

THE UNITED STATES SUPREME COURT
WASHINGTON D. C.

BENJAMIN CUNNINGHAM

(PRO-SE) PETITIONER

V.

UNITED STATES MARSHALS SERVICE AGENCY & ETAL

RESPONDENTS

**MOTION TO DIRECT THE CLERK OFFICE STAFF TO FILE
THIS PETITION OUT OF TIME**

(COURT DOCKET SHEET #46-47)

**" CERTIFIED COPY OF ORDER, DATED 08/10/2018
DETERMINING THE APPEAL TO UNITED STATES
MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,
ISSUED (MANDATE) (2365147) (18-1903)**

ENTERED : 08 / 10 / 2018 #18-1903-AG "

DOCKET #07-4007-CV

DOCKET #10- 378-CV

DOCKET #10- 379-CV

DOCKET #11-3597-CV

DOCKET #16-3222-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

USMS AGENCY'S

ADJUDICATION HEARING

(#06-0108) FEB-22-2006

ADJUDICATION DECISION

MARCH-15-2006

ARLINGTON VIRGINIA

USMS AGENCY'S

ADJUDICATION HEARING

(#16-0386) UNKNOWN

ADJUDICATION DECISION

MARCH -17-201

BROOKLYN NEW YORK

**THE UNITED STATES SUPREME COURT
WASHINGTON D. C.**

**BENJAMIN CUNNINGHAM
(PRO-SE PETITIONER
V.**

**UNITED STATES MARSHALS SERVICE AGENCY
& ETAL**

RESPONDENTS

(COURT DOCKET SHEET #46-47)

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ENTERED : 08 / 10 / 2018 #18-1903-AG "**

**NOTICE OF MOTION TAKE JUDICIAL NOTICE
REGARDING SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS PROVIDED
NEWLY DISCOVERED LATE APPEAL EVIDENCE**

**BENJAMIN CUNNINGHAM
(347) 879-1717
COOLPATUS@YAHOO.COM
2429 SOUTHERN BLVD
BRONX, NEW YORK 10458
FEB-06-2019
DOCKET #18-19003-AG**

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AFFIDAVIT STATEMENT OF TRUE FACTS

NEW YORK STATE
BRONX COUNTY) SS :

*sworn on this 5th day of
march, 2019.*
MANUEL FIGUEROA
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01FI6146120
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MAY 15, 2022

Manuel Figueroa

Benjamin Cunningham, has duly affirm under
the penalty of perjury on **MARCH-05-2019** :

Benjamin Cunningham, am (PRO-SE) CLAIMANT
Litigant inside this **MOTION TO DIRECT THE
CLERK OFFICE STAFF TO FILE THIS PETITION
OUT OF TIME DOCUMENT** & thus I AM
hereby filing ONLY true facts which concerns
in which I received the Clerk Staff M Blalock's
LETTER MISTAKE DOCUMENT (FEB-21-2019)
by falsely claiming I am appealing from the
(RE: Cunningham V. John Does , #1-#12 , et al .)
USCA2 CASE NO. 16-3222

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HOWEVER PLEASE BE ADVISED IM APPEALING :

(**COURT DOCKET SHEET #46-47**)

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*RESPECTFULLY,
B. C.*

DUE PROCESS VIOLATIONS

(COURT DOCKET SHEET #46-47)

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**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22-2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH -17-2016
BROOKLYN NEW YORK**

**DENIED RIGHTS TO APPEAR/TESTIFY
DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL**

DOCKET #07-4007-CV

**DOCKET #10- 378-CV
DOCKET #11-3597-CV
DOCKET #17-2427-CV
DOCKET #17-3237-CV
DOCKET #18-0275-CV**

**DOCKET #10- 379-CV
DOCKET #16-3222-CV
DOCKET #17-2435-CV
DOCKET #18-0272-CV
DOCKET #18-1903-AG**

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(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

THE ABOVE NAMED STAFF PERSONS WILLFULLY FILED THEIR
NOTICE OF APPEARANCE STATEMENT FORM DOCUMENTS
DATED JAN-05-2015 & AUG-30-2017 & FEB-15-2018
THAT WILLFULLY CONCEALED USMS AGENCY FOIA RESPONSES

(FILE #2016-USMS-30651) (FILE #2016-USMS-32310)
DATED DEC-22-2016 DATED JAN-08-2018

(FILE #2016-USMS-30451) (FILE #2016-USMS-32422)
DATED MAY-11-2017 DATED FEB-23-2018

(FILE #2016-USMS-31886) (FILE #2017-USMS-31886)
DATED JUNE-23-2017 DATED MAR-13-2018

(FILE #2016-USMS-32310) (FILE #2018-USMS-32422)
DATED JUNE-29-2018 DATED AUG-14-2018

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #11-3595-CV

DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

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(FILE #2016-USMS-30651)
DATED DEC-22-2016

(FILE #2016-USMS-32310)
DATED JAN-08-2018

(FILE #2016-USMS-30451)
DATED MAY-11-2017

(FILE #2016-USMS-32422)
DATED FEB-23-2018

(FILE #2016-USMS-31886)
DATED JUNE-23-2017

(FILE #2017-USMS-31886)
DATED MAR-13-2018

(FILE #2016-USMS-32310)
DATED JUNE-29-2018

(FILE #2018-USMS-32422)
DATED AUG-14-2018

IT WAS THE SECOND CIRCUIT APPEALS COURTHOUSE'S
CHIEF CIRCUIT EXECUTIVE STAFF KAREN G. MILTON &
CHIEF COURT CLERK STAFF CATHERINE O' HAGAN WOLFE
WHO CONCEALED THE ABOVE TRUE FACTS FROM THE
SECOND CIRCUIT APPEALS COURT DOCKET SYSTEMS :

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #11-3595-CV

DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

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IT WAS THE SECOND CIRCUIT APPEALS COURTHOUSE'S
CHIEF CIRCUIT EXECUTIVE STAFF KAREN G. MILTON &
CHIEF COURT CLERK STAFF CATHERINE O' HAGAN WOLFE
WHO GRANTED ILLEGAL PERMISSION FOR THE BELOW
NAMED USMS AGENCY STAFF PERSONS NOT TO FILED
ANY ADMINISTRATIVE HEARING / DECISION RECORDS
ANY ADMINISTRATIVE SWORN TESTIMONY TRANSCRIPTS

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22-2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH -17-2016
BROOKLYN NEW YORK

DENIED RIGHTS TO APPEAR/TESTIFY
DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL

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**SECOND CIRCUIT APPEALS COURT
CHIEF CIRCUIT EXECUTIVE STAFF
PERSON MS KAREN G. MILTON
UNLAWFULLY CONCEALED TEN
CHIEF COURT CLERK'S DOCKET
FRAUD MISCONDUCT COMPLAINTS
FROM AG--DOCKET SYSTEMS**

MISCONDUCT	COMPLAINT	APR-16-2016
MISCONDUCT	COMPLAINT	NOV-29-2016
MISCONDUCT	COMPLAINT	DEC-01-2016
MISCONDUCT	COMPLAINT	DEC-28-2016
MISCONDUCT	COMPLAINT	DEC-29-2016
MISCONDUCT	COMPLAINT	JAN-31-2017
MISCONDUCT	COMPLAINT	FEB-09-2017
MISCONDUCT	COMPLAINT	FEB-23-2017
MISCONDUCT	COMPLAINT	MAR-04-2017
MISCONDUCT	COMPLAINT	MAR-22-2017

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DOCKET #07-4006-CV

DOCKET #10-0378-CV	DOCKET #17-2435-CV
DOCKET #10-0379-CV	DOCKET #17-2437-CV
DOCKET #11-3597-CV	DOCKET #18-0272-CV
DOCKET #16-3222-CV	DOCKET #18-0275-CV
DOCKET #17-2427-CV	DOCKET #18-1908-AG

**SECOND CIRCUIT APPEALS COURT
CHIEF COURT CLERK STAFF PERSON
MS CATHERINE O' HAGAN WOLFE
UNLAWFULLY CONCEALED TEN
CHIEF COURT CLERK'S DOCKET
FRAUD MISCONDUCT COMPLAINTS
FROM AG--DOCKET SYSTEMS**

MISCONDUCT	COMPLAINT	APR-16-2016
MISCONDUCT	COMPLAINT	NOV-29-2016
MISCONDUCT	COMPLAINT	DEC-01-2016
MISCONDUCT	COMPLAINT	DEC-28-2016
MISCONDUCT	COMPLAINT	DEC-29-2016
MISCONDUCT	COMPLAINT	JAN-31-2017
MISCONDUCT	COMPLAINT	FEB-09-2017
MISCONDUCT	COMPLAINT	FEB-23-2017
MISCONDUCT	COMPLAINT	MAR-04-2017
MISCONDUCT	COMPLAINT	MAR-22-2017

DOCKET #07-4006-CV

DOCKET #10-0378-CV	DOCKET #17-2435-CV
DOCKET #10-0379-CV	DOCKET #17-2437-CV
DOCKET #11-3597-CV	DOCKET #18-0272-CV
DOCKET #16-3222-CV	DOCKET #18-0275-CV
DOCKET #17-2427-CV	DOCKET #18-1908-AG

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OPEN CLAIM DATED APRIL-16-2016
CLOSE CLAIM DATED JULY-05-2016
USMS TORT CLAIM # OGC-50552
OCT -17-2016 JAN -17-2017 MAR-22-2017
AUG-20-2017 AUG-25-2017 JAN -31-2018
AUG-30-2018 FEB-15-2018

CHIEF EXECUTIVE CIRCUIT KAREN MILTON'S
CHIEF CLERK CATHERINE O' HAGAN WOLF'S
(SDNY) AUSA BENJAMIN H. TORRANCE'S
NOTICE OF APPEARANCE STATEMENT FORM
WILLFULLY CONCEALED TRUE FACTS ABOUT
USMS AGENCY'S FOIA ATTORNEYS / OFFICERS
WILLIAM E. BORDLEY & KATHERINE A. DAY
TOOK SIXTEEN MONTHS TO PRODUCE THEIR
USMS ADMINISTRATIVE HEARING / DECISION
DOCUMENTS TO (MYSELF) WHO IS THE
AGENCY PLAINTIFF / APPELLANT LITIGANT :

USMS ADMINISTRATIVE DECISION : MAR-17-2016
#16-3222-CV DOCKET DECISION : DEC -27-2016
FOIA REQUEST TO USMS AGENCY : JULY-16-2016
FOIA RESPONSES FROM AGENCY : JUNE-27-2017
FOIA RESPONSES FROM AGENCY : AUG -24-2018

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
DATED MARCH-17-2016
BROOKLYN NEW YORK

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**SECOND CIRCUIT APPEALS COURTHOUSE
CHIEF COURT CLERK DOCKET TRANSFER**

DOCKET #07-4007-CV

DOCKET #10-0378-CV	DOCKET #10-0379-CV
DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #11-3595-CV
DOCKET #16-3222-CV	DOCKET #18-0272-CV
DOCKET #18-0275-CV	DOCKET #18-1903-AG

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

**DENIED RIGHTS TO APPEAR/TESTIFY
DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL**

**CHIEF COURT CLERK CATHERINE O' HAGAN WOLFE
ORDERED THE ASSIGNED SUPERVISOR CASE
MANAGER MS YANA SEGAL (212) 857-8544
TO TRANSFER ALL CV DOCKET SYSTEMS
ADMINISTRATIVE AGENCY APPEALS INTO THE
AG DOCKET SYSTEMS AGENCY APPEALS**

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SECOND CIRCUIT APPEALS COURTHOUSE

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #17-2427-CV

DOCKET #17-3237-CV

DOCKET #16-3222-CV

DOCKET #18-0275-CV

DOCKET #10-0379-CV

DOCKET #17-2435-CV

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DOCKET #18-1903-AG

USMS AGENCY'S

ADJUDICATION HEARING

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ARLINGTON VIRGINIA

USMS AGENCY'S

ADJUDICATION HEARING

(#16-0386) UNKNOWN

ADJUDICATION DECISION

MARCH-17-2016

BROOKLYN NEW YORK

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

**THE ABOVE NAMED STAFF PERSONS'
NOTICE OF APPEARANCE STATEMENT FORM
DATED AUG-30-2017 & FEB-15-2018 NEVER
CERTIFIED TWO USMS ADJUDICATION HEARINGS**

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**NATIONAL ARCHIVES & RECORDS ADMINISTRATION
AGENCY'S DEPUTY FOIA OFFICER STAFF PERSON
MS JODI L. FOOR (NARA APPEAL #NGC-18-051A)
(301) 837-3642 " NO RECORDS EXISTS " :**

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

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DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL**

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

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USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JULY-28-2017

**TO : JOHN GENCARELLO
DEPUTY COURT CLERK**

DATE : JULY-28-2017

**FM : BENJAMIN CUNNINGHAM
(347) 879-1717
17 CIV 5104 (CM)**

RE : SUGGESTION REQUEST

14

**THERE ARE NO FEDERAL AGENCY
APPEAL FORMS FOR ALL
PRO-SE LITIGANTS
FEDERAL AGENCY TO THE DISTRICT COURTHOUSE**

**ADMINISTRATION OFFICE OF
THE UNITED STATES COURTS
NOTICE OF FEDERAL CLAIM**

JULY-10-2018

SEPT-05-2018

**MS SHERYL WALTER (GENERAL COUNSEL STAFF)
MS TIFFANY LEWIS (TORT CLAIMS STAFF)
(202) 502-1100 (202) 386-7190 (FAX)
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
GENERAL COUNSEL OFFICE
OFFICE OF ACCOUNTABILITY (AAOA)
COMMITTEE ON CODES OF CONDUCT
ONE COLUMBUS CIRCLE , (NE)
WASHINGTON , D.C. 20544**

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**U.S. DEPARTMENT OF JUSTICE AGENCY
INSPECTOR GENERAL OFFICE
OFFICE OF INVESTIGATIONS**

NOVEMBER-14-2018

**PERSON YOU ARE COMPLAINING ABOUT :
CATHERINE O' HAGAN WOLFE**

**" THE PURPOSE OF THIS LETTER IS TO
ACKNOWLEDGE RECEIPT OF YOUR
CORRESPONDENCE . THE MATTERS THAT
YOU RAISED HAVE BEEN REVIEWED BY
THE STAFF OF THE INVESTIGATION DIVISION ,
OFFICE OF THE INSPECTOR GENERAL .
THE PRIMARY INVESTIGATIVE RESPONSIBILITIES
OF THIS OFFICE ARE :**

**ALLEGATIONS OF MISCONDUCT COMMITTED
BY U.S. DEPARTMENT OF JUSTICE EMPLOYEES
AND CONTRACTORS ; AND WASTE AND ABUSE
BY HIGH RANKING DEPARTMENT OFFICIALS ,
OR THAT AFFECTS MAJOR PROGRAMS AND
OPERATIONS . THIS OFFICE DOES NOT HAVE
JURISDICTION IN THE MATTER YOU DESCRIBED .
THEREFORE , WE ARE UNABLE TO ASSIST YOU .
PLEASE CONTACT THE ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS . "**

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**CONGRESSMAN JOSE E. SERRANO (D-NY)
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON , D.C. 20515-3215**

NOVEMBER-26-2018

TO :

SHERYL WALTER

GENERAL COUNSEL

**ADMINISTRATIVE OFFICE OF THE UNITED STATES COURT
ONE COLUMBUS CIRCLE , NE
WASHINGTON , D.C. 20544**

**IAM WRITING THIS LETTER REGARDING MY CONSTITUENT ,
MR BENJAMIN CUNNINGHAM , CASE #1530194 .**

**MR CUNNINGHAM REACHED OUT TO OUR OFFICE
REGARDING AN EMPLOYEE MISCONDUCT COMPLAINT AND
NOTICE OF CLAIM DOCUMENT. MR CUNNINGHAM FILED
HIS EMPLOYEE MISCONDUCT COMPLAINT AGAINST
CHIEF CLERK CATHERINE O' HAGAN WOLFE DUE TO AN
DOCKET FRAUD . WE ARE REQUESTING A COPY OF THE
DECISION ON THESE TWO DOCUMENTS THAT WERE FILED
BY MR CUNNINGHAM . "**

**IF YOU HAVE ANY QUESTIONS OR CONCERNS , PLEASE
RESPOND TO MY DEPUTY DISTRICT DIRECTOR ,
MR RAMON CABRAL (718) 620-0084 .**

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**CONGRESSMAN JOSE E. SERRANO (D-NY)
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON , D.C. 20515-3215**

NOVEMBER-26-2018

TO :

**KAREN G. MILTON
CHIEF CIRCUIT EXECUTIVE STAFF
SECOND CIRCUIT COURT OF APPEALS
40 FOLEY SQUARE
MANHATTAN , NEW YORK 10007**

**IAM WRITING THIS LETTER REGARDING MY CONSTITUENT ,
MR BENJAMIN CUNNINGHAM , CASE #1530194 .
MR CUNNINGHAM REACHED OUT TO OUR OFFICE
REGARDING AN EMPLOYEE MISCONDUCT COMPLAINT AND
NOTICE OF CLAIM DOCUMENT. MR CUNNINGHAM FILED
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CHIEF CLERK CATHERINE O' HAGAN WOLFE DUE TO AN
DOCKET FRAUD . WE ARE REQUESTING A COPY OF THE
DECISION ON THESE TWO DOCUMENTS THAT WERE FILED
BY MR CUNNINGHAM . "
IF YOU HAVE ANY QUESTIONS OR CONCERNS , PLEASE
RESPOND TO MY DEPUTY DISTRICT DIRECTOR ,
MR RAMON CABRAL (718) 620-0084 .**

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**KAREN G. MILTON
CHIEF CIRCUIT EXECUTIVE STAFF
SECOND CIRCUIT COURT OF APPEALS
40 FOLEY SQUARE
MANHATTAN , NEW YORK 10007**

DECEMBER-18-2018

TO :

**HON. JOSE E. SERRANO
MEMBER OF CONGRESS
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
1231 LAFAYETTE AVE ., 4TH FLOOR
BRONX , NEW YORK 10474**

**I AM WRITING IN RESPONSE TO YOUR LETTER OF
NOVEMBER 26, 2018 . I AM THE CHIEF CIRCUIT
EXECUTIVE FOR THE SECOND CIRCUIT . HOWEVER ,
I AM NOT AUTHORIZED TO ASSIST YOU WITH
MATTERS BEFORE THE COURT OF APPEALS FOR THE
SECOND CIRCUIT . BY COPY OF THIS LETTER ,
I AM FORWARDING YOUR REQUEST TO THE
MR MICHAEL JORDAN , CHIEF OPERATING OFFICER /
GENERAL COUNSEL FOR THE SECOND CIRCUIT OF
APPEALS AND MS SHERYL L. WALTER , GENERAL
COUNSEL OF THE ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS .**

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**UNITED STATES SUPREME COURT
WASHINGTON D.C.
SENIOR SUPERVISOR CLERK STAFF PERSON
MR JEFF AKINS (202) 479-3000**

JANUARY-29-2019

(PRO-SE) CLAIMANT BENJAMIN CUNNINGHAM
FILED LATE USMS AGENCY ADMINISTRATIVE
APPEAL WHICH CONCERNS :

(COURT DOCKET SHEET #46-47)

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(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

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**UNITED STATES SUPREME COURT
WASHINGTON D.C.**

**SENIOR SUPERVISOR CLERK STAFF PERSON
MR JEFF AKINS (202) 479-3000**

JANUARY-29-2019

(COURT DOCKET SHEET #46-47)

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(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

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DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL**

FEBRUARY-04-2019

**SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS
CONDUCTED CLERK OFFICE CONFERENCE
WITH THE (PRO-SE) CLAIMANT
WHICH CONCERNS THE FOLLOWING :**

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

(COURT DOCKET SHEET #46-47)

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**FEB-04-2019 IT WAS THE ASSIGNED CASE MANAGER
SUPERVISOR MS YANA SEGAL (212) 857-8658 AND
HER SUPERVISOR MR RALPH OBAS (212) 857-8565
WHO STATED THE ABOVE DECISION / ORDER DATED
AUGUST-10-2018 IS NOT THE CORRECT DECISION
FILED INTO MY USMS AGENCY APPEAL DOCKET**

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FEBRUARY-04-2019

**SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS
CONDUCTED CLERK OFFICE CONFERENCE
WITH THE (PRO-SE) CLAIMANT
WHICH CONCERNS THE FOLLOWING :**

(COURT DOCKET SHEET #46-47)

**" CERTIFIED COPY OF ORDER, DATED 08/10/2018
DETERMINING THE APPEAL TO UNITED STATES
MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,
ISSUED (MANDATE) (2365147) (18-1903)
ENTERED : 08 / 10 / 2018 #18-1903-AG "**

**FEB-04-2019 IT WAS THE ASSIGNED CASE MANAGER
SUPERVISOR MS YANA SEGAL (212) 857-8658 AND
HER SUPERVISOR MR RALPH OBAS (212) 857-8565
WHO STATED THE ABOVE DECISION / ORDER DATED
AUGUST-10-2018 WAS SENT BACK TO THE FEDERAL
DISTRICT COURTHOUSE INSIDE CONNECTICUT STATE .
HOWEVER , (PRO-SE) PETITIONER'S ADMINISTRATIVE
USMS AGENCY APPEAL ORIGINATED FROM THE
(SDNY) DISTRICT COURT FEDERAL CHIEF JUDGE
COLLEEN MCMAHON'S SUS SPONTE FEDERAL AGENCY
APPEAL DECISIONS / ORDERS DATED JULY-18-2017 &
JULY-28-2017 (DOCKET #17-CIV-5104 (CM)
(DOCKET #17-CIV-1701 (CM) ALONG WITH THE
DECISION / ORDER DATED JANUARY-19-2018 UNDER
(DOCKET #17-CIV-1260 (CM) (DOCKET #17-CIV-1261 (CM)**

FEBRUARY-04-2019

**SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS
CONDUCTED CLERK OFFICE CONFERENCE
WITH THE (PRO-SE) CLAIMANT
WHICH CONCERNS THE FOLLOWING :**

(COURT DOCKET SHEET #46-47)

**" CERTIFIED COPY OF ORDER, DATED 08/10/2018
DETERMINING THE APPEAL TO UNITED STATES
MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,
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SUPERVISOR MS YANA SEGAL (212) 857-8658 AND
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STATED THEY WILL ALERT THE SENIOR SUPERVISOR
COURT CLERK STAFF MR JEFF AKINS (202) 479-3000
LOCATED AT UNITED STATES SUPREME COURTHOUSE
AND EXPLAIN EVERYTHING ; HOWEVER , THEY CLAIM
THEY ARE NOT ALLOWED TO PROVIDE CLAIM FORMS
TO THE GENERAL PUBLIC . THEY ARE NOT ALLOWED
TO RESPOND TO THE (PRO-SE) CLAIMANT
BENJAMIN CUNNINGHAM 'S MISCONDUCT COMPLAINTS
BENJAMIN CUNNINGHAM 'S NOTICE OF CLAIM PAPERS**

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

**THE ABOVE USMS AGENCY STAFF
NEVER FILED THEIR ADJUDICATION
TRANSCRIPTS / RECORDS INTO COURT**

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

(COURT DOCKET SHEET #46-47)

" CERTIFIED COPY OF ORDER, DATED 08/10/2018
DETERMINING THE APPEAL TO UNITED STATES
MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,
ISSUED (MANDATE) (2365147) (18-1903)
ENTERED : 08 / 10 / 2018 #18-1903-AG "

25

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703
USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH
USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN
USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY
USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY
USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

THE ABOVE USMS AGENCY STAFF PERSONS'
NOTICE OF APPEARANCE STATEMENT DATED
AUG-30-2017 & FEB-15-2018 STATED THEY
REFUSED TO PARTICIPATED IN USMS AGENCY
ADMINISTRATIVE APPEAL BY CLAIMING THE
(SDNY) DISTRICT COURT CHIEF JUDGE NEVER
SERVED SUMMON & COMPLAINT DOCUMENTS

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

DENIED RIGHTS TO APPEAR/TESTIFY
DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
NEW YORK FIELD OFFICE
BEFORE MARIA M. DOMINGUEZ
ADMINISTRATIVE LAW JUDGE
FEBRUARY-27-2018**

“ On January 18, 2018, the appellant Filed an appeal with the Merit Systems Protection Board (the Board), alleging that the U.S. Department OF Justice, U.S. Marshals Service (USMS), had concealed some administrative hearings/decisions from him, which dated back to February and March of 2006 and March of 2016 . ”

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**SECOND CIRCUIT APPEALS COURTHOUSE
NOTICE OF APPEARANCE STATEMENTS FORM**

07-4006-CV 10- 0378-CV 10- 0379-CV

16-3222-CV 11-3597-CV

17-2427-CV 17-2435-CV 17-2437-CV

(SDNY) AUSA BENJAMIN H. TORRENCE

USMS AGENCY'S GENERAL COUNSEL

GERALD M. AUERBACH

USMS AGENCY'S CLAIMS SUPERVISOR

JOHN M. PATTERSON

USMS AGENCY'S FOIA ATTORNEY

WILLIAM E. BORDLEY

(AUGUST-30-2017)

" On August 9 , 2017, this Office received a notice of the docketing of the above-named appeal , in which I am listed as counsel of record for the defendant-appellee , the United States Marshals Service .

Pro-se plaintiff-appellant Benjamin Cunningham appeals from a July 18, 2017, Order of the United States District Court for the Southern District of New York (McMahon, J.) which dismissed the complaint sua sponte .

The district court dismissed the complaint before the defendants-appellees had been served or appeared in the action. Accordingly, at this time, the defendant-appellees do not intend to participate in the appeal unless requested to do so by the Court . "

28

**SECOND CIRCUIT APPEALS COURTHOUSE
NOTICE OF APPEARANCE STATEMENTS FORM
18-272-CV & 18-275-CV & 18-1903-AG**

(SDNY) AUSA BENJAMIN H. TORRENCE

**USMS AGENCY'S GENERAL COUNSEL
GERALD M. AUERBACH**

**USMS AGENCY'S FOIA ATTORNEY
WILLIAM E. BORDLEY**

**USMS AGENCY'S (OPR) INVESTIGATION CHIEF
STANLEY H. GRISCAVAGE**

**USMS AGENCY'S (OPR) INVESTIGATOR Staff
DONALD O' HEARN**

(FEBRUARY-15-2018)

" Pro-se plaintiff-appellant Benjamin Cunningham appeals from a January 19, 2018 , Order of the United States District Court for the Southern District OF New York (McMahon, J) , which dismissed the complaint before the defendants' appellees had been serve or appeared in the action. Accordingly , at this time , the defendant-appellees do not intend to participate in the appeal unless requested to do so by the Court."

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MEMORANDUM OF LAW

UNITED STATES DEPARTMENT OF JUSTICE AGENCY GUIDANCE TO FEDERAL AGENCIES ON COMPILING THE ADMINISTRATIVE RECORD DATED JAN-1999

" UNDER THE ADMINISTRATIVE PROCEDURE ACT (APA), A COURT REVIEWS AN AGENCY'S ACTION TO DETERMINE IF IT WAS "ARBITRARY, CAPRICIOUS, AND ABUSE OF DISCRETION , OR OTHERWISE NOT IN ACCORDANCE WITH LAW . " 5 USC SECTION 706 (2) (A) . IN MAKING THIS DETERMINATION , A COURT EVALUATES THE AGENCY'S WHOLE ADMINISTRATIVE RECORD . THE ADMINISTRATIVE RECORD IS THE PAPER TRAIL THAT DOCUMENTS THE AGENCY'S DECISION-MAKING PROCESS AND THE BASIS FOR THE AGENCY'S DECISION . IN ADDITION , REGULATIONS MAY GOVERN HOW TO ASSEMBLE A RECORD : 40 C.F.R. 300.800 THRU 300.825 (CERCLA) ; 40 C.F.R. PART - 24 ; (RCRA CORRECTIVE ACTION) & FRAP RULES (#15-#16-#17) RECORD ON REVIEW OR THE ENFORCEMENT AND FILING OF THE RECORD .

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#15 REVIEW OR ENFORCEMENT OF
AN AGENCY ORDER :

- (1) REVIEW OF AN AGENCY ORDER IS COMMENCED BY FILING, WITHIN THE PRESCRIBED BY LAW, A PETITION FOR REVIEW WITH THE CLERK OF A COURT OF APPEALS AUTHORIZED TO REVIEW THE AGENCY ORDER .**
- (2) WITHIN 21 DAYS AFTER THE APPLICATION FOR ENFORCEMENT IS FILED , THE RESPONDENT MUST SERVE ON THE APPLICANT AN ANSWER TO THE APPLICATION AND FILE IT WITH THE CLERK. IF THE RESPONDENT FAILS TO ANSWER IN TIME , THE COURT WILL ENTER JUDGMENT FOR THE RELIEF REQUESTED .**

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#16 THE RECORD ON REVIEW OR
ENFORCEMENT

(a) COMPOSITION OF THE RECORD

The record on review or enforcement of an agency order consists of :

- (1) the order involved ;
- (2) any findings or report on which it is based ; and
- (3) the pleadings, evidence, and other parts of the proceedings before the agency.

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SUBDIVISION (A) IS BASED UPON
28 U.S.C. SECTION 2112 (B) THERE
IS NO DISTINCTION BETWEEN THE
RECORD COMPLIED IN THE AGENCY
PROCEEDING & THE RECORD ON REVIEW

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#17 FILING THE RECORD

(a) AGENCY TO FILE ; TIME TO FILE ;
NOTICE OF FILING :

The agency must file the record with circuit clerk within 40 days after being served with a petition for review, unless the statute authorizing review provides otherwise, or within 40 days after it files an application for enforcement unless the respondent fails to answer or the court orders otherwise . The court may shorten or extend the time to file the record. The clerk must notify all parties of the date when the record is filed .

**CONCLUDED MOTION TO DIRECT
THE CLERK OFFICE STAFF TO FILE
THIS PETITION OUT OF TIME**

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22-2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH -17-2016
BROOKLYN NEW YORK**

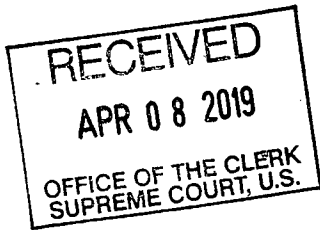
**DENIED RIGHTS TO APPEAR/TESTIFY
DENIED RIGHTS TO FILE EVIDENCE
DENIED RIGHTS TO SEEK ATTORNEY
DENIED RIGHTS TO FILE AN APPEAL**

DOCKET #07-4007-CV

DOCKET #10- 378-CV	DOCKET #10- 379-CV
DOCKET #11-3597-CV	DOCKET #16-3222-CV
DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #18-0272-CV
DOCKET #18-0275-CV	DOCKET #18-1903-AG

**FEB-04-2019 IT WAS THE ASSIGNED CASE MANAGER
SUPERVISOR MS YANA SEGAL (212) 857-8658 AND
HER SUPERVISOR MR RALPH OBAS (212) 857-8565
STATED THEY WILL ALERT THE SENIOR SUPERVISOR
COURT CLERK STAFF MR JEFF AKINS (202) 479-3000
REGARDING SECOND CIRCUIT APPEALS COURT STAFF
FILED INCORRECT DECISION/ORDER INTO PETITIONER'S
USMS AGENCY ADMINISTRATIVE APPEAL & ETC**

**THE UNITED STATES SUPREME COURT
WASHINGTON D.C.**



**BENJAMIN CUNNINGHAM
(PRO-SE) PETITIONER
V.**

**UNITED STATES MARSHALS SERVICE AGENCY & ETAL
RESPONDENTS**

**MOTION TO FILE PETITION OUT OF TIME PETITION
SECOND CIRCUIT APPEALS COURT DOCKET FRAUD**

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

**DENIED CUNNINGHAM RIGHTS TO APPEAR/TESTIFY
DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE
DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY
DENIED CUNNINGHAM RIGHTS TO FILE AN APPEAL**

DOCKET #07-4007-CV

DOCKET #10-0378-CV	DOCKET #10-0379-CV
DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #11-3595-CV
DOCKET #16-3222-CV	DOCKET #18-0272-CV
DOCKET #18-0275-CV	DOCKET #18-1903-AG

1

**THE UNITED STATES SUPREME COURT
WASHINGTON D.C.**

BENJAMIN CUNNINGHAM

(PRO-SE) PETITIONER

V.

**UNITED STATES MARSHALS SERVICE AGENCY & ETAL
RESPONDENTS**

NOTICE OF MOTION TO DIRECT THE CLERK STAFF
M. BLALOCK (202) 479-3023 TO FILE THE PETITION
FOR OUT-OF-TIME WHICH CONCERNS DOCKET FRAUD
INVESTIGATIONS PENDING INSIDE THE ADMINISTRATIVE
OFFICE OF THE UNITED STATES COURTS LINKED WITH
SECOND CIRCUIT APPEALS COURTHOUSE :

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #11-3595-CV

DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

USMS AGENCY'S

ADJUDICATION HEARING

(#06-0108) FEB-22, 2006

ADJUDICATION DECISION

MARCH-15-2006

ARLINGTON VIRGINIA

USMS AGENCY'S

ADJUDICATION HEARING

(#16-0386) UNKNOWN

ADJUDICATION DECISION

MARCH-17-2016

BROOKLYN NEW YORK

DENIED CUNNINGHAM RIGHTS TO APPEAR/TESTIFY

DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE

DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY

DENIED CUNNINGHAM RIGHTS TO FILE AN APPEAL

2

THE UNITED STATES SUPREME COURT
WASHINGTON D.C.

BENJAMIN CUNNINGHAM

(PRO-SE) PETITIONER

V.

UNITED STATES MARSHALS SERVICE AGENCY & ETAL
RESPONDENTS

NOTICE OF MOTION TO DIRECT THE CLERK STAFF
M. BLALOCK (202) 479-3023 TO FILE THE PETITION
FOR OUT-OF-TIME WHICH CONCERNS DOCKET FRAUD
INVESTIGATIONS PENDING INSIDE THE ADMINISTRATIVE
OFFICE OF THE UNITED STATES COURTS LINKED WITH
SECOND CIRCUIT APPEALS COURTHOUSE :

INSIDE THE BELOW DOCKET SYSTEM THERE ARE FAKE
USMS AGENCY FEDERAL POLICE OFFICERS LISTED AS
CIVIL RIGHTS DEFENDANTS . THERE ARE CIVIL RIGHTS
DEFENDANTS FROM THE USMS AGENCY WHO TESTIFIED
INSIDE THEIR USMS AGENCY ADMINISTRATIVE HEARING
TRANSCRIPTS UNDER AN OATH ABOUT STEALING THE
(PRO-SE) PETITIONER'S (PHI) MENTAL HEALTH MEDICAL
RECORDS FROM BRONX COUNTY ST BARNABAS HOSPITAL
AND THEN USED SUCH MEDICAL RECORDS AS EVIDENCE
INSIDE THEIR USMS ADMINISTRATIVE HEARINGS .
MEANWHILE SECOND CIRCUIT APPEALS COURT STAFF
PERSONS NEVER REQUESTED ADJUDICATED HEARINGS
TRANSCRIPTS / RECORDS TO BE FILED INTO COURT

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

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DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

**THE UNITED STATES SUPREME COURT
WASHINGTON D. C.**

BENJAMIN CUNNINGHAM

(PRO-SE) PETITIONER

V.

**UNITED STATES MARSHALS SERVICE AGENCY & ETAL
RESPONDENTS**

AFFIDAVIT OF TRUE FACTS

NEW YORK STATE

COUNTY OF BRONX) SS :

Benjamin Cunningham , has duly affirm under
the penalty of perjury on **MARCH-08-2019** :

Manuel Figueroa
MANUEL FIGUEROA
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01FI6146120
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MAY 15, 2022

*Sworn before me on
this 8th day of March, 2019*

Benjamin Cunningham , am (Pro-se) Petitioner Litigant
in this **PETITION OUT OF TIME MOTION DOCUMENT**
who is hereby filing only TRUE FACTS
which concerns Second Circuit Appeals Court's
**CHIEF CIRCUIT EXECUTIVE STAFF KAREN G. MILTON AND
CHIEF COURT CLERK CATHERINE O' HAGAN WOLFE ARE**
WILLFULLY refusing to ORDER USMS Agency Staff
Persons to file their USMS Agency's Administrative
Adjudicated Hearings / Adjudicated Transcripts / AND
Adjudicated Records into this USMS ADMINISTRATIVE APPEAL

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

*RECEIVED
12-15-19*

**SECOND CIRCUIT APPEALS COURTHOUSE
CHIEF COURT CLERK DOCKET TRANSFER**

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #11-3595-CV

DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

USMS AGENCY'S

USMS AGENCY'S

ADJUDICATION HEARING

ADJUDICATION HEARING

(#06-0108) FEB-22, 2006

(#16-0386) UNKNOWN

ADJUDICATION DECISION

ADJUDICATION DECISION

MARCH-15-2006

MARCH-17-2016

ARLINGTON VIRGINIA

BROOKLYN NEW YORK

**DENIED CUNNINGHAM RIGHTS TO APPEAR/TESTIFY
DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE
DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY
DENIED CUNNINGHAM RIGHTS TO FILE AN APPEAL**

**CHIEF CIRCUIT EXECUTIVE STAFF KAREN G. MILTON
CHIEF COURT CLERK CATHERINE O' HAGAN WOLFE
ORDERED ASSIGNED SUPERVISOR CASE MANAGER
MS YANA SEGAL (212) 857-8544 ALONG WITH
HER SUPERVISOR MR RALPH OBAS (212) 857-8565
TO TRANSFER ALL CV DOCKET SYSTEM APPEALS
INTO THE AG DOCKET SYSTEM AGENCY APPEALS**

SECOND CIRCUIT APPEALS COURTHOUSE
FEBRUARY-04-2019

(COURT DOCKET SHEET #46-47)

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DETERMINING THE APPEAL TO UNITED STATES
MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,
ISSUED (MANDATE) (2365147) (18-1903)
ENTERED : 08 / 10 / 2018 #18-1903-AG "**

**ASSIGNED SUPERVISOR CASE MANAGER MS YANA SEGAL
(212) 857-8544 ALONG WITH HER SUPERVISOR
MR RALPH OBAS (212) 857-8565 CONDUCTED THEIR
CLERK OFFICE CONFERENCE WITH (PRO-SE) PETITIONER
BENJAMIN CUNNINGHAM AND BOTH STAFF PERSONS
NOW CLAIM THAT THE ABOVE USMS AGENCY MANDATE
DECISION / ORDER DATED AUGUST-10-2018 WAS INFACIT
INCORRECTLY FILED INSIDE PETITIONER CUNNINGHAM'S
USMS AGENCY ADMINISTRATIVE APPEAL :**

6

**USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA**

**USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK**

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DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE
DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY
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FEBRUARY-04-2019

**SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS
CONDUCTED CLERK OFFICE CONFERENCE
WITH THE (PRO-SE) CLAIMANT
WHICH CONCERNS THE FOLLOWING**

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AUGUST-10-2018 WAS SENT BACK TO THE FEDERAL
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HOWEVER, (PRO-SE) PETITIONER'S ADMINISTRATIVE
USMS AGENCY APPEAL ORIGINATED FROM THE
(SDNY) DISTRICT COURT FEDERAL CHIEF JUDGE
COLLEEN MCMAHON'S SUS SPONTE FEDERAL AGENCY
APPEAL DECISIONS / ORDERS DATED JULY-18-2017 &
JULY-28-2017 (DOCKET #17-CIV-5104 (CM)
(DOCKET #17-CIV-1701 (CM) ALONG WITH THE
DECISION / ORDER DATED JANUARY-19-2018 UNDER
(DOCKET #17-CIV-1260 (CM) (DOCKET #17-CIV-1261 (CM)**

FEBRUARY-04-2019

**SECOND CIRCUIT APPEALS COURT'S
TWO CASE MANAGER SUPERVISORS
CONDUCTED CLERK OFFICE CONFERENCE
WITH THE (PRO-SE) CLAIMANT
WHICH CONCERNS THE FOLLOWING :**

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HER SUPERVISOR MR RALPH OBAS (212) 857-8565
STATED THEY WILL ALERT THE SENIOR SUPERVISOR
COURT CLERK STAFF MR JEFF AKINS (202) 479-3000
LOCATED AT UNITED STATES SUPREME COURTHOUSE
AND EXPLAIN EVERYTHING ; HOWEVER , THEY CLAIM
THEY ARE NOT ALLOWED TO PROVIDE CLAIM FORMS
TO THE GENERAL PUBLIC. THEY ARE NOT ALLOWED
TO RESPOND TO THE (PRO-SE) CLAIMANT
BENJAMIN CUNNINGHAM 'S MISCONDUCT COMPLAINTS
BENJAMIN CUNNINGHAM 'S NOTICE OF CLAIM PAPERS**

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

**THE ABOVE USMS AGENCY STAFF PERSONS
REFUSED TO FILE THEIR USMS ADJUDICATION
HEARING TRANSCRIPTS / HEARING RECORDS
INTO SECOND CIRCUIT APPEALS COURTHOUSE :**

DOCKET #07-4007-CV

DOCKET #10-0378-CV

DOCKET #10-0379-CV

DOCKET #17-2427-CV

DOCKET #17-2435-CV

DOCKET #17-3237-CV

DOCKET #11-3595-CV

DOCKET #16-3222-CV

DOCKET #18-0272-CV

DOCKET #18-0275-CV

DOCKET #18-1903-AG

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703
USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH
USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN
USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY
USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY
USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

(FILE #2016-USMS-30651) (FILE #2016-USMS-32310)
DATED DEC-22-2016 DATED JAN-08-2018

(FILE #2016-USMS-30451) (FILE #2016-USMS-32422)
DATED MAY-11-2017 DATED FEB-23-2018

(FILE #2016-USMS-31886) (FILE #2017-USMS-31886)
DATED JUNE-23-2017 DATED MAR-13-2018

(FILE #2016-USMS-32310) (FILE #2018-USMS-32422)
DATED JUNE-29-2018 DATED AUG-14-2018

THE ABOVE USMS AGENCY'S FOIA RESPONSES DULY
ACKNOWLEDGED THEIR USMS AGENCY ADMUDICATION :

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK



(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

(FILE #2016-USMS-30651) DATED DEC-22-2016
(FILE #2016-USMS-32310) DATED JAN-08-2018

(FILE #2016-USMS-30451) DATED MAY-11-2017
(FILE #2016-USMS-32422) DATED FEB-23-2018

(FILE #2016-USMS-31886) DATED JUNE-23-2017
(FILE #2017-USMS-31886) DATED MAR-13-2018

(FILE #2016-USMS-32310) DATED JUNE-29-2018
(FILE #2018-USMS-32422) DATED AUG-14-2018

THE ABOVE USMS AGENCY'S FOIA RESPONSES WERE
NEVER FILED INTO SECOND CIRCUIT APPEALS COURT'S

DOCKET #07-4007-CV

DOCKET #10-0378-CV
DOCKET #17-2427-CV
DOCKET #17-3237-CV
DOCKET #16-3222-CV
DOCKET #18-0275-CV
DOCKET #10-0379-CV
DOCKET #17-2435-CV
DOCKET #11-3595-CV
DOCKET #18-0272-CV
DOCKET #18-1903-AG



(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703
USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH
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USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

(FILE #2016-USMS-30651) (FILE #2016-USMS-32310)
DATED DEC-22-2016 DATED JAN-08-2018

(FILE #2016-USMS-30451) (FILE #2016-USMS-32422)
DATED MAY-11-2017 DATED FEB-23-2018

(FILE #2016-USMS-31886) (FILE #2017-USMS-31886)
DATED JUNE-23-2017 DATED MAR-13-2018

(FILE #2016-USMS-32310) (FILE #2018-USMS-32422)
DATED JUNE-29-2018 DATED AUG-14-2018

THE ABOVE USMS AGENCY'S FOIA RESPONSES
CONFLICTS WITH THEIR ILLEGAL USMS AGENCY'S
NOTICE OF APPEARANCE STATEMENT FORMS :

DOCKET #07-4007-CV

DOCKET #10-0378-CV	DOCKET #10-0379-CV
DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #11-3595-CV
DOCKET #16-3222-CV	DOCKET #18-0272-CV
DOCKET #18-0275-CV	DOCKET #18-1903-AG

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PRELIMINARY STATEMENT OF TRUE FACTS

(FILE #2016-USMS-30451) DATED MAY-11-2017
(FILE #2016-USMS-32422) DATED FEB-23-2018

ABOVE USMS AGENCY'S FOIA RESPONSES PRODUCED
USMS AGENCY'S ADMINISTRATIVE DOCUMENTS :

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

(FILE #2016-USMS-31886) DATED JUNE-23-2017
(FILE #2017-USMS-31886) DATED MAR-13-2018
(FILE #2016-USMS-32310) DATED JUNE-29-2018
(FILE #2018-USMS-32422) DATED AUG-14-2018

ABOVE USMS AGENCY'S FOIA RESPONSES PRODUCED
USMS AGENCY'S ADMINISTRATIVE DOCUMENTS :

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

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JULY-13-2016 (PRO-SE) PETITIONER
FILED HIS USMS AGENCY FOIA REQUEST
TO USMS AGENCY'S FOIA ATTORNEY
STAFF PERSON WILLIAM E. BORDLEY :
(FILE #2016-USMS-31886) (FILE #2017-USMS-31886)
DATED JUNE-23-2017 DATED MAR-13-2018

(FILE #2016-USMS-32310) (FILE #2018-USMS-32422)
DATED JUNE-29-2018 DATED AUG-14-2018

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

(SDNY) DISTRICT COURT CHIEF
JUDGE COLLEEN McMAHON'S
USMS AGENCY ADJUDICATION
SUA SPONTE DECISIONS / ORDERS
DATED MARCH-01-2017 & DATED
MARCH-07-2017 & MARCH-15-2017
(DOCKET #17-CIV-1260 (CM)

(SDNY) DISTRICT COURT CHIEF
JUDGE COLLEEN McMAHON'S
USMS AGENCY ADMINISTRATIVE APPEAL
DECISION / ORDER JULY-18-28-2017
(SDNY) DOCKET # 17-CV-5104 (CM)

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PRELIMINARY STATEMENT OF TRUE FACTS

**(SDNY) DISTRICT COURT CHIEF
JUDGE COLLEEN McMAHON'S
USMS AGENCY ADJUDICATION
SUA SPONTE DECISIONS / ORDERS
DATED MARCH-01-2017 & DATED
MARCH-07-2017 & MARCH-15-2017
(DOCKET #17-CIV-1260 (CM)**

“ Plaintiff filed this complaint without requesting leave to do so, and on March 1, 2017, the court dismissed Plaintiff's complaint.

On March 7, 2017, Plaintiff filed a motion for motion for reconsideration, which includes a request for leave to file.

For the following reasons , the court denies the motion :

Plaintiff alleges that there is a “ pending USMS Agency's internal affairs investigation ” , and that his complaint is unrelated to the matter that had been before Judge Batts . These assertions fail to show that the court overlooked controlling decisions or factual matters in dismissing this action . ”

PRELIMINARY STATEMENT OF TRUE FACTS

(SDNY) DISTRICT COURT CHIEF JUDGE COLLEEN McMAHON'S USMS AGENCY ADMINISTRATIVE APPEAL DECISION / ORDER JULY-18-2017 (SDNY) DOCKET # 17-CV-5104 (CM)

“ Plaintiff Benjamin Cunningham – who is barred from filing any new actions in this Court without first obtaining the Court’s leave to do so ,
see Cunningham V. United States Marshals Service,
No. 05-CV-10169 (DAB) (SDNY Aug 2, 2016) (ECF No.236)
filed this action pro-se, but he did not seek the Court’s permission to do so .

On July 10, 2017, the Court dismissed the complaint without prejudice for failure to comply with the bar order .

On July 14, 2017, Plaintiff filed a Notice OF Motion Seeking Permission To File An Administrative Agency Appeal (ECF No.5) .

Although the submission is difficult to understand , it appears that Plaintiff may be seeking permission to to supplement the complaint in this civil action to include certain recent developments in administrative proceedings . “

Accordingly, Plaintiff’s motion for reconsideration (ECF No.5) is denied. “

PRELIMINARY STATEMENT OF TRUE FACTS

(SDNY) DISTRICT COURT CHIEF
JUDGE COLLEEN McMAHON'S
FOIA DECISION/ORDER JULY-28-2017
(DOCKET #17-CV-1701 (CM)

" By order dated May 3, 2017, the Court grant Plaintiff leave to amend his complaint, brought under the Freedom OF Information Act (FOIA), to detail exhaustion of his administrative remedies with the United Marshals Service (USMS) .

In response to the order to amend, Plaintiff filed twenty documents, including sixteen notices, three motions, and an amended complaint .

The first motion requests that the Court reconsider its decision to dismiss Defendant William E. Bordley, from the action . The second motion seeks leave from this Court to file an administrative agency appeal regarding the **USMS's March 17, 2016** .

The third motion concerns a decision in another closed action, Cunningham V. United States Marshals Serv, (**No. 17-CV-5104 (CM)**).

Accordingly, this action is dismissed as prematurely filed because Plaintiff did not appeal the June 23, 2017 decision as instructed in that decision, Plaintiff must request leave to file any administrative appeal from the United States Department OF Justice's (OIP). Should the OIP rule unfavorably in either appeal, Plaintiff may move under this docket number for leave to reopen this action ."

**UNITED STATES MARSHALS SERVICE
AGENCY ASSIGNED STAFF PERSONS'
NOTICE OF APPEARANCE STATEMENT
FORM DATED AUG-30-2017
FORM DATED FEB-15-2018
HAVE REFUSED TO PARTICIPATE IN
THIS USMS AGENCY ADMINISTRATIVE
APPEAL ONLY BECAUSE THE (SDNY)
DISTRICT COURT CHIEF JUDGE COLLEEN
NEVER SENT SUMMON DOCUMENTS
NEVER SENT COMPLAINT DOCUMENTS
TO APPELLEES :**

(SDNY) AUSA BENJAMIN H. TORRANCE (212) 637-2703

USMS AGENCY'S GENERAL COUNSEL GERALD AUERBACH

USMS AGENCY'S RECORDS OFFICER ARELIA WHYNN

USMS AGENCY'S FOIA ATTORNEY KATHERINE A. DAY

USMS AGENCY'S ETHICS ATTORNEY KATHERINE A. DAY

USMS AGENCY'S TORT/CLAIM DIRECTOR JOHN M. PATTERSON

SEPTEMBER-28-2016

DECEMBER -29-2016

**DOCKET FRAUD VICTIM LITIGANT
BENJAMIN CUNNINGHAM FILED HIS
CHIEF CLERK STAFF DOCKET FRAUD
MISCONDUCT COMPLAINT DOCUMENT**

KAREN G. MILTON

CIRCUIT EXECUTIVE STAFF MEMBER

(212) 857-8700

(212) 857-8680 (FAX)

40 Foley Square

Manhattan , New York 10007

CATHERINE O' HAGAN WOLFE

CHIEF CLERK STAFF MEMBER

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SECOND CIRCUIT APPEALS COURT

40 Foley Square

Manhattan , New York 10007

(SDNY) AUSA BENJAMIN H. TORRANCE

(212) 637-2703

86 Chambers Street (5th Floor)

Manhattan , New York 1007

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SECOND CIRCUIT APPEALS COURT
CHIEF CLERK DOCKET FRAUD
NOTICE OF CLAIMS

MISCONDUCT	COMPLAINT	DEC-28-2016
MISCONDUCT	COMPLAINT	DEC-29-2016
MISCONDUCT	COMPLAINT	JAN-31-2017
(SDNY)	CIVILIAN CRIME REPORT	MAR-22-2017

(FILED TO SECOND CIRCUIT COURT STAFF)

KAREN G. MILTON	CATHERINE O' HAGAN WOLFE
CHIEF CIRCUIT EXECUTIVE STAFF	CHIEF CLERK STAFF PERSON
SECOND CIRCUIT APPEALS COURT	SECOND CIRCUIT APPEALS COURT

(SDNY) (AUSA) BENJAMIN H. TORRANCE
THE UNITED STATES ATTORNEY OFFICE

FILED AGAINST

DUSM TIMOTHY J. O' CALLANGHAN
UNIDENTIFIED DUSM JOHN / JANE DOE
UNIDENTIFIED DUSM JOHN / JANE DOE

DOCKET #10- 378-CV	DOCKET #10- 379-CV
DOCKET #11-3597-CV	DOCKET #16-3222-CV
DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #18-0272-CV
DOCKET #18-0275-CV	DOCKET #18-1903-AG

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**SECOND CIRCUIT APPEALS COURT
CHIEF CIRCUIT EXECUTIVE STAFF
PERSON MS KAREN G. MILTON
UNLAWFULLY CONCEALED TEN
CHIEF COURT CLERK'S DOCKET
FRAUD MISCONDUCT COMPLAINTS
FROM AG--DOCKET SYSTEMS**

MISCONDUCT	COMPLAINT	APR-16-2016
MISCONDUCT	COMPLAINT	NOV-29-2016
MISCONDUCT	COMPLAINT	DEC-01-2016
MISCONDUCT	COMPLAINT	DEC-28-2016
MISCONDUCT	COMPLAINT	DEC-29-2016
MISCONDUCT	COMPLAINT	JAN-31-2017
MISCONDUCT	COMPLAINT	FEB-09-2017
MISCONDUCT	COMPLAINT	FEB-23-2017
MISCONDUCT	COMPLAINT	MAR-04-2017
MISCONDUCT	COMPLAINT	MAR-22-2017

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DOCKET #07-4006-CV

DOCKET #10-0378-CV	DOCKET #17-2435-CV
DOCKET #10-0379-CV	DOCKET #17-2437-CV
DOCKET #11-3597-CV	DOCKET #18-0272-CV
DOCKET #16-3222-CV	DOCKET #18-0275-CV
DOCKET #17-2427-CV	DOCKET #18-1908-AG

**SECOND CIRCUIT APPEALS COURT
CHIEF COURT CLERK STAFF PERSON
MS CATHERINE O' HAGAN WOLFE
UNLAWFULLY CONCEALED TEN
CHIEF COURT CLERK'S DOCKET
FRAUD MISCONDUCT COMPLAINTS
FROM AG--DOCKET SYSTEMS**

MISCONDUCT	COMPLAINT	APR-16-2016
MISCONDUCT	COMPLAINT	NOV-29-2016
MISCONDUCT	COMPLAINT	DEC-01-2016
MISCONDUCT	COMPLAINT	DEC-28-2016
MISCONDUCT	COMPLAINT	DEC-29-2016
MISCONDUCT	COMPLAINT	JAN-31-2017
MISCONDUCT	COMPLAINT	FEB-09-2017
MISCONDUCT	COMPLAINT	FEB-23-2017
MISCONDUCT	COMPLAINT	MAR-04-2017
MISCONDUCT	COMPLAINT	MAR-22-2017

DOCKET #07-4006-CV

**DOCKET #10-0378-CV DOCKET #17-2435-CV
DOCKET #10-0379-CV DOCKET #17-2437-CV
DOCKET #11-3597-CV DOCKET #18-0272-CV
DOCKET #16-3222-CV DOCKET #18-0275-CV
DOCKET #17-2427-CV DOCKET #18-1908-AG**

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**UNITED STATES OF AMERICA MERIT
SYSTEMS PROTECTION BOARD**

**NEW YORK FIELD OFFICE
BEFORE MARIA M. DOMINGUEZ
ADMINISTRATIVE LAW JUDGE
FEBRUARY-27-2018**

“ On January 18, 2018, the appellant
Filed an appeal with the Merit
Systems Protection Board (the Board),
alleging that the U.S. Department OF
Justice, U.S. Marshals Service (USMS),
had concealed some administrative
hearings/decisions from him, which
dated back to February and March of
2006 and March of 2016 . ”

**SECOND CIRCUIT APPEALS COURTHOUSE
NOTICE OF APPEARANCE STATEMENTS FORM**

07-4006-CV 10- 0378-CV 10- 0379-CV

16-3222-CV 11-3597-CV

17-2427-CV 17-2435-CV 17-2437-CV

(SDNY) AUSA BENJAMIN H. TORRENCE

USMS AGENCY'S GENERAL COUNSEL

GERALD M. AUERBACH

USMS AGENCY'S CLAIMS SUPERVISOR

JOHN M. PATTERSON

USMS AGENCY'S FOIA ATTORNEY

WILLIAM E. BORDLEY

(AUGUST-30-2017)

“ On August 9 , 2017, this Office received a notice of the docketing of the above-named appeal , in which I am listed as counsel of record for the defendant-appellee , the United States Marshals Service .

Pro-se plaintiff-appellant Benjamin Cunningham appeals from a July 18, 2017, Order of the United States District Court for the Southern District of New York (McMahon, J.) which dismissed the complaint sua sponte .

The district court dismissed the complaint before the defendants-appellees had been served or appeared in the action. Accordingly, at this time, the defendant-appellees do not intend to participate in the appeal unless requested to do so by the Court . ”

**SECOND CIRCUIT APPEALS COURTHOUSE
NOTICE OF APPEARANCE STATEMENTS FORM
18-272-CV & 18-275-CV & 18-1903-AG**

(SDNY) AUSA BENJAMIN H. TORRENCE

**USMS AGENCY'S GENERAL COUNSEL
GERALD M. AUERBACH**

**USMS AGENCY'S FOIA ATTORNEY
WILLIAM E. BORDLEY**

**USMS AGENCY'S (OPR) INVESTIGATION CHIEF
STANLEY H. GRISCAVAGE**

**USMS AGENCY'S (OPR) INVESTIGATOR Staff
DONALD O' HEARN**

(FEBRUARY-15-2018)

" Pro-se plaintiff-appellant Benjamin Cunningham appeals from a January 19, 2018 , Order of the United States District Court for the Southern District OF New York (McMahon, J) , which dismissed the complaint before the defendants' appellees had been serve or appeared in the action. Accordingly , at this time , the defendant-appellees do not intend to participate in the appeal unless requested to do so by the Court . "

MEMORANDUM OF LAW

UNITED STATES DEPARTMENT OF JUSTICE AGENCY GUIDANCE TO FEDERAL AGENCIES ON COMPILING THE ADMINISTRATIVE RECORD DATED JAN-1999

“ UNDER THE ADMINISTRATIVE PROCEDURE ACT (APA), A COURT REVIEWS AN AGENCY’S ACTION TO DETERMINE IF IT WAS “ARBITRARY, CAPRICIOUS, AND ABUSE OF DISCRETION, OR OTHERWISE NOT IN ACCORDANCE WITH LAW .” 5 USC SECTION 706 (2) (A). IN MAKING THIS DETERMINATION , A COURT EVALUATES THE AGENCY’S WHOLE ADMINISTRATIVE RECORD . THE ADMINISTRATIVE RECORD IS THE PAPER TRIAL THAT DOCUMENTS THE AGENCY’S DECISION-MAKING PROCESS AND THE BASIS FOR THE AGENCY’S DECISION . IN ADDITION , REGULATIONS MAY GOVERN HOW TO ASSEMBLE A RECORD : 40 C.F.R. 300.800 THRU 300.825 (CERCLA); 40 C.F.R. PART – 24 ; (RCRA CORRECTIVE ACTION) & FRAP RULES (#15-#16-#17) RECORD ON REVIEW OR THE ENFORCEMENT AND FILING OF THE RECORD .

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#15 REVIEW OR ENFORCEMENT OF
AN AGENCY ORDER :

- (1) REVIEW OF AN AGENCY ORDER IS COMMENCED BY FILING , WITHIN THE PRESCRIBED BY LAW , A PETITION FOR REVIEW WITH THE CLERK OF A COURT OF APPEALS AUTHORIZED TO REVIEW THE AGENCY ORDER .
- (2) WITHIN 21 DAYS AFTER THE APPLICATION FOR ENFORCEMENT IS FILED , THE RESPONDENT MUST SERVE ON THE APPLICANT AN ANSWER TO THE APPLICATION AND FILE IT WITH THE CLERK. IF THE RESPONDENT FAILS TO ANSWER IN TIME , THE COURT WILL ENTER JUDGMENT FOR THE RELIEF REQUESTED .

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#16 THE RECORD ON REVIEW OR
ENFORCEMENT

(a) COMPOSITION OF THE RECORD

The record on review or enforcement of an agency order consists of :

- (1) the order involved ;
- (2) any findings or report on which it is based ; and
- (3) the pleadings, evidence, and other parts of the proceedings before the agency.

**SUBDIVISION (A) IS BASED UPON
28 U.S.C. SECTION 2112 (B) THERE
IS NO DISTINCTION BETWEEN THE
RECORD COMPLIED IN THE AGENCY
PROCEEDING & THE RECORD ON REVIEW**

MEMORANDUM OF LAW
FEDERAL RULE OF APPELLATE PROCEDURE
#17 FILING THE RECORD

(a) AGENCY TO FILE ; TIME TO FILE;
NOTICE OF FILING :

The agency must file the record with circuit clerk within 40 days after being served with a petition for review, unless the statute authorizing review provides otherwise, or within 40 days after it files an application for enforcement unless the respondent fails to answer or the court orders otherwise . The court may shorten or extend the time to file the record. The clerk must notify all parties of the date when the record is filed .

CONCLUDED DUE PROCESS REQUEST

WHEREFORE, THE (PRO-SE) PETITIONER IS
HEREBY ASKING THE US. SUPREME COURT
TO QUICKLY ENFORCE DUE PROCESS LAW
AT THE SECOND CIRCUIT APPEALS COURT
WHICH CONCERNS THIS USMS AGENCY
ADMINISTRATIVE APPEAL :

USMS AGENCY'S
ADJUDICATION HEARING
(#06-0108) FEB-22, 2006
ADJUDICATION DECISION
MARCH-15-2006
ARLINGTON VIRGINIA

USMS AGENCY'S
ADJUDICATION HEARING
(#16-0386) UNKNOWN
ADJUDICATION DECISION
MARCH-17-2016
BROOKLYN NEW YORK

DENIED CUNNINGHAM RIGHTS TO APPEAR/TESTIFY
DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE
DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY
DENIED CUNNINGHAM RIGHTS TO FILE AN APPEAL

RESPECTFULLY,
B & Q

DOCKET #07-4007-CV

DOCKET #10-0378-CV
DOCKET #17-2427-CV
DOCKET #17-3237-CV
DOCKET #16-3222-CV
DOCKET #18-0275-CV

DOCKET #10-0379-CV
DOCKET #17-2435-CV
DOCKET #11-3595-CV
DOCKET #18-0272-CV
DOCKET #18-1903-AG

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DOJ-1
06-0108
16-0386

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of August, two thousand eighteen.

Benjamin Cunningham,

Petitioner,

v.

18-1903

United States Marshals Service,

Respondent.

In May 2018, this Court entered a leave-to-file sanction against Petitioner Benjamin Cunningham. *See Cunningham v. United States Marshals Serv.*, 2d Cir. 17-2427 (L), 17-2437 (Con), doc. 152. Petitioner now moves for leave to file this petition for review of certain agency decisions. He also moves for leave to file agency decisions, for leave to file a motion to remove his filing sanction, for leave to submit FOIA admissions, for leave to proceed in forma pauperis, and to obtain a claim form. He further seeks the recusal of Chief Judge Katzmann.

Upon due consideration, it is hereby ORDERED that the motion for leave to file the petition for review is DENIED because the petition does not depart from Petitioner's "prior pattern of vexatious filings." *See In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993). It is further ORDERED that Petitioner's remaining motions are denied as MOOT.

FOR THE COURT:
Lucille Carr, Chief Deputy Clerk of Court



**Additional material
from this filing is
available in the
Clerk's Office.**