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Question/Issues For Review

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B. John Reardon, et al v Judge Hillman, et al, Appeal No. 18-1880:

Question/Issue for Review

1. Do court personnel have absolute immunity from suit for it's non-discretionary, Ministerial Acts that are mandatory?

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D. Questions for Review [Rule 60 Motion]

1. Has the court focused on the nature of the official rather than the

nature of the act?

2. Has this court acted as counsel for these defendants and thereby acted without official discretion for non-judicial conduct, and opened itself up for a lawsuit for a non-judicial act of acting as counsel for these defendants?

3. Is the entry of default discretionary, or mandatory and ministerial, which accords immunity for such a task/function?

4. Is the court's order void since it denied the plaintiff the right to be heard before dismissing his case and violated my rights to Due Process to notice and be heard and due to the fact that this court found the clerk to be only entitled to qualified immunity and that such immunity questions must wait till after discovery has been completed for a summary judgment motion or to be determined at trial?

5. Is Judge Hillman and the clerk liable under a theory of Qualified Immunity?

Excerpts from Civil Case 1:18-cv-01296:

1. The plaintiff filed cases 1:15-cv-00244 and 1:15-cv-05520 in federal court claiming denials of various Constitutional Rights and suing to recover $100's of millions of dollars for the injuries the defendants in said cases inflicted upon the plaintiffs as follows:

A. For case 00244 the plaintiffs are John E., John J. And Judith A. [Hatterer] Reardon. And

B. For cases 05520, 08597 and 1:17-cv-05868 the plaintiff is John E. Reardon.

2. In April 2015 the plaintiff did file a request with the clerk to enter default due to the defendants failure to timely plead or otherwise defend in case 00244. Failures under Rule 12(a)(1)(A)(i) and 12(h).

3. The Clerks, Jay Sanchez and Ryan Merrigan, took it upon themselves to refuse to carry out their duty to enter default upon Mr. Reardon's demand when they have no discretion to not so enter default upon demand of Mr. Reardon. See BAC LOCAL 2, ALBANY v. Moulton Masonry & Const., 779 F. 3d 182, 2nd Cir. 2015; Meehan v Snow, 652 F.2d 274, 276, 2nd Cir, 1981; Hoxworth v Blinder Robinson and CO., 980 F.2d 912, 917, 3rd Cir. 1992 and Cottrell v. Norman, Dist. Court, D.N.J. 2015 , by Judge Hillman.

4. Between April 13, 2015 and November 2016 the plaintiff made numerous attempts for default and default judgment to the clerk and Judge Hillman, and for the court to (a) order the clerk to enter Default and/or

default judgment, or (b) for the court to enter default and/or default judgment, when the court knew that default is mandatory and not discretionary, either by the clerk or the Judge, and is a ministerial act by the Clerk and the Judge, and Judge Hillman refused to do either (1) order the clerk to enter Default or (2) for the court to enter default which is ministerial since it is performed by another court officer and not discretionary on the part of the clerk or Judge and Mr.s Sanchez and Merrigan, and Judge Hillman refused to so enter default and/or grant default judgment in cases 00244 and 05520 or (c) to set a trial date as to damages for these lawsuits.

7. In July 2015 Mr. Reardon did file case 1:15-cv-05520 against numerous parties that injured the plaintiff to the tune of $100's of Millions of dollars for the denial of Mr. Reardons 1st , 4th , 6th , 8th , 9th and 14th Amendment Rights.

8. On October 29, 2015, when the defendants in case 05520 failed to timely plead or defend Mr. Reardon did seek default against the defendants with the clerk, and Mr. Merrigan took it upon himself to not so enter default in case 05520.

9. Between October 2015 and November 2016 Mr. Reardon made numerous attempts to get Default and Default Judgment and Judge Hillman And Mr.s Sanchez and Merrigan continued to deny the plaintiff of default thus injuring the plaintiff in the denial of his 1st and 5th Amendment rights in excess of $100,000,000.00.

10. In April or May, 2015 the plaintiff did submit a letter to the clerks which states that a Party who fails to timely answer or otherwise plead to the

case waives any right to object to the method of service and the clerk could not then refuse to enter default since the waiver under Rule 12(h) is not something that the defendants can ignore and thus the clerk could not so refuse to enter default due to the method of service and the clerk refused to so enter default.

11. The well settled law that both Judge Hillman and Mr.s Sanchez, Merrigan and Ms. Ramsey are aware of is that:

(A) The entry of Default is not discretionary but is mandatory. see cases in statement 3 above;

(B) The court has no right, power or privilege to refuse to either (1) not enter default: or (2) to not order the clerk to do the same; or (3) That such is a ministerial act, not a judicial act, since it is performed by other court personnel. See Cases cited in statement 3 above and N.Y. v Green, 420 F.3d 99, 104, 2nd Cir. 2005; Hoxworth v Blinder Robinson & Co., Inc., 980 F.2d 912, 917, 3rd Cir. 1992; N.Y. Life Ins. V Brown, 84 F.3d 137, 143, 5th Cir. 1996; Hawaii Carpenter's Trust Fund v Stone, 9th Cir. 1986; Breuer Elec, Mfg. V Toronado Systems of America, 687 F.2d 182, 185, 7th Cir. 1982; Ackra Direct Marketing v Fingerhut Corp., 86 F.3d 852, 855, 8th Cir. 1996; Compudyne, Inc. V Coroth, 908 F.2d 1142, 1145, 1147, 3rd. Cir., 1990; BAC LOCAL 2, ALBANY v. Moulton Masonry & Const., 779 F. 3d 182 Court of Appeals, 2nd Cir. 2015; Petrucelli v Bohringer and Ratzinger, 46 F.3d 1298, 1304, 1305, 3rd Cir. 1995 and McCurdy v American Bd. Of Plastic Surgeons, 157 F.3d 191, 194-195, 3rd Cir. 1998.

12. The defendants are not immune for damages for non-discretionary

or ministerial acts that deny rights. See ex parte Virginia, 100 US 339, 348, 349 1880; Pierson v. Ray, 386 US 547, 563, 1967 ; Davis v. Scherer, 468 US 183, 1984,Ft.Nt. 14; McCray v. State of Maryland, 456 F. 2d 1, 4, 4th Cir. 1972; In re Paoli RR Yard PCB Litigation, 221 F. 3d 449, 453, 461, 3rd Cir. 2000 and Davis v Tarrant County, Tex., 565 F. 3d 214, 225, 5th Cir. 2009.

13. The defendants did refuse to carry out a mandatory Ministerial Act by denying Default when they are aware that they cannot refuse to enter default and has thus granted a privilege to the parties in these 2 cases they are not entitled to and these defendants failed to do their jobs for and causing the plaintiffs to be denied of their 1st and 5th Amendment rights to be heard on cases 00244, 05520 and 1:17-cv-05868.

14. The defendants have no right to refuse to carry out a ministerial Act and they are not immune for failure to perform that ministerial act that has denied the plaintiffs of their 1st and 5th Amendment rights.

15. The defendants did also discriminate against the plaintiffs in that we are being denied our (a) 5th Amendment Rights to be heard on their complaint that those who are represented by counsel enjoy; (b) The right to a just, speedy and inexpensive resolution of their lawsuit as per F.R.Civ.P. 1 and the case of Foman v Davis, 371 US 178, 182, 1962 as to those who are represented by counsel receive; (c) To the same treatment under F.R.Civ.P. 4 in that the court allowed counsel in Sanderford v Prudential Ins. Co. Of America, 902 F.2d 897, 900, 11th Cir. 1990; UNITED FOOD & COM'L WKRS. U., ETC. v. Alpha Beta Co.,

736 F. 2d 1371, 9th Cir. 1984 and Myers v Moore,, D.C., ED Pa., 2014 to use service by mail and Espinopza v U.S., 52 F.3d 838, 841, 10th Cir. 1995 and Rule 4 being a flexible Rule and National Life Ins. Co. V U.S., 277 U.S. 508, 530, 1928; also, Lawrence v State Tax Commission, 286 U.S. 276, 282, 283, 1862; Olmstead v L.C., 527 U.S. 581, 614, 1999; Jackson v Birmingham Brd. Of Ed., 544 U.S. 167, 174, 2005 as to what constitutes discrimination and Insurance Corp. Of Ireland v Compagnie Des Bauxite, 456 U.S. 694, 704, 1982; Robinson v. Johnson, 313 F. 3d 128, 134, 3rd Cir. 2002; Rauch v Day & Night Mfg. Corp., 576 F. 2d 697, 700, 6th Cir. 1978; Ennenga v Starns, 677 F.3d 766, 773, 7th Cir. 2012; Yeldell v. Tutt, 913 F. 2d 533, 539, 8th Circuit 1990; Alger v. Hayes, 452 F.2d 841, 8th Cir.1972; AMERICAN ASS'N OF NATUROPATHIC PHYSICIAN. v. Hayhurst, 227 F. 3d 1104, 1106, 9th Cir. 2000; Jackson v. Hayakawa, 682 F. 2d 1344, 1348, 9th Circuit 1982 citing Sellers v McCrane, 55 F.R.D. 466, D.C., E.D. Pa, 1972; Kontrick v Ryan, 540 U.S. 443, 459, 2004; Golday v Morning News, 156 U.S. 518, 521, 1895; Billy v Ashland Oil Co., 102 F.R.D. 230, 234, D.C., W.D Pa., 1984; Commerce Casualty insurance Co. V Consolidated Stone CO., 278 U.S. 177, 180, 1929 and Umbenauer v Woog, 969 F.2d 25, 32, 3rd Cir., 1991 as to waiver of Service defects under F.R.Civ.P. 12(b)(2)-(5) and 12(h).

16. Judge Hillman has continued to deny the plaintiffs' of their day in court, to default, to default judgment and their right to be heard, to denial of the same rights and treatment under the law that attorneys are accorded under F.R.Civ.P. 1, 4, 12 and 55 and deliberately citing case law that is not consistent with the

Decisions of the U.S. Supreme Court that has and continues to be cited to him and by him and he ignores and cites cases that are not on point or cites cases and implies they say one thing when they say something else.

20. Judge Hillman has failed to comply with Stare Decisis at the U.S. Supreme Court level, the Appellate Court level and failed to comply with other issues that were in the Reardons' favor related to these Rules cited herein in courts of other circuits. Payne v. Tennessee, 501 US 808, 827, 1991.

21. Judge Hillman and the clerks have denied The Reardons of their rights under the 1st and 5th Amendments and to their rights under Rules 1, 4, 12(b)(2)-(5), 12(h) and 55.

22. The defendants have deliberately denied the plaintiffs of their rights under the 1st and 5th Amendment and F.R.Civ.P.s 1, 4, 12 and 55.

23. Judge Hilman has refused to comply with the law in that he refuses to enter Default on Mr. Reardon's request for same claiming that the clerk, and not the court, must enter said default and knowing full well that he could enter both default and default judgment when a party fails to plead or otherwise defend within the 21 days allotted by F.R.Civ.P. 12(a)(1)(A)(i). These defendants have intentionally denied the plaintiffs' of their rights. See Breur Electric. Mfg. v Torronado Systems of America, 687 F.2d 182, 185, 7th Cir. 1982; O'BRIEN v. RJ O'Brien & Associates, Inc., 998 F.2d 1394, 1399, 7th Cir. 1993; and Ackra Direct Marketing Corp. v Fingerhut Corp., 86 F.3d 852, 855, 8th Cir. 1996; Wolf Lake terminals, Inc. v. Mutual Marine Ins., 433 F. Supp. 2d 933, 941, Dist. Court, ND

Indiana, 2005 and Hatton v. RIDE RIGHT, LLC, Dist. Court, SD Indiana 2015. Commerce Casualty insurance Co. V Consolidated Stone CO., 278 U.S. 177, 180, 1929.

24. Judge Hillman and the clerks took issue with insufficient service of process, and the defendants in cases 00244 and 05520 never objected to or took issue with such process in a timely fashion.

25. The plaintiffs, in cases 00244 and 05520, are not obligated to prove perfect service unless those parties plead or otherwise defend and object to said process and the defendants in said cases have failed to so timely object to R12(b)(2)-(5) defenses and they thus waived said defenses in accordance with R12(h) and the relevant case law cited to the defendants for which they know.

26. These defendants have shown an apparent adverse bias against these pro se plaintiffs for some unknown reason that deprived the plaintiffs of their rights under Rules 1, 4, 12, 55 and the 1st and 5th Amendment and to fair hearings.

27. The clerks have no discretion to refuse to enter Default under R 55(a) and the Judge knew that he could not refuse to order the clerk to enter said default and the Clerks and Judge Hillman have done everything they can to prevent the Reardons from being heard on their lawsuits and to the same rights, and respect that are accorded to attorneys and has been done so deliberately.

28. Judge Hillman and the clerks have apparently conspired to deny these pro se plaintiffs of the equal treatment under the law, to Due Process to a fair

hearing and has discriminated against these pro se plaintiffs by refusing to grant these pro se plaintiffs the same treatment under the law that they accord to those represented by Attorneys and this is an ongoing conspiracy since Judge Hillman refused to recuse himself from cases 00244 and 05520, or has not ordered the clerk to enter default and default judgment and Judge Hillman is deliberately depriving these pro se plaintiffs of their right to be heard and the other rights listed herein and we have been discriminated against. The appearances, which must be kept in mind, is that Judge Hillman is biased against these pro se plaintiffs and required to recuse himself and he refuses to do that or has conspired with the clerks to deny the Plaintiffs of their rights under Rules 1, 4, 12 and 55 And the 1st and 5th Amendments.

29. The hard facts that the people are entitled to and for which is evidence is the decisions of the Courts which settles rights, the Statutes, the case law and the Constitution, and the court has done everything it can to ignore our rights, the law and the evidence which is based upon the facts. Juzwin v Asbestos Corp., Ltd., 900 F,2d 686, 692, 3rd Cir. 1990.

34. Both Judge Hillman and the clerks have a particular bent and bias against the Reardons for some unknown reason and they have deliberately refused to do their job and Judge Hillman has deliberately cited case law that does not apply to these cases to deny Mr. Reardon of his day in court and to act as an opponent against the Reardons and a proponent for the defendants in all 4 mentioned cases.

35. The clerks did place on the Docket sheet that said refusal to enter default shall remain on the record unless Judge Hillman orders otherwise and Judge Hillman repeatedly refuses to enter default or order the clerk to enter default leaving the plaintiffs' holding their "Proverbial Ass" with no right to be heard.

40. The clerks and Judge have no immunity for non-discretionary, ministerial Acts such as entering default upon demand and supported by an affidavit which Mr. Reardon did comply with both of these items. He demanded default and sought it with affidavits supporting service of the summons and complaint in cases 00244 and 05520. Pierson v. Ray, 386 US 547, 563, 1967; Davis v. Scherer, 468 US 183, 1984, Ft.nt. 14; McCray v. State of Maryland, 456 F. 2d 1, 4, 4th Cir. 1972 and Davis v Tarrant County, Tex., 565 F. 3d 214, 225, 5th Cir. 2009.

41. Discrimination in ministerial acts of the clerk or judge are such as they are liable for, or in other words are not immune for, and the clerks and Judge Hillman have discriminated against the Reardons' by denying them of the same rights all other litigants are entitled to and enjoy as it relates to default and/or default judgment or a trial date as to damages.

42. There is nothing in F.R.Civ.P. 1, 4, 12 or 55 that says the plaintiff must prove perfect service in order to get default and default judgment against a defendant that refuses to answer or plead to a lawsuit. In fact, the case law clearly holds that if a defendant fails to plead or file a motion objecting to the

defenses under F.R.Civ.P. 12(b)(2)-(5) within the period set at F.R.Civ.P.12(a)(1)(A)(i) that under F.R. Civ.P. 12(h) said defenses are waived and forever lost if the defendant does not answer the complaint and raise said defenses, or file a motion to challenge such defenses within the 21 days required by F.R.Civ. P. 12(a)(1)(A)(i) and there is nothing in said rules that would allow a judge or clerk the authority or right to assert said defenses for a party clearly in default and the Clerks and Judge Hillman have taken it upon themselves to plead these defenses for the defaulting defendants in cases 00244, 05520 and 1:17-cv-05868 and thereby acted as counsel for said defendants when they have no right, power, authority , or discretion to so do.

47. The clerk and the Judge are protecting each other from the deliberate, willful, intentional, willing and knowing denial of the plaintiff's rights and by way of F.R.Civ.P. 1, 4, 12 and 55 and to their rights under the 1st and 5th Amendments and to the equal treatment under the law and is so discriminating against the pro se plaintiff because he is pro se and is seeking to establish precedent setting cases in the federal court that they do not want a pro se person to set.

51. The clerk's and Judge Hillman have willfully, deliberately, knowingly and intentionally, by way of a conspiracy between Judge Hillman and the named clerks, did discriminate against Mr. Reardon in cases 1:15-cv-00244, 1:15-cv-05520, 1:15-cv-08597 and case 1:17-cv-05868 as follows.

A. Judge Hillman took it upon himself in the 1st 2 cases to claim that

Mr. Reardon must prove perfect service to obtain default and default judgment which in effect voids Rules 1, 12 and 55 and he so refused to order the clerk, or he himself, to enter default and carry out his mandatory, ministerial act of so ordering the clerk to do so or him doing so. See #C below.

B. In cased 08597 Judge Hillman did take it upon himself to deliberately rule contrary to the 1st and 7th circuits, Judge Pisano in the U.S. District Court of New Jersey, and the U.S. Supreme Court case of Gabelli v SEC, 133 S.Ct. 1216, 2013 and refused to set aside his known unlawful order.

C. In case 05868 Judge Hillman did take it upon himself to conspire with the clerk's office by ordering them not to enter my lawful and rightful demand for default since the state was properly served and failed to make a timely reply 2 times. First on September 14, 2017 and then on December 28, 2017 While the court claimed the only reason why default was not entered in cases 00244 and 05520 was over service issues, there are no such issues in case 05868 and the court still denied Mr. Reardon of his rights to default. Judge Hillman and the clerk's office has denied me the equal treatment under the law and to his 1st and 5th Amendment rights and rights under F.R.Civ.P. 1, 4, 12 and 55 and has obviously conspired with each other to deny Mr. Reardon of the equal treatment under the law and his rights under the 1st and 5th Amendments and F.R.Civ.P. 1, 4, 12 and 55.

D. The request for default by the clerk or the judge is a ministerial act for which they have no immunity from or for and for which is mandatory to be

entered and they have conspired to deny Mr. Reardon of his rights under the 1st and 5th Amendment and the rights as per F.R.Civ.P. 1, 4, 12 and 55 and has in fact discriminated against Mr. Reardon. National Life Insurance Co. v United States, 277 U.S. 508, 530, 1928; Lawrence v State Tax Commission, 286 U.S. 276, 282, 1862; Olmstead v L.C., 527 U.S. 581, 614, 1989; Jackson v Birmingham Brd. Of Ed., 544 U.S. 167, 174, 2005; Ex Parte Virginia, 100 US 339, 348, 1880; Pierson v. Ray, 386 US 547, 563, 1967; Davis v Scherer, 468 US 183, 1984, Ft. Nt. 14; McCray v. State of Maryland, 456 F. 2d 1, 4, 4th Cir. 1972; In re Paoli RR Yard PCB Litigation, 221 F. 3d 449, 453, 461, 3rd Cir. 2000 and Davis v. Tarrant County, Tex., 565 F. 3d 214, 224, 225, 5th Cir. 2009.

52. Neither the clerk nor the judge has any discretionary power to refuse to enter default and default judgment on demand and they both failed to carry out their mandatory ministerial act for such and without no constitutional, legal or discretionary right or power to so refuse and has denied this pro se plaintiff of the equal treatment under the law, has denied the plaintiff of his rights set out in cases 00244, 05520, 08597 and 05868.

53. The conspiracy between Judge Hillman and his clerks is an ongoing conspiracy since it has and continues to be displayed by said defendants continued refusal to comply with the law and the rights of this pro se plaintiff as to default, right to petition, right to be heard and not to be discriminated against for no reason when said acts injuring the plaintiff are non-discretionary acts by the defendants.

Count 5

The plaintiffs incorporate the allegation above into this count as though recited herein and asks for an order to require the State to correct their records of this pro se complainant's criminal records as being void for the denial of the plaintiff's constitutional rights under the 4th , 6th , 8th , 9thand 14th Amendments and due to the loss of, lack of or usurpation of Jurisdiction of State Judges Greene and Steinberg.

Count 9

The plaintiff asks this court to so order the following due to the state's default twice and failure to produce any basis for excusable neglect.

1. The Plaintiff is hereby granted the right to plead any person's case in the state courts that anyone so chooses him to so do.

2. That the state's practice to fail to give an accused a probable cause hearing at the time of arraignment is unconstitutional and for which the state will cease failing to so do and that this is also to establish a proper basis for the bail the accused is given and to fairness and substantiation of the crimes the accused is alleged to have committed.

3. The state will from 1990 forward give the accused a bill of particulars to the offenses against the accused at the time of the charges being filed.

4. That the state will, from 1990 forward, dismiss or set aside all convictions of accuseds if they were not so tried within 1 year of the filing of charges against an accused and that Mr. Reardon's charges are to be set aside for

said defect or his records corrected to recognize this defect.

5. The state practice of trying an accused on less than the plain and solemn averment of at least 2 credible witnesses is unconstitutional and that Mr. Reardon's offenses are hereby order to be corrected to reflect this denial and for him to receive relief for said violation.

6. That from 1973 forward the state will inform the people that those who married in the eyes of God are to be considered lawfully married and did not have to take the state's marriage license and that the state will notify all those seeking to marry from here on that they are not required to take a marriage license if their marriage is lawful in the eyes of God.

7. That the state's practice of setting bail without the accuseds' right to a probable cause hearing, prior to their probable cause hearing, is in violation of the rights of the people to know that the state's charges are sufficient and that the bail is proper based upon the proofs of the state to such crimes that are charged and that all suspected criminals will be permitted to be present at all bail hearings and that they have and shall file an appeal on said bail if they believe it is excessive, that the public defenders and state courts shall so inform the accused of these rights and the records of Mr.Reardon shall be corrected to reflect he was denied these rights without just cause.

8. That the state shall stop the practice of taking money from prisoner's accounts to pay for any fees the jail or prison so feels is needed since it violates those jailed of the right not to have to pay their jailors any fees before, during or

after confinement or release.

9. That the state shall immediately change their Public defenders' laws and practices to ensure that all suspects receive a zealous and competent lawyer that will assert the suspects rights, that they will inform the suspect of his rights and need to appeal bail, that said counsel will immediately assert the suspects right to speedy trial and that said counsel will assert 4th Amendment issues and bail issues immediately upon the suspects' arrest.

10. That This state will take steps to ensure that judges who have been sued by an accused who comes before him after such a lawsuit that the judge will recuse himself from the proceedings, especially 4th Amendment Search and seizure proceedings, and that the record of Mr. Reardon shall be corrected to reflect that Judge Steinberg in fact was required to recuse himself from Sgt. Simon's request for a search warrant and thus the warrant and subsequent warrant of 6/29/90 are void and should not have been sanctioned by the state since it was approved by the appearance of a biased judge and that the 6/29/90 warrant was both by a biased judge and the fruits of the poisonous tree and Mr. Reardon's criminal records shall be corrected to reflect this due to the lack of jurisdiction, usurpation of jurisdiction, of Judge's Steinberg and the bias of Judge Greene who could not legally accept appointment by Judge Steinberg due to the bias of Judge Steinberg and due to the fact that Mr. Reardon also sued Judge Greene as well and that Mr. Reardon's records shall be corrected to reflect that this occurred in his case and should not have so occurred.

11. The state shall inform the people from 1990 forward that they were permitted to file counter criminal charges against those who are being charged with crimes that have been committed by the agents of the state against an accused and that said crimes will be prosecuted at the same time as those against the accused and that Mr. Reardon's records shall reflect that he was denied of his rights to so do this.

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOHN E. REARDON, JOHN J. REARDON, and JUDITH A. REARDON, " Civil Action No. 18-1296-BRM-DEA

Plaintiffs,

V.

NOEL HILLMAN, JAY SANCHEZ, DESIREE RAMSEY, and RY AN MERRIGAN, Opinion

Defendants.

MARTINOTTI, DISTRICT JUDGE

Before this Court is the Complaint of Plaintiffs John E. Reardon, John J. Reardon, and Judith A. Reardon (together "Plaintiffs"). (ECF No. 1.) The Court has screened the Complaint pursuant to the 1994 Standing Order of Chief Judge John F. Gerry ("Standing Order") because Plaintiffs name a District Court judge as a Defendant. For the reasons set forth below, Plaintiffs' Complaint is DISMISSED WITH PREJUDICE as to Judge Hillman and WITHOUT PREJUDICE as to all other Defendants based or; defendants' immunity.

I. BACKGROUND

Plaintiffs bring this action against Judge Hillman and Clerk's Office employees Jay Sanchez, Desiree Ramsey, and Ryan Merrigan, alleging violations of their First, Fifth, and Seventh Amendments rights pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202, and Bivens v. Six Unknown Named

Agents of the Federal Bureau of Narcotics, 403 U.S. 3 88 (1971), the federal analogue to an action under 42 U.S.C. § 1983. The allegations in Plaintiffs' Complaint arise from two other civil actions they are pursuing in this District, see Reardon v. Segal, et al., No. 15-00244 (D.N.J., filed Jan. 13, 2015) and Reardon v. Officer Mondelli, et. al., No. 15-05520 (D.N.J., filed July 9, 2015), both of which were before Judge

Noel Hillman. Plaintiffs claim Judge Hillman and the Clerk's Office employees "refuse[d] to enter default upon demand" in the two above mentioned actions. (ECF No. 1 Par.s 3, 4, 6, 9, 10, 13, 16, 18, 19, 23, 27, 28, 35, 48, 50, 51.) Plaintiffs further argue the merits of their underlying cases. Plaintiffs seek over $100,000,000 in compensatory, punitive, exemplary damages, loss of income, and emotional and psychological distress. (See id. (Counts 1 through 9).)

II. LEGAL STANDARD

This matter is before this Court pursuant to the Standing Order because Plaintiffs name a District Court judge as a Defendant. The Court's Standing Order requires that in all cases where a judge of this District is named as a party, the matter shall be assigned to a judge sitting in a different vicinage of this District than the one in which the named judge sits. See Court's Order of Jan. 13, 1994. Pursuant to the Standing Order, the Court need not recuse itself if the assigned judge determines the matter to be patently frivolous or if judicial immunity is plainly applicable, but the Court must reassign the matter for

transfer outside of this District in the event the matter is neither frivolous nor subject to immunity. Id. Because judicial immunity is applicable to the claims in this case, the Court need not recuse under the Standing Order.

"Ill. DECISION

Plaintiffs bring this action against Judge Hillman and the Clerk's Office employees alleging they violated their First, Fifth, Seventh Amendments rights pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202, and Bivens. (See ECF No. 1.) Specifically, Plaintiffs claim Judge Hillman and the Clerk's Office employees "refuse[d] to enter default upon demand" in Reardon v. Segal and Reardon v. Officer Mondelli, both of which were before Judge Hillman. (ECF No. 1 Par.s 3, 4, 6, 9, 10, 13, 16, 18, 19, 23, 27, 28, 35, 48, 50, 51.)

[I]t is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself." Bradley v. Fisher, 80 U.S. 335, 347 (1872). Courts have therefore held that judges are not liable in civil actions, "even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously " or corruptly." Id. at 351. The doctrine of judicial immunity has been determined to be "applicable in suits under§ 1 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, for the legislative record gave no indication that Congress intended to abolish this

long-established principle." Stump v.Sparkman, 435 U.S. 349, 355-56 (1978) (citing Pierson v. Ray, 386 U.S. 547 (1967)). See also Gallas v. Supreme Court of Pa., 211 F.3d 760, 768 (3d Cir. 2000) ("The Supreme Court long has recognized that judges are immune from suit under section 1983 for monetary damages arising from their judicial acts."). Because Bivens is the federal analogue to an action under 42 U.S.C. "§ 1983, the doctrine of judicial immunity also applies to such causes of action. See Harvey v. Loftus, 505 F. App'x 87, 90 (3d Cir. 2012.

This immunity, however, is not indefinite. Instead, it is "justified and defined by the functions it protects and serves." Forrester v. White, 484 U.S. 219, 227 (1988). lrnmunity does not extend to actions not within the judge's official capacity, nor does it extend to actions taken in the absence of all jurisdiction. Mireles v. Waco, 502 U.S. 9, 11-12 (1991). To determine whether an act is "judicial," the Court looks to whether the act performed by the judge "is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." Gallas, 211 F.3d at 768-69 (quoting Stump, 435 U.S. at 362). In inquiring as to whether an act was performed in the absence of all jurisdiction, and therefore not subject to immunity , the Court must distinguish those acts that were merely performed "in excess of jurisdiction," to which the immunity extends. Id. at 769.

Here, Plaintiffs sue Judge Hillman because he did not enter default

judgment in their favor. This is clearly "a function normally performed by a judge." Id. at 768-69 (quoting Stump, 435 U.S. at 362); see, e.g., Bey v. Bruey, No. 09-1092, 2009 WL 961411, at *3 (D.N.J. Apr. 8, 2009) (finding that "entering, refusing to enter, or failing to enter default" is a judicial function entitled to immunity); Fischer v. United States, No. 02-691, 2003 WL 21262103, *4-*5 (C.D. Cal. 2003) (finding that court clerks were immune from claims that they had obstructed justice and • • encouraged organized crime by not entering defaults, by entering motions to dismiss as answers, by entering prohibited pre-trial motions, or by altering the sequence of events (numbers and entry dates) while supposedly correctly docketing a case (citation omitted)). Because Plaintiffs allege no facts suggesting Judge Hillman acted in the complete absence of jurisdiction, Judge Hillman is immune from suit. [1] Accordingly, this action is DISMISSED in its entirety as to Judge Hillman WITH PREJUDICE. Dismissal of the Complaint with prejudice as to Judge Hillman is warranted here as any further amendment would be futile since Judge Hillman is immune from suit. [2]

judicial immunity from damages for civil rights violations when they perform tasks that are an integral part of the judicial process." Mullis v. U.S. Bankr.

1 Indeed, Plaintiffs' complaints in Reardon v. Segal, etal., No. 15-00244 (D. N.J. filed Jan. 13, 2015) and Reardon v. Officer Mondelli, et. al., No. 15-05520 (D.N.J. filed July 9, 2015) are brought pursuant to federal jurisdiction and admit Judge Hillman had jurisdiction.

Court/or Dist. of Nev., 828 F.2d 1385, 1390 (9th Cir. 1987); Akins v. Deptford Twp., 813 F. Supp. 1098, 1102-03 (D.N.J.), aff'd, 995 F.2d 215 (3d Cir.), cert. denied, 510 U.S. 981 (1993). Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).

In Antoine v. Byers & Anderson, Inc., 508 U.S. 429 (1993), in response to a court reporter asserting a defense of absolute judicial immunity, the Supreme Court revisited the question of when judicial or quasi-judicial immunity should be extended to persons who participate in the judicial function. The Court found judicial immunity is extended to officials other than judges when "their judgments are 'functional[ly] comparab[le]' to those of judges-that is, because they, too, 'exercise a discretionary judgment' as a part of their function." Id. at 436 (citations omitted). As such, under this "functional approach," courts must look to the nature of the function performed and not to the identity of the actor performing it. See Buckley v. Fitzsimmons, 509 U.S. 259, 269 (1993). The Third Circuit has

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2 In determining a motion for leave to amend, courts consider the following factors: (1) undue delay on the part of the party seeking to amend; (2) bad faith or dilatory motive behind the amendment; (3) repeated failure to cure deficiencies through multiple prior amendments; (4) undue prejudice on the opposing function. See Hughes v. Long, 242 F .3d 121 (3d Cir. 200 I). "Court clerks have absolute quasi- Judicial immunity may also extend to professionals who assist courts in their judicial " " party; and/or (5) futility of the amendment. See Great Western Mining & Mineral Co. v. Fox Rothschild LLP, 615 F .3d 159, 174 (3d Cir. 2010)(quoting Foman v. Davis, 371 U.S. 178, 182 (1962)). An amendment is futile if it "is frivolous or advances a claim ... that is legally insufficient on its face." Harrison Beverage Co. v. Dribeck Imp., Inc., 133 F.R.D. 463, 468 (D.N.J. 1990) (citations omitted). To evaluate futility, the Court uses "the same standard of legal sufficiency" as applied to a motion to dismiss under Rule 12(b)(6). Shane v. Fauver, 213 F.3d 113, 115 (3d Cir. 2000)

applied this "functional approach" to hold that court-appointed custody evaluators enjoyed absolute judicial immunity from civil rights liability because they acted as "arms of the court," "a non-judicial person who fulfills a quasi-judicial rote at the court's request." See Hughes, 242 F.3d at 126. Courts have noted that"[a] court's inherent power to control its docket is part of its function of resolving disputes between parties. This is a function for which judges and their supporting staff are afforded absolute immunity." Bey, 2009 WL 961411, at *3 (quoting Rodriguez v. Weprin, 116 F.3d 62, 66 (2d Cir. 1997)); see Doyle v. Camelot Care Centers, Inc., 305 F.3d 603, 622-23 (7th Cir. 2002); In re Castillo, 297 F.3d 940, 951 (9th Cir. 2002). Moreover, courts in this Circuit and others have extended and continue to extend quasi-judicial immunity to court clerks who are alleged to have acted incorrectly or improperly in the management of a court's docket. See, e.g.

Fischer, 2003 WL 21262103, *4-*5 (finding that court clerks were immune from claims that they had obstructed justice and encouraged organized crime by not entering defaults, by entering motions to dismiss as answers,by entering prohibited pre-trial motions, or by altering the sequence of events (numbers and entry dates) while supposedly correctly docketing a case (citation omitted)); Davis v. Phila. Cty., 195 F. Supp. 2d 686, 688 (E.D. Pa. 2002) (finding the Clerk of Judicial Records" was entitled to immunity because he or she was a court staff member acting in his or her official capacity).

In Bey, the plaintiff brought a civil action against three Clerk's Office employees alleging the Clerk's Office did not enter default upon plaintiffs request. Bey, 2009 WL 961411, at *2. Ultimately, the Court found the entry of default to be a judicial function, warranting immunity. Id. at 4. The Court, in analyzing whether or not entering default was a judicial function, stated:

In the present case, the Federal Rules of Civil Procedure entrust to the Clerk of Court and his deputies the function of determining whether default should be entered. Rule 55(a), Fed.R.Civ.P., provides:

> Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter default.

Fed.R.Civ.P. 55(a).3 Under Rule 55(a), the Clerk is called upon to ascertain, from the proofs submitted, whether the defendant has been served with the Summons and complaint in accordance with the rules governing such service, when the service occurred, when the time to answer or otherwise plead has expired, whether the time to answer has been enlarged, and ultimately whether the defendant has failed to plead or otherwise defend. These are highly fact-sensitive determinations of a judicial nature, entrusted to the clerk and deputy clerks. Thus, as stated by a leading commentator, "The clerk's function [in deciding whether to enter default] is not perfunctory. Before entering a default, the clerk must examine the affidavits filed and find that they meet the requirements of Rule 55(a)."

10 A Wright, Miller & Kane, Federal Practice and Procedure § 2682 at p. 19

(citations omitted). " Id. at 4. Lastly, the Court noted "entering, refusing to enter, or failing to enter default, the clerk and

deputy clerks of court are performing a function at the core of adjudication." Id. Here, Plaintiffs argue the Clerk's Office employees refused to enter a default judgment against the defendants in the other two civil matters. Therefore, like the Clerk's Office employees in Bey, the Clerk's Office employees here are also entitled to immunity for the actions they took in their capacities as employees of the United States District Court. The Complaint does not allege the Clerk's Office employees acted in their individual capacities and does not state a claim for a violation of any clearly established constitutional rights so as to waive the Clerk's Office employees' entitlement to immunity. See Person v. Callahan, 555 U.S. 223, 129 S. Ct. 808, 815 "(2009) ("The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" (citation omitted)). Accordingly, Judge Hillman and the Clerk's Office employees are immune from suit and this matter is DISMISSED WITHOUT PREJUDICE in its entirety. As such, judicial immunity is plainly applicable to the claims in this case and the Court need not recuse under the Standing Order.

"IV. CONCLUSION "

For the reasons stated above, Plaintiffs' Complaint is DISMISSED .WITH PREJUDICE s to Judge Hillman and WITHOUT PREJUDICE as to the Clerk's Office employees. An appropriate order follows.

Date: April 6, 2018

/s/ Brian R, Martino«;
HON. BRIAN R. MARTINOTTI "
UNITED STATES DISTRICT JUDGE

Case: 18-1880 Document: 003113019765 Page: 1 Date Filed: 08/28/2018

BLD'-295 NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

"No. 18-1880 "

JOHN E. REARDON; JUDITH A. REARDON; JOHN J. REARDON,
Appellants

V

NOEL HILLMAN; JAY SANCHEZ; DESIREE RAMSEY; RY AN MERRIGAN

On Appeal from the United States District Court for the District of New Jersey (D.C. Civil No. 3-18-cv-01296)

District Judge: Honorable Brian R. Martinotti Submitted for Possible Dismissal Due to a Jurisdictional Defect, and on Appellees' Motion for Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 "

August 23, 2018

Before: RESTREPO, BIBAS, and NYGAARD, Circuit Judges

(Opinion filed: August 28, 2018)

OPINION

PERCURIAM

This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Case: 18-1880 Document: 003113019765 Page: 2 Date Filed: 08/28/2018

Appellant, John E. Reardon, submitted a pro se complaint in the United States District Court for the District of New Jersey on behalf of himself, and Judith A. and John J. Reardon, against District Court Judge Noel Hillman

and three employees of the District Court's Clerk's Office ("Clerk's Office employees"). The Reardons alleged, inter alia, that District Judge Hillman and the Clerk's Office employees violated certain of their constitutional rights by refusing to grant their various motions for default judgment filed in two other civil actions they are litigating in the District of New Jersey. The District Court concluded that the complaint was barred by judicial immunity. Accordingly, it dismissed the action against District Judge Hillman with prejudice and dismissed the complaint without prejudice as to the Clerk's Office employees. John E. Reardon appeals.[1] from suit for monetary damages arising from their judicial acts.

We have jurisdiction under 28 U.S.C. § 1291,and conclude that the District Court did not err in dismissing Reardon's complaint. [2] The Supreme Court has long recognized that judges are immune Although the District Court originally dismissed the complaint against the Clerk's Office employees without prejudice, Reardon has, through his later submissions,

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[1] John E. Reardon has filed a notice of appeal on behalf of himself and on behalf of John J. Reardon and Judith A. Reardon. However, a person who is not a licensed attorney may only represent himself in this Court. See 28 U.S. C. § 1654; see also Becker v. Montgomery, 532 U.S. 757, 760, 768 (2001) (appeal may proceed so long as appellant promptly supplies signature). John E. Reardon does not appear to be a licensed attorney, and John J. Reardon and Judith A. Reardon never personally signed the notice of appeal as directed by the Clerk's Office. Accordingly, the appeal will proceed as to John E. Reardon only.

[2] indicated his intent to stand on the complaint as filed. Therefore, the appeal will not be dismissed for lack of jurisdiction. See Borelli v. City of Reading, 532 F.2d 950, 951-52 (3d Cir. 1976). Moreover, the District Court entered a subsequent order dismissing the entirety of the complaint with prejudice.

See-Mireles v. Waco, 502 U.S. 9, 9 (1991); Forrester v. White, 484 U.S. 219,

225-27 (1988); Stump v. Sparkman, 435 U.S. 349, 355-56 (1978). Judicial immunity applies unless the judge's actions either were nonjudicial or were taken in the complete absence of jurisdiction. See Gallas v. Supreme Court of Pa., 211 F.3d 760, 768-69 (3d Cir. 2000) (citing Mireles, 502 U.S. at 11-12). Likewise, a Court Clerk or judicial officer enjoys absolute quasi-judicial immunity when he or she performs a "judicial act," such as entry of a default judgment. See Lundahl v. Zimmer, 296 F.3d 936,939 (10th Cir. 2002).

The District Court correctly concluded that absolute judicial immunity applies in this case insofar as Reardon claims his injuries stem directly from the failure of District Judge Hillman and the Clerk's Office employees to direct the entry of default judgment in his favor. These actions (or, perhaps more appropriately, refusals) were not taken in the complete absence of jurisdiction but were in furtherance of their official, judicial duties, and thus may not serve as the bases for an award of civil damages. As a result, the District Court appropriately dismissed the complaint. See Gallas, 211 F.3d at 770. Accordingly, because this appeal presents no substantial issue, we will grant appellees' motion and summarily affirm the District Court's order of dismissal. See Third Circuit " "LAR 27.4 and I.O.P. 10.6. "

Date Filed	#	Docket Text 1:15-cv-00244
01/13/2015	1	Complaint Received. (Attachments: # 1 Exhibit A, # 2 Exhibit B,# 3 Memorandum of Law, # 4 Envelope)(bdk,) NO IFP/FF (Entered: 01/14/2015)
01/15/2015	2	Clerk's Letter: Complaint not accompanied by the filing Fee Or application to proceed in forma pauperis. (Bdk,) (Entered:01/15/2015)
01/15/2015	3	Exhibit to 1 Complaint Received by JOHN E. REARDON. (Attachments: # 1 Cover Letter & Envelope)(bdk,) (Entered: 01/16/2015)
01/21/2015	4	Exhibit to 1 Complaint Received by JOHN E. REARDON. (Bdk,)(Entered: 01/21/2015)
01/22/2015	5	Letter from JOHN E. REARDON re: filing of a motion in 15-cv-244. (bdk,) (Entered: 01/22/2015)
01/22/2015	6	Exhibit to 1 Complaint Received by JOHN E. REARDON. (bdk,)(Entered: 01/22/2015)
01/23/2015	7	Letter from JOHN E. REARDON re. 1/13/2015 filing, etc. (drw)(Entered: 01/23/2015)
02/05/2015	8	Letter from JOHN E. REARDON dated 2/3/2015. (tf,) (Entered: 02/05/2015)
02/05/2015	9	Exhibit and supplemental pleading to 1 Complaint Received by JOHN E. REARDON. (tf,) (Entered: 02/05/2015)
02/06/2015	10	Letter from JOHN E. REARDON re. Status of Case. (drw) (Entered: 02/06/2015)
02/20/2015		Filing fee: $ 400, receipt number CAM004832 (bdk,) (Entered: 02/23/2015)
02/20/2015	11	SUMMONS ISSUED as to HOPKINS, RICHARD KLEIN, MENNETTI,MILLER, PAGE, VINCENT SEGAL Attached is the official court Summons, please fill out Defendant and Plaintiffs attorney information and serve. Issued By *Brian D. Kemner* (bdk,)(Entered: 02/23/2015)

Date Filed	#	Docket Text 1:15-cv-00244
03/11/2015	12	Letter from JOHN E. REARDON re. Additional Legal Issues. (Attachments: # 1 Exhibit)(drw) (Entered: 03/16/2015)
03/11/2015	13	Letter from JOHN E. REARDON.(drw)(Entered: 03/16/2015)
03/20/2015	14	SUMMONS Returned Executed (Served by Certified Mail). RICHARD KLEIN served on 3/6/2015; NJ ATTORNEY GENERAL served on 3/9/2015, filed by JOHN E. REARDON. (drw) (Entered: 03/24/2015)
03/23/2015	15	SUMMONS Returned Executed (Served by Certified Mail). VINCENT SEGAL served on 3/17/2015, filed by JOHN E. REARDON. (drw) (Entered: 03/24/2015)

Date Filed	#	Docket Text 1:15-cv-05520:
07/09/2015	1	COMPLAINT against CAPLAN, MARY EVA COLALILLO, CRIMINAL AND CIVIL DOCKET CLERKS OF CAMDEN COUNTY FROM JUNE 1990 TO FEBRUARY 1992, BRUCE DAWSON, JAMES FARMER, WARREN FAULK, HOWARD C. GILFERT, GREENE, JAMES LEASON, MONDELLI, JAMES P. MULVIHILL, ANDREW ROSSETTI, A.L. SIMON, FRANK J. SOLTIS, STEINBERG, S. KEVEN WALSHE (Filing and Admin fee $400 receipt number CAM007024) with JURY DEMAND, filed by JOHN E. REARDON. (Attachments: # 1 Addendum to Complaint, # 2 Envelope)(jjc) (Entered: 07/15/2015)
07/15/2015	2	SUMMONS ISSUED as to CAPLAN, MARY EVA COLALILLO, BRUCE DAWSON, JAMES FARMER, WARREN FAULK, HOWARD C. GILFERT, GREENE, JAMES LEASON, MONDELLI, JAMES P. MULVIHILL, ANDREW ROSSETTI, A.L. SIMON, FRANK J. SOLTIS, STEINBERG, S. KEVEN WALSHE with answer to complaint due within 21 days. (tf,) (Entered: 07/15/2015)
07/27/2015	3	AMENDMENT to lawsuit as to facts and Parties/ Defendants by JOHN E. REARDON. (TH,) (Entered: 07/27/2015)
08/04/2015	4	AMENDMENT to lawsuit as to Parties/Defendants and as to Damages by JOHN E. REARDON. (TH,) (Entered: 08/04/2015)
08/21/2015	5	ADDENDUM for clarification of 1 Complaint by JOHN E. REARDON. (TH,) (Entered: 08/21/2015)
08/24/2015	6	Letter from John E. Reardon withdrawing Mary Eva Colalillo and replacing her with Edward F. Borden, Jr.. (TH,) (Entered: 08/24/2015)

Date Filed	#	Docket Text 1:15-cv-05520:
08/25/2015	7	AMENDED DOCUMENT to lawsuit as to relief as to Count 17 by JOHN E. REARDON. (TH,) (Entered:

		08/25/2015)
09/18/2015	8	Letter from John E. Reardon re: Discrimination.(TH,) (Entered: 09/18/2015)
09/29/2015	9	SUMMONS Returned Executed by JOHN E. REARDON. CAPLAN served on 9/18/2015, answer due 10/9/2015; BRUCE DAWSON served on 9/21/2015, answer due 10/13/2015; JAMES FARMER served on 9/18/2015, answer due 10/9/2015; WARREN FAULK served on 9/18/2015, answer due 10/9/2015; HOWARD C. GILFERT served on 9/18/2015, answer due 10/9/2015; JAMES P. MULVIHILL served on 9/21/2015, answer due 10/13/2015; ANDREW ROSSETTI served on 9/18/2015, answer due 10/9/2015; FRANK J. SOLTIS served on 9/18/2015, answer due 10/9/2015; S. KEVEN WALSHE served on 9/18/2015, answer due 10/9/2015. (The following are not named defendants, and summons were not issued by the Court: EDWARD F. BORDEN, JR., OUR LADY OF LOURDES HOSPITAL, OFFICER MULLER, JUDGE GAUKIN, and JUDGE KESTIN) (TH,) (Entered: 09/29/2015)
10/09/2015	10	Certified Mail Receipt Returned sent to GREENE, JAMES LEASON, filed by JOHN E. REARDON. (TH,) (Entered: 10/09/2015)
10/26/2015	11	Letter and Application for an Order for Injunctive Relief from John E. Reardon. (TH,) (Additional attachment(s) added on 10/27/2015: # 1 Duplicate Papers) (TH). (Entered: 10/26/2015)
10/28/2015	12	Letter from DAG Brian P. Wilson re: Plaintiff's Failure to Properly Serve State Defendants. (WILSON, BRIAN) (Entered: 10/28/2015)
10/28/2015	13	NOTICE of Appearance by BRIAN P. WILSON on behalf of GREENE, STEINBERG (WILSON, BRIAN) (Entered: 10/28/2015)
Date Filed	#	Docket Text 1:15-cv-05520:
10/28/2015	14	Guide re: Exhibits from John E. Reardon. (TH,) (Main Document 14 replaced on 9/7/2017) (aji).

		Modified on 10/9/2018 (aji,).(Entered: 10/29/2015)
10/28/2015	15	Exhibit to 11 Letter and Application for an Order for Injunctive Relief by JOHN E. REARDON. (Attachments: # 1 Letter and Proposed Order)(TH,) (Entered: 10/29/2015)
10/28/2015	16	SUMMONS Returned Executed by JOHN E. REARDON. JUDGE GREENE served on 9/23/2015, answer due 10/14/2015; JUDGE STEINBERG served on 10/7/2015, answer due 10/28/2015. (TH,) (Entered: 10/29/2015)
10/28/2015	17	Summons Returned Unexecuted by JOHN E. REARDON as to MONDELLI, A.L. SIMON.(TH,) (Entered: 10/29/2015)
10/28/2015	18	Request for Default Judgment by JOHN E. REARDON. (TH,) (Entered: 10/29/2015)
11/03/2015	19	REPLY to State's Motion to Dismiss by way of R4(B) (4) and/or (5). (TH,) (Entered: 11/03/2015)
11/03/2015	20	MOTION to bar a Rule 11 Claim by the State and for an Order veryfying this lawsuit by JOHN E. REARDON. (TH,)(Entered: 11/03/2015)
11/03/2015		Set/Reset Deadlines as to 20 MOTION to bar a Rule 11 Claim by the State and for an Order veryfying this lawsuit. Motion set for 12/7/2015 before Magistrate Judge Ann Marie Donio. The motion will be decided on the papers. No appearances required unless notified by the court. (TH,) (Entered: 11/03/2015)
11/05/2015	21	SUMMONS Returned Executed by JOHN E. REARDON. JAMES LEASON served on 9/28/2015, answer due 10/19/2015. (TH,)(Entered: 11/05/2015)

Date Filed	#	Docket Text
01/19/2018	1	COMPLAINT against NOEL HILLMAN, RYAN MERRIGAN, DESIREE RAMSEY, JAY SANCHEZ (Filing and Admin fee $400 receipt number CAM009394) with JURY DEMAND, filed by DESIREE RAMSEY, NOEL HILLMAN, RYAN MERRIGAN, JAY SANCHEZ. (Attachments: # 1 Cover Letter, # 2 Envelope)(jem) (Entered: 01/30/2018)
01/30/2018	2	SUMMONS ISSUED as to NOEL HILLMAN, RYAN MERRIGAN, DESIREE RAMSEY, JAY SANCHEZ Attached is the official court Summons, please fill out Defendant and Plaintiff's attorney information and serve. Summonses sent via USPS on 1/30/2018. Issued By *John Moller* (jem) (Entered: 01/30/2018)
01/30/2018	3	Memorandum of Law filed by John E. Reardon, giving his position on the Court's refusal to file his Lawsuit. (mmh) (Entered: 01/31/2018)
02/13/2018	4	CERTIFICATE OF SERVICE re: Summons and Complaint. (mmh) (Entered: 02/13/2018)
03/08/2018	5	Request for Default by JOHN E. REARDON, JOHN J. REARDON, JUDITH A. REARDON against All Defendants. (Attachments: # 1 Exhibit)(mmh) (Entered: 03/09/2018)
03/12/2018		CLERK'S QUALITY CONTROL MESSAGE - Please be advised that the Request for Entry of Default for failure to plead or otherwise defend submitted by Plaintiffs on 3/8/2018 will NOT be entered because the time to plead or otherwise defend has not expired [60 days for United States Agencies, Employees, etc.]. This submission will remain on the docket unless otherwise ordered by the Court. (mmh) (Entered: 03/12/2018)
03/19/2018	6	Letter from John Reardon re 5 Request for Default. (mmh) (Entered: 03/19/2018)
03/22/2018	7	Letter from John Reardon withdrawing 5 Request for

Date Filed	#	Docket Text
		Default. (mmh) (Entered: 03/22/2018)
04/03/2018	8	Application and Proposed Order for Clerk's Order to extend time to answer as to all Defendants. Attorney DANIEL WILLIAM MEYLER for NOEL HILLMAN,DANIEL WILLIAM MEYLER for RYAN MERRIGAN,DANIEL WILLIAM MEYLER for DESIREE RAMSEY,DANIEL WILLIAM MEYLER for JAY SANCHEZ added. (Attachments: # 1 Certificate of Service)(MEYLER, DANIEL) (Entered: 04/03/2018)
04/03/2018		Clerk`s Text Order - The document 8 Application for Clerk's Order to Ext Answer/Proposed Order, submitted by DESIREE RAMSEY, NOEL HILLMAN, RYAN MERRIGAN, JAY SANCHEZ has been GRANTED. The answer due date has been set for 4/23/2018. (mmh) (Entered: 04/03/2018)
04/06/2018	9	OPINION. Signed by Judge Brian R. Martinotti on 4/6/2018. (jjc) (Entered: 04/06/2018)
04/06/2018	10	ORDER that Plaintiffs' complaint is dismissed with prejudice as to Judge Noel Hillman; that Plaintiffs' complaint is dismissed without prejudice as to Clerk's office employees. Signed by Judge Brian R. Martinotti on 4/6/2018. (jjc) (Entered: 04/06/2018)

[Personal Comment: How was I heard or given the right to amend this lawsuit for additional facts and basis when the court dismissed this lawsuit without prior notice, right to be heard or right to correct technical defects peremptorily which is not allowed based on the Supreme Court decision of Foman v Davis and Shiavone v Fortune.]

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

JOHN E. REARDON, et al., Plaintiffs, V.

NOEL HILLMAN, et al.,

Defendants.

Civil Action No. 3:18-cv-1296-BRM-DEA OPINION

MARTINOTTI, DISTRICT JUDGE

Before this Court are: (1) John E. Reardon's ("Reardon") Motion for relief from judgment pursuant to Rule 60 (ECF No. 18); (2) Reardon' s Motion to Amend the Complaint (ECF No. 23); and (3) Reardon's Motion for Recusal (ECF No.24). Defendants Noel Hillman, U.S.D.J., Jay Sanchez, Desire Ramsey, and Ryan Merrigan (collectively, "Defendants") oppose the Motion for relief from judgment. (ECF No. 21.) Having reviewed the parties' submissions filed in connection with the motions and having declined to hold oral argument pursuant to Federal Rule of Civil Procedure 78(b), for the reasons set forth below, and for good cause shown, all motions are

DENIED.

I. BACKGROUND

Plaintiffs Reardon, Judith A. Reardon, and John J. Reardon (collectively "Plaintiffs") brought an action against Judge Hillman and Clerk's Office employees Jay Sanchez, Desiree Ramsey, and Ryan Merrigan, alleging violations of their First, Fifth, and Seventh Amendment rights pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202, and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). The allegations in Plaintiffs'

Complaint arose from two other civil matters they are pursuing in this District, see Reardon v. Segal, eta!., No. 15-00244 (D.N.J., filed Jan. 13, 2015) and Reardon v. Officer Mondelli, et. al., No. 15-05520 (D.N.J., filed July 9, 2015),

both of which were before Judge Hillman. Plaintiffs claim Judge Hillman and the Clerk's Office employees "refuse]d] to enter default upon demand"in those matters. (ECFNo. 1113,4,6,9, 10, 13, 16, 18, 19,23,27,28,35,48,50,51.) Plaintiffs further argued the merits of their underlying cases and seek $100,000,000 in compensatory, punitive, exemplary damages, loss of income, and emotional and psychological distress. (See id. (Counts 1 through 9).)
On April 6, 2018, this Court dismissed Plaintiffs' Complaint with prejudice. (ECF No. 9.) On April 19, 2018, Plaintiffs filed a notice of appeal to the Third Circuit. (ECF No. 14.) On April 28, 2018, the Third Circuit affirmed this Court's dismissal of Plaintiffs' complaint. See Reardon v. Hillman, 735 F. App'x 45, 46 (3d Cir. 2018). (ECF No. 20.) Over six months after this Court's initial dismissal of Plaintiffs' Complaint, Reardon filed a Motion for relief from judgment pursuant to Rule 60 (ECF No. 18) and a request setting out additional facts and law (ECF No. 19). Subsequently, on October 31, 2018, Reardon field a Motion to Amend the Complaint. (ECF No. 23.) On November 1, 2018,
Reardon filed a Motion for Recusal. (ECF No. 24.) On December 12, 2018, Reardon filed another request to add additional case law to his Rule 60 Motion. (ECF No. 25.)

II. LEGAL ST ANDA RDS A. Motion to Reopen

"Rule 60(b) allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances including fraud, mistake, and newly discovered evidence," Gonzalez v. Crosby, 545 U.S. 524, 529, 125 S. Ct. 2641, 162 L.Ed.2d 480 (2005), as

well as "inadvertence, surprise, or excusable neglect," Fed. R. Civ. P. 60(b)(l). "The remedy provided by Rule 60(b) is extraordinary, and special circumstances must justify granting relief under it." Jones v. Citigroup, Inc., No. 14-6547, 2015 WL 3385938, at *3 (D.N.J. May 26, 2015) (quoting Moolenaar v. Gov 't of the Virgin Islands, 822 F .2d 1342, 1346 (3d Cir. 1987)). A Rule 60(b) motion "may not be used as a substitute for appeal, and .legal error, without more cannot justify granting a Rule 60(6) motion." Holland v. Holt, 409 F. App'x 494, 497 (3d Cir. 2010) (quoting Smith v. Evans, 853 F.2d 155, 158 (3d Cir. 1988)). A motion under Rule 60(6) may not be granted where the moving party could have raised the same legal argument by means of a direct appeal. Id.

B. Motion to Reconsider:

While not expressly authorized by the Federal Rules of Civil Procedure, motions for reconsideration are proper pursuant to this District's Local Civil Rule 7.1(i). See Dunn v. Reed Group, Inc., No. 08-1632, 2010 WL 174861, at *1 (D.N.J. Jan 13, 2010). The comments to that Rule make clear, however, that "reconsideration is an extraordinary remedy that is granted 'very sparingly.'" L.Civ.R. 7. 1(i) cmt. 6(d) (quoting Brackett v. Ashcroft, Civ. No. 03-3988, 2003 WL 22303078, *2 (D.N.J. Oct. 7, 2003)); see also Langan Eng'g & Envtl. Servs., Inc. v. Greenwich Ins. Co., No. 07-2983, 2008 WL 4330048, at *1 (D.N.J. Sept.17, 2008) (explaining that a motion for reconsideration under Rule 7.1(i) is" 'an extremely limited procedural vehicle,' and requests pursuant to th[is] rule are to be granted 'sparingly' ") (citation omitted); Fellenz v. Lombard Inv. Corp., 400 F. Supp. 2d 681, 683 (D.N.J. 2005).

A motion for reconsideration "may not be used to re-litigate old matters, nor to raise arguments or present evidence that could have been raised prior to the entry of judgment." P. Schoenfeld Asset Mgmt., LLC v. Cendant Corp., 161 F. Supp. 2d 349,352 (D.N.J. 2001). Instead,

Local Civil Rule 7. 1(i) directs a party seeking reconsideration to file a brief "setting forth concisely the matter or controlling decisions which the party believes the Judge or Magistrate Judge has overlooked." L.Civ.R. 7.1(i); see also Bowers v. Nat'l Collegiate Athletic Ass'n, 130 F. Supp. 2d 610,612 (D.N.J. 2001) ("The word 'overlooked' is the operative term in the Rule.").

To prevail on a motion for reconsideration, the moving party must show at least one of the following grounds: "(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [made its initial decision]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." Max's Seafood Cafe by Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999); see also N. River Ins. Co. v. CIGNA Reinsurance, Co., 52 F. 3d 1194, 1218 (3d Cir. 1995) (internal quotations omitted). A court commits clear error of law "only if the record cannot support the findings that led to the ruling." ABS Brokerage Servs. v. Penson Fin. Servs., Inc., No. 09-4590, 2010 WL 3257992, at *6 (D.N.J. Aug. 16, 2010) (citing United States v. Grape, 549 F. 3d 591, 603-04 (3d Cir. 2008)). "Thus, a party must ... demonstrate that (1) the holdings on which it bases its request were without support in the record, or (2) would result in 'manifest injustice' if not addressed." Id. Moreover, when the assertion is that the Court overlooked something, the Court must have overlooked some dispositive factual or legal matter that was presented to it. See L.Civ.R. 7.1 (i).

In short, "[m]ere 'disagreement with the Court's decision' does not suffice." ABS Brokerage Servs., 2010 WL 3257992, at *6 (quoting P. Schoenfeld Asset

Mgmt., LLC, 161 F. Supp. 2d at 353); see also United States v. Compaction Sys. Corp., 88 F. Supp. 2d 339,345 (D.N.J. 1999) ("Mere disagreement with a court's decision normally should be raised through the appellate process and is inappropriate on a motion for [reconsideration]."); Florham Park Chevron, Inc. v. Chevron US.A., Inc., 680 F. Supp. 159, 163 (D.N.J. 1988); Schiano v. MBNA

Corp., No. 05-1771, 2006 WL 3831225, at *2 (D.N.J. Dec. 27, 2006) ("Mere disagreement with the Court will not suffice to show that the Court overlooked relevant facts or controlling law, ... and should be dealt with through the normal appellate process .... ") (citations omitted).

Ill. DECISION

As a preliminary matter, Reardon argues this Court did not have the authority to sua sponte screen their Complaint. (ECF No. 18 at 3-4, 8-9.) That argument is incorrect. The Court had the authority to screen the Complaint pursuant to the 1994 Standing Order of Chief Judge John F. Gerry because Plaintiffs named a district court judge as a Defendant.

The remainder of Reardon's Motion argues what the Court previously decided and what the Third Circuit affirmed-that Defendants were not entitled to immunity. (See ECF No. 18.) Similarly, Reardon's "additional facts and law" filed in support of his Rule 60(b) motion attempt to demonstrate that the Clerk's Office is not covered by judicial immunity because the acts giving rise to this suit derive from "ministerial" and non-"judicial" duties. (ECF No. 19 at 5.) Reardon is simply attempting to re-litigate issues that have already been decided by this Court and the Third Circuit. See Reardon v. Hillman, 735 F. App'x 45, 46 (3d Cir. 2018).

Neither Rule 60(b) motions nor motions to reconsider provide avenues for re-litigating already decided issues. See Smith, 853 F.2d at 158; see also P. Schoenfeld Asset Mgmt., LLC, 161 F. Supp. 2d at 352. Rule 60 only allows a party to seek relief from judgment "under a limited set of circumstances including fraud, mistake, and newly discovered evidence," Gonzalez, 545 U.S. at 529, as well as "inadvertence, surprise, or excusable neglect," Fed. R. Civ. P. 60(b)(l). To prevail on a motion for reconsideration, the moving party must show at least one of the following grounds: "(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [made its initial decision]; or (3) the need to correct a clear error of law

or fact or to prevent manifest injustice." Max's Seafood Cafe by Lou-Ann, Inc., 176 F.3d at 677. Reardon has not demonstrated any of these elements.

Moreover, this Court is bound by the Third Circuit's opinion affirming this Court's dismissal of Plaintiffs' Complaint. See Hutto v. Davis, 454 U.S. 370, 375 (1982) ("Unless we wish anarchy to prevail within the federal system, a precedent of this Court must be followed by the lower federal courts no matter how misguided[1] the judges of those courts may think it to be."); Lee v. Cameron, No. 08-1972, 2015 WL 9598895, at *3 (M.D. Pa. Oct. 13, 2015) ("[T]he orderly functioning of the judiciary would no doubt crumble if trial judges were free to disregard appellate rulings."). Here, the Third Circuit has affirmed this Court's decision and stated:

The District Court correctly concluded that absolute judicial immunity applies in this case insofar as Reardon claims his injuries stem directly from the failure of District Judge Hillman and the Clerk's Office employees to direct the entry of default judgment in his favor. These actions (or, perhaps more appropriately, refusals) were not taken in the complete absence of jurisdiction but were in furtherance of their official, judicial duties, and thus may not serve as the bases for an award of civil damages. As a result, the District Court appropriately dismissed the complaint. See Gallas, 211 F Jd at 770. Accordingly, because this appeal presents no substantial issue, we will grant appellees' motion and summarily affirm the District Court's order of dismissal. See Third Circuit LAR 27.4 and I.O.P. 10.6.

Reardon, 735 F. App'x at 46. This Court has no authority to deviate from the Third Circuit's ruling in this case.

Notably, a trial court may "consider, as a matter of first impression, those IV.

CONCLUSION

issues For the reasons stated above, Reardon's Rule 60 Motion (ECF No. 18), Motion to Amend (ECF No. 23), and Motion for Recusal (ECF No. 24) are DENIED. Date: January 7, 2019

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1 Of course, this Court is not suggesting the Third Circuit's ruling was in any way misguided. not expressly or implicitly disposed of by the appellate decision." Bankers Trust Co. v. Bethlehem Steel Corp., 761 F.2d 943,950 (1985). However, here, the issues Reardon moves the Court to reconsider are the exact issues decided by the Third Circuit-the extension of judicial immunity to Clerk's Office staff in entering default judgments. Accordingly, Reardon's Motion for relief from the Court's prior Order is DENIED.2

2 Because the Third Circuit has affirmed the Court's prior Opinion, his Motion to Amend the Complaint and Motion for Recusal are DENIED as MOOT. See, e.g., Lane v. Simon, No. 04- 4079-JAR, 2007 WL 4365433, at *1-2 (D. Kan. Dec. 7, 2007) (denying plaintiffs' Motion for Leave to File Amended Complaint and defendants' Motion to Dismiss as moot due to the Tenth Circuit's affirmance).

Isl Brian R. Martinotti

HON. BRIAN R. MARTINOTTI UNITED STATES DISTRICT JUDGE

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[Personal Comment: Under what premise of law do the lower courts assume to act legally and constitutionally in screening a case to deny Due Process to Notice and to be Heard? Also, How do you re-litigate something you were denied the right to litigate to begin with?]

BLD-237 NOT PRECEDENTIAL UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 19-1334

JOHN E. REARDON; JUDITH A. REARDON; JOHN J. REARDON

V.

NOEL HILLMAN; JAY SANCHEZ; DESIREE RAMSEY; RYAN MERRIGAN

John E. Reardon, Appellant

On Appeal from the United States District Court for the District of New Jersey

(D.C. Civil No. 3-18-cv-01296) Magistrate Judge: Honorable Brian R. Martinetti

Submitted on Appellees' Motion for Summary Action Pursuant to Third Circuit L.A.R. 27.4 and I.O.P. 10.6 July 18, 2019

Before: AMBRO, KRAUSE, and PORTER, Circuit Judges

(Opinion filed July 19, 2019)

OPINION*

PER-CURIAM-

* This disposition is not an opinion of the full court and pursuant to I.O.P. 5.7 does not constitute binding precedent

Case: 19-1334 __ Document: 003113296260 Page: 2 Date Filed: 07/19/2019

Prose appellant John Reardon appeals the District Court's order denying several post-judgment motions. The Government has filed a motion for summary affirmance. We will grant the Government's motion and summarily affirm the District Court's judgment. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

In his complaint, Reardon alleged that District Judge Noel Hillman and three employees of the District of New Jersey's Clerk's Office violated his constitutional rights by refusing to enter default and a default judgment in his favor in two other actions that he litigated in the District of New Jersey.
The District Court dismissed the complaint with prejudice as to Judge Hillman and without prejudice as to the other defendants. Reardon elected to stand on his complaint and appealed to this Court. We affirmed, concluding that "[t]he District Court correctly concluded that absolute judicial immunity applies in this case insofar as Reardon claims his injuries stem directly from the failure of District Judge Hillman and the Clerk's Office employees to direct the entry of default judgment in his favor." See Reardon v. Hillman, 735 F. App'x 45, 46 (3d Cir. 2018) (per curiam) (non-precedential).

Reardon then filed a Rule 60(b) motion in the District Court. He alleged that the Courts had erred in concluding that the defendants were immune from suit and that the District Court had erroneously dismissed his complaint sua sponte. He also filed a motion to amend his complaint and a motion to recuse the District Judge. The District Court denied the motions, and Reardon filed a timely notice of appeal.

We have jurisdiction under 28 U.S.C. § 1291. We exercise plenary review over the denial of relief under Rule 60(b)(4), and we review orders concerning other

subsections of Rule 60(b) for abuse of discretion. See Budget Blinds, Inc. v. White, 536 F.3d 244, 251 & n.5 (3d Cir. 2008). We review the District Court's denial of Reardon's motions for leave to amend and for recusal for abuse of discretion. See City of Cambridge Ret. Sys. v. Altisource Asset Mgmt. Corp., 908 F.3d 872, 878 (3d Cir. 2018) (amendment); Sellcridge v. United of Omaha Life Ins. Co., 360 F.3d 155, 166 (3d Cir. 2004) (recusal).

The District Court did not err in denying Reardon's motions. He raised on direct appeal all of the arguments that he presented in his Rule 60(b) motion, and in affirming, we necessarily rejected those arguments. "A request for relief pursuant to Rule 60(b) cannot be used as a substitute for an appeal," Morris v. Horn, 187 F.3d 333, 343 (3d Cir. 1999) (alteration omitted) (quoting Rolo v. City Investing Co. Liquidating Trust, 155 F.3d 644, 653 (3d Cir. 1998)), let alone as a substitute for rehearing or certiorari, see Reform Party of Allegheny Cty. v. Allegheny Cty. Dep't of Elections, 174 F.3d 305, 312 (3d Cir. 1999) (en bane); see also United Student Aid Funds, Inc. v. Espinosa, 559 U.S. 260,270 (2010) ("[A] motion under Rule 60(b)(4) is not a substitute for a timely appeal."). Thus, the District Court properly denied Reardon's Rule 60(b) motion. See generally Bell v. Eastman Kodak Co., 214 F.3d 798, 801 (7th Cir. 2000) ("The ground for setting aside a

judgment under Rule 60(b) must be something that could not have been-used-to obtain a-reversal by means of a direct appeal.").

Nor did the District Court err in denying Reardon's request to amend his complaint. The District Court provided Reardon with an opportunity to amend his complaint when it initially dismissed it, but Reardon instead chose to appeal immediately. [see appendix Pages 18-19 and 29-30 above which contradicts the Appellate Court's opinion as to the right to amend being contrary.]

3

While Fed. R. Civ. P. 15(a) gives district courts broad discretion to permit amendment, "the liberality of the rule is no longer applicable once judgment has been entered," and instead, amendment "cannot be allowed until the judgment is set aside or vacated under Rule 59 or Rule 60." Ahmed v. Dragovich, 297 F.3d 201, 207-08 (3d Cir. 2002) (quotation marks omitted).
As just noted, Reardon provided no valid basis to reopen the judgment under Rule 60(b). Moreover, insofar as Reardon merely reasserted essentially the same claims that this Court had already concluded were barred by the defendants' immunity, any amendment would have been futile. See generally id. at 209.

- -- Finally, the District Court committed no error in denying Reardon's motion to recuse. Reardon' s motion was premised on his belief that the District Court acted improperly in dismissing his complaint, but "[w]e have repeatedly stated that a party's displeasure with legal rulings does not form an adequate basis for recusal." Securacomm Consulting, Inc. v. Securacom Inc., 224 F.3d 273,278 (3d Cir. 2000).

Accordingly, we grant the Government's motion for summary disposition and will summarily affirm the District Court's judgment.

4

[Personal note: An examination of A19-31 and A39-47 above the court will see that nowhere in the Court decisions does it state that it considered and denied Mr. Reardon's claims of denial of Due Process. Had the court made such a claim I would have immediately moved to this court. However, even barring that process, a void order can not be made valid by another court and there is no requirement, the petitioner is aware of that requires him to challenge a void order by the Court of appeals to this court. But even aside from this, no court can make valid and legal a void order and since Judge Martinotti's order is void and of no force and any court who sanctions such void order is a trespasser of the law I am under no obligation to proceed to the U.S. Supreme Court back in 2018 or in 2019.]