea or similarly as un opposed motion. See North Carolina v. Alford, 400 U.S. 25, 35-36 n. 8, 91 S.Ct. 160, 27 L.Ed 2d 162 (1970) and also noting the consequences of not opposing in 33 Neb.L.Rev. 428, 430 (1954).

But courts must ensure or ascertain that waiver of rights to oppose is intelligent and voluntarily made without duress, crook or bad faith from any of the parties. See. Fontaine v. U.S., 411 US. 213 (1973); Stinson v. United States, 316 F.2d 554 (5th Cir. 1963); Forgas v. United States, 34 F.2d 97 (C.C.A. 4th Circuit); Mich. Stat. Ann. § 28. 1058 (1954); Mich. Sup. Ct Rules 35A; In re Valle, 364m. 471, 110 N.W. 2d 673 (1961); People v. Bumpus, 355 mich. 374, 94 N.W.2d 854 (1959); People v. Barrows, 358 mich. 267, 99 N.W.2d 347 (1959); People v. Coates, 337 mich 56, 59 N.W.2d 83 (1953) e.t.c.

Although the plea of nolo contendere or un opposed claim has long existed in federal courts; Hudson v. United States, 272 U.S. 451 47 S.Ct. 127, 71 L.Ed. 347 (1926). But that must not abridge individuals substantial rights. See Kohl v. United States, 91 U.S. 367, 23 L.Ed 449 (1875).

In Boykin v. Alabama, 395 U.S. 238, 89 S.Ct, 1709, 23 L.Ed.2d 274 (1969): The Supreme Court ruled that failure for any judge to ascertain whether waiver of right to oppose was knowinlgy, voluntarily and intelligent is a structural error that is subject to automatic reversal., and subsection (c) retains the requirement that the court must address the defendant personally. See McCarthy v. United States, 394 U.S. 459, 466, 89 S.Ct. 116. 22 L.Ed. 2d 418 (1969) which further instruct that there is amendment to rule 42 to make clear that a defendant must be in court at the time of the proceeding., And besides individuāls would be protected for unknowingly

giving up rights by agreeing to a specific contract term. See also UCC 1-308. e.t.c

But it is very striking, that in this case, Defendant himself was never informed, neither was he present in court for ones to witness these numerous waivers; Imposed counsels in apparent conflict with the defendant; retaliated with the alleged waivers on numerous accessions with support of the court down the road, which pushes us; to promulgate fraud and conspiracy to obstruct justice against defendant's complaints. See Alston v. Garrison (1983, CA4 NC) 720 F.2d 812, cert den (1984) 468 US 1219, 82 L.Ed 2d 886, 104 S.Ct 3589; United States v. Davis (1971 CA10 okla) w36 F.2d 679; Steel v. Twell U.S., and so many others.

And since it is well noted that the errors of the court in this matter is not only apparent, prejudicial but very cumulative and in United States v. Frederick., the court ruled that reversal is the only option or remedy.

However, The District Court started by committing the defendant to the custody of attorney general pursuant to 4241(d) statute on April 28, 2017., Without ordinarily finding defendant incompetent but basing findings on alleged "agreed motion" when defendant was not informed neither did he witness the said agreed motion hearing and we need not to reach an answer whether this very statute permits the above conduct or NOT.

But the court repeated the same thing on about december 29, 2017 when apparent records can show that before the second order, Defendant had filed numerous objections and offered overwhelming rebuttal evidence to misconstrue the first order, that would have ordinarily avoided the second error of the court if the court was practicing in good-faith.

And shockingly, the court ordered an involuntary medication in an ex parte sell hearing which is not only striking but outrageous because there is no reported case in the history of United States that would suggest that a sell hearing can be

conducted ex parte.

We thereby conclude that the allegation of obstruction of justice cannot be a mere oversight if you review the misconducts after the fact.

The term "obstruction of justice" as used herein can be an offense of intentional hindering or obstructing the arrest, conviction, and punishment of accused persons, including all proper and necessary proceeding for administering justice. See In re Silkman 84 N.Y.S 1029, 88 App. Div. 102. And also Black's Law Dictionary Tenth Edition's "definition".

In relation to this case, the court used statute 4241 to abridge the on going investigation against agent Matthew S. Boyden whom the defendant had accused of sexual assault before the said 4241 statute in dispute was invoked.

When congress or United States Judicial Committee enacted this very statute under 18 USCS § 4241, It was done pursuant to the 5th or 14th amendment right of the U.S. Constitution to due process in order to prohibit defendant who must have committed a crime under the influence of insanity, But NOT to malingering or circumvent justice. See Greenfield v. Gunn(1977, CA9 Cal) 556 F.2d 935, cert den (1977) 434 U.S 928, 54L.Ed.2d 288, 98 S.Ct 413.

Perhaps, the question of how many wire fraud cases have courts found it necessary to invoke statute 4241 before having a Trial? cannot be overruled. In support of this argument, appellant hereby show this court the following facts and circumstances:

- 1). In United States v. Deters..., the court ruled that due process clause is violated in a mail fraud or wire fraud case when defendant was returned back to trial after a mental health evaluation because ordinarily, white collar crimes cannot be possibly committed by incompetent defendant. See United States v. Deters (1998, CA 10 Kan) 143 F.3d 577, 1998 colo JCAR 2177.

This is because the principal purpose for Rule 12.1 mental examination is to

allow government access to independent expert testimony regarding defendant's claim of insanity at time of alleged offense; no pre trial determination of sanity is contemplated and such determination is for trial of fact. United States v. Lambert (1979, CA10 okla) 603 F.2d 808.

The court clarified that 18 USCS § 4244 authorizes psychiatric examination only to determine defendant's competency to stand trial, and Rule 12.2 permits such examination to determine defendant's competency at time of offense. See. United States v. Jines (1976, CA8 Mo) 536 F.2d 1255, cert den (1976) 429 942, 50 L .Ed 2d 312, 97 S.Ct 361. That is why white collar crimes or wire fraud cannot be authorized under 18 USCS § 4244 pursuant to In re United States v. Deters..., because, ordinarily, an incompetent defendant cannot commit a wire fraud.

In furtherance to this fact; Courts have ruled that, motion for independent psychiatric evaluation of bank fraud defendant must be denied, even though defendant intends to introduce expert testimony relating to mental condition, because bearing upon issue of specific intent to defraud alone, Court cannot find authority to order such evaluation under 18 USCS § 4241 or 4242 or under F.R.Cr.P.; 12.2 (c). See United States v. Akers (1996, DC Colo) 945 F Supp 1442, app dismd without op (1991 CA10 Colo) 106 F.3d 414, reported in full (1997, CA10 Okla) 1997 US App LEXIS 951 and Subsequent app (2000, CA10 Colo) 215 F.3d 1089, 2000 Colo JCAR 3377, cert den (2000) 531 US 1023, 148 L.Ed.2d 506, 121 S.Ct 591

But most predominantly, Rule 12.2, only upholds prosecutor's mental health evaluation, if defendant gave a notice of relying on insanity defense at trial. See. United States v. Steinberg (1977, DC Conn) 428 F. Supp; and United States v. Fell (2005, DC vt) 372 F. Supp 2d 753 criticized in United States v. Taveras (2006, EDNY) 233 FRD 318 an affd (2008, CA2 vt) 531 F.3d 197, reh, en banc, den

(2009, CA2) 571 F.3d 264 and cert den (2010. US) 130 S.Ct 1880, 176 L.Ed 2d 403. And be it known that F.R.Cr.P., 12.2(c) does not limit court to ordering medical evaluation only when competency, or insanity are at issue; Rather, rule authorizes courts to order medical evaluation of defendant who intends to rely on mental incapacity or any other mental condition as defense. United States v. Mogenhan (1996, DC Dist Col) 168 FRD 1, 71 BNA Fep cas 923.., That is why it is very striking because:

In ~~this matter~~, defendant never suggested of using any insanity defense at trial because he was never at any point insane, Rather the court alleged Counsel for defendant waived defendant's right and counsel was un opposed, and we need not to reach an answer, However as, in State v. Humphires (2014) 181 wash 2d 708, 336 p3d 1121, : The Court ruled that counsel can't act without defendant's consent, neither can counsel waives defendant's rights. And even if defendant is presumed incompetent, there still can't be any waiver because one who is incompetent cannot waive his right to competency hearing. See, Zapata v. Estelle (1979, CAS Tex) 588 F.2d 1017 (critcized in United States v. Basham 2015, CA 4 SC) 789 F.3d 358.

Since the court, ordinarily did not find defendant incompetent in this case, and still committed defendant under 4241(d) on some opinion that is not supported by law, we conclude that defendant's due process right was violated and counsels performance was deficient in rendering the process, fundamentally unfair. See United States v. Alvarez (1978, CAA Ga) 580 F.2d 1251.

In that said, appellant would also wants to remind this court the following:
2). This case is between United States v. Michael Agbonifo NOT United States v. Defense Counsels.

And Courts have ruled in numerous number of cases that no matter how it may be construed, defendant in any proceeding remains the central figure of his defense. And from 18th century till present, if a court is practicing in good faith, there is nothing in the common law history before the adoption of the Bill of Rights, that would suggest that been an advocate permits the counsel to take a stand, contrary to the client's manifested instructions or wishes.

It is very striking in this case that Counsel for Mr. Agbonifo openly admitted before this court that her action is contrary to client's wishes and the question is:

If this court or any court upholds counsels fighting against their clients in a proceeding as seen in this case., Then what is the difference between a defense counsel and prosecuting counsel in a proceeding? or why the importance of the 6th amendment? We need not to reach an answer, However as, the Supreme Court ruling in McCoy v. Louisiana (2018)...., must be upheld.

In McCoy, the court finds that the sixth amendment must be guaranteed to each criminal defendant the right to effective assistance of counsel NOT a prosecuting or ineffective counsel for his defense.

Moreover, Mr. Agbonifo even filed several motions or request to proceed pro se that was ignored before the said civil proceedings started.

At common law, self-representation was the norm. See *Faretta v. California*, 422 U.S. 806, 823, 95 S.Ct. 252, 45 L.Ed 2d 552 (1975) and [citing 1F. Pollock & F. Maitland, the History of English law 211 (2d ed. 1909)]: As the laws of English and the American colonies developed, providing for a right to counsel in criminal cases, self-representation remained common and the right to proceed without counsel was recognized, *Faretta*, 422 U.S., at 824-828, 95 S.Ct 2525, 45 L.Ed.2d 562.

And even when most defendants choose to be represented by counsel e.g in Goldschmidt & Stemen; Patterns and Trends e.t.c, between 1996-2011, an exploratory study i.d 8 fed.cts, L. Rev. 81, 91 (2015) reviews that 0.2% of federal felony defendants still proceed pro se., meaning an accuse may insist upon representing him or herself-however [*12] counter productive that course maybe, See Faretta 422 U.S., at 834, 95 S.Ct. 2525, 45 L.Ed.2d 562 and because the District Court did NOT ordinarily find Mr. Agbonifo incompetent., the benefit of Faretta cannot be abridged.

Therefore, [t]he right to defend is personal and a defendant's choice in exercising that right "must be honored" out of the respect for the individual which is LIFE blood of the law. ibid [quoting Illinois v. Allen,(*1508) 397 U.S 397 U.S. 337, 350-351, (830) 90 S.Ct. 1057, 25 L.Ed 353 (1970 Brennan...,J..., concurring)].

Perhaps, courts have also ruled that, the right to appear pro se exist to affirm the dignity and autonomy of the accused and the choice is nothing to suggest that gaining an assistance, a defendant still need not to surrender control entirely to counsel, However as, the sixth amendment contemplates a norm of which the accused and NOT the lawyer, is master of the defense. Faretta, 422 U.S. at 819-820 95 S.Ct. 2525, 45 L.Ed.2d 562; and also Gannett Co. v. Depasquale, 443 U.S. 368, 382, n 10, 99 S.Ct 2898, 61 L.Ed.2d 608 (1979).

To wit:

Even if Mr. Agbonifo cannot proceed pro se or would have not been able to proceed pro se because of the alleged civil proceeding, which ordinarily was used to circumvent., The job of a lawyer is still restricted to just TRIAL managment such like, what argument to pursue, what evidence or objections to raise, and what

agreement to conclude regarding to the admission of evidence. See Gonzalez v. United States, 553 U.S. 242, 248, 128 S.Ct 1765, 170 L.Ed.2d 616 (2008) and NOT counsel to waive clients autonomy or openly retaliating against client as done in this case.[emphasis added].,

Therefore a **structural error** as occurred and this appeal must be speedily granted for the interest of justice. [quoting justice Ruth Ginsburg in McCoy v. Louisiana].

In Giosza v. Tiernan (1895) 148 U.S 657...: The court ruled that where rights secured by the U.S. Constitution are involved, there can be no statute, legislation, or rule making which abrogates them. See also Miranda v. Arizona, 384 U.S. 116 L.Ed.2d 694, 86 S.Ct. 1602 (1966) and the acquiescence in loss of fundamental right is never presumed. Ohio Bell v. Public Utilities Commission. 301 U.S. 292..,

In Marbury v. Madison, 5 U.S. 1447 (1803) : The Supreme Court ruled that any act repugnant to the constitution is null and void., that is why title 18 USC § 242, 241 and 1001 strictly forbids two or more persons conspiring or any executive, Legislative or any other branch of the Judiciary, depriving any one, citizens or alien in any STATE, Ordinance or commonwealth country, the right or prerogative secured by the U.S. Constitution, shall be fined or imprisoned for not more than 5yrs or even sentence to death.,

In re Dalton, 511 US at 472 (quoting Larson v. Domestic Foreign Commerce Corp. 37 U.S, 691 N. 11 (1949): The Supreme Court stated that sovereign immunity would not shield any executive officer if he/she acted unconstitutionally and since the duty of a Judge is highly moral with presumed ethical values as stated in the Rules of Canon et. seq.,

Therefore, it must be reminded that whenever congress has intended to prohibit practices of law from officers of the united states., It has always done so by a specific enactment. And whether those enactments relates to judges of courts or NOT,

It is the Supreme Law of the Land. Article (vi) Clause (2) Supreme Law; See also Audett v. United States, (1959, CA0 Idaho) 265 F.2d 837, cer den (1959) 361, 4L.Ed 2d 62, 80 S.Ct 54, reh den (1959) 361, 4L.E 2d 241 80C.Ct. 290.

Wherefore, statute 18 USCS § 4241 was set for a reason NOT to circumvent justice. See In re Greenfield v. Gunn (1977, CA9 Ca)....,

3). In Sell v. United States, 539 U.S. 166, 179 (2003): It was never reported that Sell was not informed neither was he not physically present in Court to witness the involuntary medication proceeding or every other proceeding against him in the said Court.

The Supreme Court rules in Sell, that for any one to be force medicated, the Government must meet the following prong-test:

- i). Important governmental interest are at risk
- ii). Involuntary medication will significantly further two concomitant state interests, and administration of drugs is substantially unlikely to have side effects that will interfere significantly with defendant's ability to assist Counsel in conducting trial defense, thereby rendering trial unfair.
- iii). Involuntary medication is necessary to further those interest; and finally
- iv). Administration of drugs is medically appropriate. Sell v. United States (2003) 539 U.S 166, 156 L.Ed 2d 197, 123 S.Ct 2174, 2003 CDOS 5131, 2003 Daily Journal DAR 65 12, 16 FLW Fed S 359, 188 ALR Fed 679, on remand, remanded (2003, CA8) 343 F.3d 950 .

Sell's predominant argument was that he could have ordinarily been restored back to competency without the use of psychotropic drugs, that is why the Supreme Court added that administration of drugs must NOT have effect that will interfere significantly with defendant's ability to assist Counsel which warrants us to employ this Court to evaluate the side effect evidence presented by

appellant in this case and we need NOT to reach an answer, However as, the ORDER dismissing consolidated action challenging confinement and forced medication with psychotropic drugs brought by person in custody of Attorney General pursuant to 18 USCS § 4246 or 4241 must be vacated, where reviewing psychiatrist relied on treating psychiatrist's "feeling" that defendant was dangerous without medication, and there was no other evidence of dangerousness. Cochran v. Dysart (1992, CA8 Mo) 965 F.2d 649.

There was no evidence or claims that Mr. Agbonifo was dangerous to have warranted a secret Sell hearing and also Courts have ruled that Order that approved involuntary medication to render defendant competent for trial was reversed because ORDER provided only that method of treatment and type of medication to be used should be at discretion of treating, by medical professional within Bureau of Prisons and this non-specific delegation of authority as to treatment plan was not proper. See United States v. Hernandez-Vasquez (2008, CA9 cal) 513 F.3d 908., And since Mr. Agbonifo's involuntary medication ORDER is similarly to the case in re Hernandez-Vasquez., We hold that it must be reversed.

However the Cruz of this matter is very simple: The Court ruled in United States v. Valenzuela-Puentes (2007, CA10 Nm) 479 F.3d 1220 (criticized in State v. Cantrell (2008) NMSC 16, 143 NM 606, 179 P 3d 1214) : That court grant of government's motion permitting involuntary medication was reversed even though government had compelling interest under fourteenth amendment in prosecuting defendant for serious crime with which he was charged and ensuring defendant's mental competency for duration of his prosecution that was in parity with defendant's interest in refusing medication, because record did not contain evidence from which conclusion of substantial likelihood of restoring competency was unavoidable

and the Court provided no explanation as to whether or why it had become clearly convinced that defendant could have been rendered competent through medication despite his exceptionally low I.Q.,

Appellant argues inter alia that he had even compromised to participate and was participating in the said questionable evaluation. If the said evaluator had NOT coerced him to must accept guilty plea before he can be restored back to competency in a bank fraud case that the Court ordinarily did not find him incompetent is hereby presented before this circuit court for a review.

Perhaps, Mr. Agbonifo's predominant charge in this case is conspiracy to allegedly commit a wire fraud of 20,000 USD that was said to be recalled back; meaning NO Loss neither was there any victim and going by statute., Mr. Agbonifo's maximum sentence cannot exceed 1yr if he was eventually convicted., and the basic notions of due process requires that one found incompetent to stand trial is entitled to release, when observatory confinement reaches length of potential maximum sentence for underlying criminal offense. See State Ex rel. Deisinger v. Traffert (1978) 85 WIS 2d 257. 270.

Wherefore, "no matter how it is weighed", we hold that this appeal must be speedily granted for the sake of justice. See Herrera v. Collins, 506 U.S. 390 (1993); Barefoot v. Estelle, 465 U.S. 880 (1983).

CONCLUSION

How can a United States Court conduct a competency hearing, involuntary medication hearing and numerous proceedings without the defendant knowing or physically appearing in Court to witness any of these proceedings against him.

Even if the defendant had asserted of relying on mental incapacity or any other mental health condition as defense., Again, The United States Supreme

Court had long affirmed the ruling that stated government's motion for independent psychiatric evaluation of bank fraud defendant is justifiably denied, that no matter how it is construed, even if the defendant intends to introduce expert testimony relating to mental condition, that bearing upon issue of specific intent to defraud if true., Courts cannot find authority to order such evaluation under 18 USCS § 4241, or 4242 or under F.R.Cr.P..12.2(c) See In re United States v. Akers....,

The court finds that, it is not possible to commit any bank fraud or wire fraud crimes if actually defendant is incompetent because white collar crimes are NOT ordinarily violent or regular crimes, and it's only an intelligent or competent individual that can defraud or scam. (citation omitted).

It is very shocking because most cases seen in this circuit or any of our sisters circuit., are defendants or appellants alleging 4th amendment violations, insufficiency of the evidence e.t.c.

We have barely seen any reported cases where defendant is pleading for the court to grant him the right to be informed and physically appear to witness his own proceedings which ordinarily is an autonomy that this court or any court would grant any defendant or appellant.

However, it is long ruled that whenever judicial discretion conflicts with statutory requirement, the statute controls, See U.S. v. Horwards..., And since this very mental health statute used in this case still forbids what the District Court, government and Court appointed Counsels collusively did to Mr. Agbonifo in this matter, this circuit or any of our sisters circuit would normally grant an appeal.

Wherefore, we hold that the appeal to vacate the judgment of the District Court and set appellant free from federal custody as a consolidated relief should be speedily granted for the sake of justice.

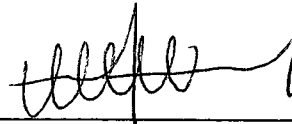
PRAYER

Appellant prays that this circuit speedily vacate the judgment of the District Court and set him free from federal custody as a consolidated relief because what has been done to him in this matter has never been seen in the history of the United States Court system.

EXECUTED ON THIS 26 Day November, 2018.

RESPECTFULLY SUBMITTED

" Without Prejudice "



Michael Ojegba Agbonifo
The Principal Appellant
Reg No. 14675479
MCFP Springfield
P.O.Box 4000
Springfield MO 65801



Notary:



Left Thumb



Right thumb

Date: 11/26/18

CERTIFICATE OF SERVICE/ PROOF OF SERVICE

I, Michael Ojegba Agbonifo, the undersigned hereby certify that a true and correct copy of that foregoing motion: Principal Appellant's Brief

_____ was placed in the Prison mail box at the United States Medical Center for Federal prisoners Springfield, for delivery by United States Mail, First Class postage, pre-paid, on this, 26 day of November, 2018, and properly addressed to the following:

Office of the Clerk
United States Court of Appeals
600 S. Maestri Place
New Orleans, LA 70130

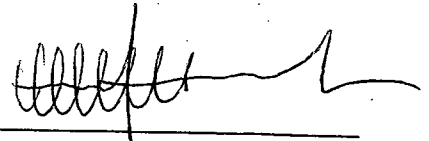
Mr. David J. Bradley
United States District Court
515 Rusk Street Room 5300
Houston, TX 77002

AND

I hereby certify under the penalty of perjury the foregoing is true and Correct under 28 U.S.C. §1746.

Date: 11/26 /-2018.

Signed, _____



Name: Michael Ojegba Agbonifo

Reg. No. 14675479

Federal Medical Center for Prisoners
P.O. Box 4000
Springfield, Missouri 658011