

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 VRGINIA

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

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

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

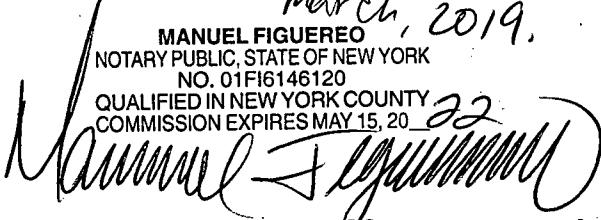
NOTICE OF MOTION TAKE JUDICIAL NOTICE  
REGARDING SECOND CIRCUIT APPEALS COURT'S  
TWO CASE MANAGER SUPERVISORS PROVIDED  
NEWLY DISCOVERED LATE APPEAL EVIDENCE

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  


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. ) 3  
USCA2 CASE NO. 16-3222

HOWEVER PLEASE BE ADVISED IM APPEALING :

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*Respectfully  
BZ*

# **DUE PROCESS VIOLATIONS**

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

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

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

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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

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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

**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**

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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

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**

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

**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**

## **SECOND CIRCUIT APPEALS COURTHOUSE**

**DOCKET #07-4007-CV**

<b>DOCKET #10-0378-CV</b>	<b>DOCKET #10-0379-CV</b>
<b>DOCKET #17-2427-CV</b>	<b>DOCKET #17-2435-CV</b>
<b>DOCKET #17-3237-CV</b>	<b>DOCKET #11-3595-CV</b>
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<b>DOCKET #18-0275-CV</b>	<b>DOCKET #18-1903-AG</b>

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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**

**( 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  
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**BROOKLYN NEW YORK**

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

( 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

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

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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 . "

**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 .**

**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  
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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 .**

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., 4<sup>TH</sup> 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**  
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ADJUDICATION HEARING  
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**MARCH-17-2016**  
**BROOKLYN NEW YORK**

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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MARSHAL SERVICE, COPY TO PRO-SE PETITIONER,  
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ADJUDICATION DECISION  
**MARCH-15-2006**  
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( #16-0386 ) UNKNOWN  
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**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 )**

**" 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 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  
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WHICH CONCERNS THE FOLLOWING :

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WHO STATED THE ABOVE DECISION / ORDER DATED  
AUGUST-10-2018 WAS SENT BACK TO THE FEDERAL  
DISTRICT COURTHOUSE INSIDE CONNECTICULT 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  
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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  
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

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25

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

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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 . ”



**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 .**

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**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	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 VRGINIA	BROOKLYN NEW YORK

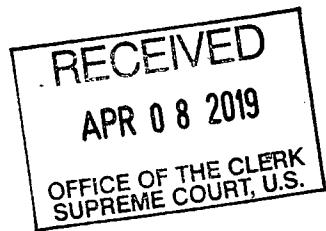
**DENIED RIGHTS TO APPEAR/TESTIFY  
DENIED RIGHTS TO FILE EVIDENCE  
DENIED RIGHTS TO SEEK ATTORNEY  
DENIED RIGHTS TO FILE AN APPEAL**

**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  
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MARCH-15-2006  
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**DOCKET #07-4007-CV**

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



**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 :

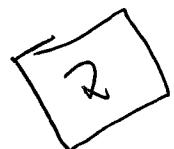
**DOCKET #07-4007-CV**

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DOCKET #17-2427-CV	DOCKET #17-2435-CV
DOCKET #17-3237-CV	DOCKET #11-3595-CV
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**DENIED CUNNINGHAM RIGHTS TO FILE EVIDENCE**  
**DENIED CUNNINGHAM RIGHTS TO SEEK ATTORNEY**  
**DENIED CUNNINGHAM RIGHTS TO FILE AN APPEAL**



THE UNITED STATES SUPREME COURT  
WASHINGTON D.C.  
BENJAMIN CUNNINGHAM  
( PRO-SE ) PETITIONER

V.

UNITED STATES MARSHALS SERVICE AGENCY & ETAL  
RESPONDENTS

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NOTICE OF MOTION TO DIRECT THE CLERK STAFF  
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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
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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** :

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 EXCUTIVE 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  
Adjudiccate 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

*Manuel Figuereo*  
MANUEL FIGUERO  
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*

*17-0386-15-22*  
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**SECOND CIRCUIT APPEALS COURTHOUSE  
CHIEF COURT CLERK DOCKET TRANSFER**

**DOCKET #07-4007-CV**

<b>DOCKET #10-0378-CV</b>	<b>DOCKET #10-0379-CV</b>
<b>DOCKET #17-2427-CV</b>	<b>DOCKET #17-2435-CV</b>
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ADJUDICATION HEARING  
( #16-0386 ) UNKNOWN  
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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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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 INFAC  
INCORRECTLY FILED INSIDE PETITIONER CUNNINGHAM 'S  
USMS AGENCY ADMINISTRATIVE APPEAL :

6

<b>USMS AGENCY'S</b>	<b>USMS AGENCY'S</b>
ADJUDICATION HEARING	ADJUDICATION HEARING
( #06-0108 ) FEB-22, 2006	( #16-0386 ) UNKNOWN
ADJUDICATION DECISION	ADJUDICATION DECISION
<b>MARCH-15-2006</b>	<b>MARCH-17-2016</b>
<b><u>ARLINGTON VIRGINIA</u></b>	<b><u>BROOKLYN NEW YORK</u></b>

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

# FEBRUARY-04-2019

SECOND CIRCUIT APPEALS COURT'S  
TWO CASE MANAGER SUPERVISORS  
CONDUCTED CLERK OFFICE CONFERENCE  
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WHICH CONCERNS THE FOLLOWING

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SUPERVISOR MS YANA SEGAL ( 212 ) 857-8658 AND  
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AUGUST-10-2018 WAS SENT BACK TO THE FEDERAL  
DISTRICT COURTHOUSE INSIDE CONNECTICULT STATE.  
HOWEVER, ( PRO-SE ) PETITIONER'S ADMINISTRATIVE  
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( 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,  
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  
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**

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

( 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. PATERSON  
( FILE #2016-USMS-30451 ) ( FILE #2016-USMS-30651 ) ( FILE #2016-USMS-32310 )  
DATED DEC-22-2016  
DATED JAN-08-2018  
DATED MAY-11-2017  
( FILE #2016-USMS-32422 ) ( FILE #2016-USMS-30451 ) ( FILE #2016-USMS-31886 )  
DATED JUNE-23-2017  
( FILE #2016-USMS-31886 ) ( FILE #2017-USMS-32422 )  
DATED MAR-13-2018  
DATED JUNE-29-2018  
( FILE #2016-USMS-32310 ) ( FILE #2018-USMS-32422 )  
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 #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  
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  
USMS AGENCY'S  
ADJUDICATION HEARING  
ADJUDICATION DECISION  
(#16-0386) UNKNOWN  
MARCH-17-2016  
BROOKLYN NEW YORK

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

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

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

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

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

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

**PRELIMINARY STATEMENT OF TRUE FACTS**

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 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  
( 212 ) 857-8585  
SECOND CIRCUIT APPEALS COURT  
40 Foley Square  
Manhattan , New York 10007**

**( SDNY ) AUSA BENJAMIN H. TORRANCE  
( 212 ) 637-2703  
86 Chambers Street ( 5<sup>th</sup> 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**

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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

**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 .”

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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 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,  
BQ

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



DOJ-1  
06-0108  
16-0386

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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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 10<sup>th</sup> day of August, two thousand eighteen.

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Benjamin Cunningham,

*Petitioner,*

v.

18-1903

United States Marshals Service,

*Respondent.*

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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.**