APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2216

KUANG BAO OU-YOUNG,

Plaintiff-Appellant,

v.

JOHN G. ROBERTS, JR.; ANTHONY M. KENNEDY; STEPHEN BREYER; RUTH BADER GINSBURG; SAMUEL A. ALITO; MAXINE M. CHESNEY; WILLIAM H. ORRICK; LUCY H. KOH; BETH LABSON FREEMAN; D. LOWELL JENSEN; TERRENCE W. BOYLE; JOSEPH C. SPERO; SUSAN VAN KEULEN; SUSAN Y. SOONG; ALEX G. TSE; BRIAN J. STRETCH; BARBARA J. VALLIERE; DANIEL KALEBA; SHIAO LEE; MAIA PEREZ; DONALD M. O'KEEFE; ROBERT D. PETTIT; MARC A. HARWELL; CHRIS YAMAGUCHI; MARY GUTTORUSON; J. C. HOLLAND; T. SMITH; A. W. RUPSKA; L. WHEAT; R. KOCH; JOSEPH S. ZONNO; L. GRADDY; CHARLES L. GRIFFIN; J. WIGGINS; JAMES MCNAIR THOMPSON,

Defendant-Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:18-ct-03272-D)

Submitted: March 10, 2020

Decided: March 12, 2020

Before NIEMEYER and AGEE, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Kuang Bao Ou-Young, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kuang Bao Ou-Young appeals the district court's order dismissing his 42 U.S.C. § 1983 (2018) complaint without prejudice for failure to comply with court's previous order directing him to file a signed amended complaint and proposed summonses within 21 days of the court's order.* *See*

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* Because the district court dismissed Ou-Young's action "for procedural reasons unrelated to the contents of the pleadings," we have jurisdiction over this appeal. *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015).

Fed. R. Civ. P. 41(b). We review a district court's dismissal under Rule 41(b) for abuse of discretion. *Simpson v. Welch*, 900 F.2d 33, 25-36 (4th Cir. 1990). We have reviewed the record and find no abuse of discretion. Accordingly, we affirm for the reasons stated by the district court. *Ou-Young v. Roberts, Jr.*, No. 5:18-ct-03272-D (E.D.N.C. Oct. 2, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CT-3272-D

KUANG BAO OU-YOUG,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
JOHN G. ROBERTS, JR., et al.,	)	
	)	
Defendants.	)	

On September 28, 2018, Kuang Bao Ou-Young ("Ou-Young" or "plaintiff"), proceeding pro se, filed this action under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) [D.E. 1]. On August 30, 2019, United States District Judge Flanagan directed Ou-Young to file an amended complaint together with proposed summonses, and warned Ou-Young that his failure to comply would result in the dismissal of this action without prejudice [D.E. 17]. On September 12, 2019, the clerk reassigned the action to this court [D.E. 18].

Ou-Young did not comply with the order, and the time within which to do so has expired. The court DISMISSES the action without prejudice. See Clack v. Rappahannock Reg'l Staff, 590 F. App'x

291-92 (4th Cir. 2015) (per curiam) (unpublished); Ballard v. Carlson, 882 F.2d 93, 95-96 (4th Cir. 1989).

SO ORDERED. This 2 day of October 2019.

/s/ James Dever
JAMES C. DEVER III
United States District Judge

APPENDIX C

FILED: May 26, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2216
(5:18-ct-03272-D)

KUANG BAO OU-YOUNG

Plaintiff – Appellant

v.

JOHN G. ROBERTS, JR.; ANTHONY M. KENNEDY; STEPHEN BREYER; RUTH BADER GINSBURG; SAMUEL A. ALITO; MAXINE M. CHESNEY; WILLIAM H. ORRICK; LUCY H. KOH; BETH LABSON FREEMAN; D. LOWELL JENSEN; TERRENCE W. BOYLE; JOSEPH C. SPERO; SUSAN VAN KEULEN; SUSAN Y. SOONG; ALEX G. TSE; BRIAN J. STRETCH; BARBARA J. VALLIERE; DANIEL KALEBA; SHIAO LEE; MAIA PEREZ; DONALD M. O'KEEFE; ROBERT D. PETTIT; MARC A. HARWELL; CHRIS YAMAGUCHI; MARY GUTTORUSON; J.C. HOLLAND; T. SMITH; A. W. RUPSKA; L. WHEAT; R. KOCH; JOSEPH S. ZONNO; L. GRADDY; CHARLES L. GRIFFIN; J WIGGINS; JAMES MCNAIR THOMPSON

Defendants - Appellees

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX D

In the United States District Court for the Eastern District of North Carolina

Plaintiff's Notice of Constitutional Question

Pursuant to Federal Rule of Civil Procedure 5.1, plaintiff Kuang-Bao Ou-Young hereby gives notice that this Complaint raises questions of constitutional validity as to 18 USC §§ 4241-4248, the Criminal Justice Act of 1964, 18 USC § 3006A, and the Judicial Conduct and Disability Act of 1980, 28 USC §§ 351-364.

Complaint Jury Trial Demanded
Case No. 5:18-ct-03272-BO

Kuang-Bao Ou-Young, plaintiff pro se and inmate, Reg. N. 24238-111,
vs.
John G. Roberts Jr., chief justice, U.S. Supreme Court; Anthony M. Kennedy, retired associate justice, U.S. Supreme Court; Stephen G. Breyer, associate justice, U.S. Supreme Court; Ruth Bader Ginsburg, associate justice, U.S. Supreme Court; Samuel A. Alito Jr., associate justice, U.S. Supreme Court; Maxine M. Chesney, district judge, U.S. district court for the northern district of California ("first district court"); William H. Orrick, district judge, first district court; Lucy H. Koh, district judge, first district court; Beth Labson Freeman, district judge, first district court; D. Lowell Jensen, retired district judge, first district court; Terrence B. Boyle, district judge, U.S. district court for the eastern district of North Carolina ("second district

court"); Joseph C. Spero, chief magistrate judge, first district court; Susan van Keulen, magistrate judge, first district court; Susan Y. Soong, clerk, first district court; Alex G. Tse, acting U.S. attorney for the northern district of California; Brian J. Stretch, former U.S. attorney for the northern district of California; Barbara J. Valliere, chief, criminal division, U.S. attorney's office for the northern district of California ("first U.S. attorney's office"); Daniel Kaleba, assistant U.S. attorney ("AUSA"), first U.S. attorney's office; Shiao Lee, AUSA, first U.S. attorney's office; Maia Perez, AUSA, first U.S. attorney's office; Donald M. O'Keefe, U.S. marshal for the northern district of California; Robert D. Pettit, acting U.S. marshal for the eastern district of North Carolina; Marc A. Harwell, supervisory deputy U.S. marshal, San Jose Office, U.S. marshal for the northern district of California; Chris Yamaguchi, court security officer ("CSO"), San Jose courthouse, first district court; Mary Guttoruson, CSO, San Jose courthouse, first district court; J. C. Holland, complex warden, Federal Correctional Complex, Butner, North Carolina; T. Smith, warden, Federal Medical Center ("FMC"), Butner, North Carolina; A. W. Rupska, associate warden, FMC-Butner, North Carolina; L. Wheat, chief of psychology, FMC-Butner, North Carolina; R. Koch, forensic psychologist, FMC-Butner, North Carolina; Joseph S. Zonno, forensic psychologist, FMC-Butner, North Carolina; L. Graddy, staff psychiatrist, FMC-Butner, North Carolina; Charles L. Griffin, case manager, FMC-Butner, North Carolina; J. Wiggins, counselor, FMC-Butner, North Carolina; and

James McNair Thompson, defense counsel in the underlying criminal case, defendants.

JURISDICTION AND VENUE

This action is brought under the Federal Tort Claims Act, 28 USC §§ 2671-2680, jurisdiction is under 28 USC § 1346(b). Venue is proper under 18 USC § 4247(g) as inmate has been civilly committed at FMC-Butner since February 9, 2018.

INTRODUCTION

On September 7, 1949, Congress enacted "63 stat 686 now codified in 18 USC §§ 4244-4248, "[t]o provide for the care and custody of insane persons charged with or convicted of offenses against the United States ..." *Greenwood v. United States*, 350 US 366, 367 (1956). However, 18 USC §§ 4241-4248 constitute unconstitutional statutes as set forth below. Moreover, this Complaint challenges constitutional validity of the Criminal Justice Act of 1964, 18 USC § 3006A, as well as the Judicial Conduct and Disability Act of 1980, 28 USC §§ 351-364.

A. *Greenwood v. United States* Represents Unconstitutional Holding by the U.S. Supreme Court

The high court has justified its own ruling: "The petitioner came legally into custody of the United States, ... The District Court has found that the accused is mentally incompetent to stand trial at the present time and that, if released, he could probably endanger the officer, property, and other

interests of the United States. ... [T]he District Court has entered an order retaining and restraining petitioner, ... This commitment, and ... the legislation authorizing commitment in the context of this case, is plainly within congressional power under the Necessary and Proper Clause." *Greenwood* at 375.

However, "[the accused] is entitled to an acquittal of the specific crime charged if upon all evidence there is reasonable doubt whether he was capable in law of committing crime." *Davis v. Untied States*, 160 US 469, 484 (1885). "[T]he Due Process Clause affords an incompetent defendant the right not to be tried." *Medina v. California*, 505 US 437, 449 (1992) (citing *Drope v. Missouri*, 420 US 162, 172-173 (1975) and *Pate v. Robinson*, 383 US 375, 386 (1966)).

Furthermore, "there are significant differences between a claim of incompetence and a plea of not guilty by reason of insanity." *Medina* at 448 (citing *Drope* at 176-177 and *Jackson v. Indiana*, 406 US 715, 739 (1993)). Therefore, the District Court order retaining and restraining Greenwood constitutes "unreasonable seizure" in violation of the Fourth Amendment as well.

In *Bishop v. United States*, 350 US 961 (1956), the high court reversed D.C. District Court order denying the motion to vacate the defendant's conviction for murder under 28 USC § 2255. Defendant Bishop was declared temporarily insane, but there was substantial evidence to support the finding that Bishop was competent when he stood

trial earlier.

Thus, *Bishop v. United States* has overruled *Greenwood v. United States* and acknowledged that the latter ruling represents unconstitutional holding by the U.S. Supreme Court.

B. *Washington v. Harper* Represents Unconstitutional Holding by the U.S. Supreme Court

The majority opinion in the ruling has stated: "The central question before us is whether a judicial hearing is required before the State may treat a mentally ill prisoner with antipsychotic drugs against his will. Resolution of the case requires us to discuss the protections afforded the prisoner under the Due Process Clause of the Fourteenth Amendment." *Washington v. Harper*, 494 US 210, 213 (1990).

"Antipsychotic drugs ... are medications commonly used in treating mental disorders such as schizophrenia. ... As found by the trial court, the effect of these and similar drugs is to alter the chemical balance in the brain, the desired result being that the medication will assist that patient in organizing his or her thought process and regaining state of mind." *Harper* at 214.

"[G]iven the requirements of the prison environment, the Due Process Clause permits the State to treat a prison inmate who has a serious mental illness with antipsychotic drugs against his will, if the inmate is dangerous to himself or others

and the treatment is in the inmate's medical interest." *Harper* at 227.

However, "the Due Process Clause of the Fourteenth Amendment confers a significant liberty interest in avoiding unwanted medical treatment." *Cruzan v. Director, Mo. Health Dept.*, 497 US 261, 304 (1990) (citing *Harper* at 221-222). Moreover, "the freedom from unwanted medical attention is unquestionably among these principles 'so rooted in the traditions and conscience of our people as to be ranked as fundamental.'" *Cruzan* at 305 (citing *Snyder v. Massachusetts*, 291 US 97, 105 (1934)).

"If the First Amendment means anything, it means that a State has no business telling a man ... what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds." *Stanley v. Georgia*, 394 US 557, 565 (1969).

The First Amendment provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; of abridging the freedom of Speech, or of the Press ..." And it goes without saying that religious and political freedom originates solely from "men's free minds."

"Because that right is so fundamental to our scheme of individual liberty, its restriction may not be justified by the need to ease the administration of otherwise valid criminal laws. See *Smith v.*

California, 361 US 147 (1957)." *Stanley* at 568. *Washington v. Harper* therefore represents unconstitutional holding by the U.S. Supreme Court.

C. Nevada Courts Have Denied Riggins a Full and Fair Trial in *Riggins v. Nevada*

In *Riggins v. Nevada*, 504 US 127 (1992), the U.S. Supreme Court has reversed Nevada Court's judgment where defendant claims that forced administration of antipsychotic drug during trial violated rights under the Sixth and Fourteenth Amendments.

The dissenting opinion in the subject ruling has raised the issue: "We took this case to decide '[w]hether forced medication during trial violates a defendant's constitutional right to a full and fair trial.' ... The Court declines to answer this question one way or the other, stating only that a violation of *Harper* 'may well have impaired the constitutionally protected rights Riggins invokes.' ... As we have stated, 'we ordinarily do not consider questions outside those presented in the petition for certiorari.' ... The Harper issue, in any event, does not warrant reversal of Riggins' conviction." Riggins at 153.

The majority opinion in the ruling has stated: "We note that during the July 14 hearing Riggins did not contend that he had the right to be tried without Mellaril if its discontinuation rendered him incompetent. .. The question whether a competent criminal defendant may refuse antipsychotic

medication if cessation of medication would render him incompetent at trial is not before us. " *Riggins* at 136. However, this very issue determines whether Riggins had "a full and fare trial."

If cessation of medication renders Riggins incompetent at trail, he has constitutional right not to be tried. *Drope* at 172-173. Thus, his trial has denied Riggins the Fifth Amendment privilege against self-incrimination and Sixth Amendment right to counsel. *Estelle v. Smith*, 451 US 454 (1981). For this reason, Nevada courts have denied Rigggins "a full and fair trial." Hence forced medication of antipsychotic drug during trial has denied Riggins the Fifth Amendment privilege against self-incrimination and Sixth Amendment right to counsel.

D. *Sell v. Untied States* Represents Unconstitutional Holding by the U.S. Supreme Court

The ruling in *Sell v. United States*, 539 US 166, 179 (2003) has held: "These two cases, *Harper* and *Riggins*, indicate that the Constitution permits the Government involuntarily to administer antipsychotic drugs to mentally ill defendant facing criminal charges in order to render that defendant competent to stand trial, but only if ..."

The majority opinion in *Harper* has ruled: "[G]iven the requirements of the prison environment, the Due Process Clause permits the State to treat prison inmate who has a serious mental illness with antipsychotic drugs against his

will, if the inmate is ..." *Harper* at 227.

Both *Harper* and *Sell* allow forced medication under similar circumstances. Yet *Harper* constitutes unconstitutional holding, *supra*. On the other hand, Nevada courts have denied Riggins a full and fair trial in *Riggins v. Nevada* due to forced medication during trial. Thus, *Sell v. Untied States* represents unconstitutional holding by the U.S. Supreme Court.

E. The Right to Self-Representation under the Sixth Amendment is Absolute

The Sixth Amendment provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial ... to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

Thus, the defendant "has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so." *Faretta v. California*, 422 US 806, 807 (1985). The ruling is based on the premise that "[u]nless the accused has acquiesced in [representation through counsel], the defense presented is not the defense guaranteed him by the Constitution, for, in a very real sense, it is not his defense." *Faretta* at 821.

On the other hand, the trial system in this country allows the attorney representing a defendant "full authority to manage the conduct of trial" – an authority without which "[t]he adversary

process could not function effectively." "[T]he client must accept the consequences of the lawyer's decision to forgo cross-examination, to decide not to put certain witnesses on the stand, or to decide not to disclose the identity of certain witnesses in advance of trial." *Taylor v. Illinois*, 484 US 400, 418 (1988).

Accordingly, the ruling has allowed the counsel to restrict or relinquish a defendant's Sixth Amendment right to be confronted with the witnesses against him or the right to obtain witnesses in his favor. Yet "'it is the accused, not his counsel who must be informed of the nature and cause of the accusation,' who must be 'confronted with the witnesses against him,' and who must be accorded 'compulsory process for obtaining witnesses in his favor.'" *Faretta* at 819. Thus, when a criminal defendant asserts such rights under the adversary process, he has to waive the right to counsel. The right to self-representation under the Six Amendment is therefore absolute.

F. The Standby Counsel Provides the Technical Legal Knowledge for a Pro Se Defendant to Present His Own Defense

In *Godinez v. Moran*, 509 US 389 (1993), the high court has held: "[T]here is no reason to believe that the decision to waive counsel requires an appreciably higher level of mental functioning than the decision to waive other constitutional rights," and that "the competence that is required of a defendant to waive his right to counsel is the competence to waive the right, not the right to

represent himself." *Godinez* at 399. Therefore, "[o]ne might not be insane in the sense of being incapable of standing trial and yet lack the capacity to stand trial without the benefit of counsel." *Godinez* at 399-400 (quoting *Massy v. Moore*, 348 US 105, 108 (1954)).

Nonetheless, "[a] defendant's right to self-representation plainly encompasses certain rights to have his voice heard. The pro se defendant must be allowed to control the organization and content of his own defense, to make motions, to argue his points of law, to participate in voir dire, to question witnesses and to address the court and the jury at appropriate points in the trial." *McKaskle v. Wiggins*, 465 US 168, 174 (1984).

Still, "[a] defendant's Sixth Amendment rights are not violated when a trial judge appoints a standby counsel – even over the defendant's objection – to relieve the judge the need to explain and enforce basic rules of courtroom protocol and to assist the defendant in overcoming routine obstacles ..." *Wiggins* at 184.

Accordingly, the standby counsel provides the technical legal knowledge for a pro se defendant to present his own defense guaranteed by the Constitution.

G. *Indiana v. Edwards* Represents Unconstitutional Holding by the U.S. Supreme Court

In *Indiana v. Edwards*, 554 US 164, 174 (2008), the high court has started with the assumption:

"that a criminal defendant has sufficient mental competence to stand trial (i.e. the defendant meets Dusky's standard [*Dusky v. United States*, 362 US 402 (1968)]), and that the defendant insists on representing himself during that trial."

The ruling has concluded that "the Constitution permits judges to take realistic account of the particular defendant's mental capacities by asking whether a defendant who seeks to conduct his own defense at trial is mentally competent to do so." Edwards at 177. However, a fundamental flaw exists in this decision.

Based on *McKaskle v. Wiggins*, the standby counsel provides the technical legal knowledge for a pro se defendant to present his own defense. As a result, the trial judge should appoint standby counsel to assist a pro se criminal defendant "in overcoming routine obstacles that stand in the way of achievement of his own clearly stated goals." *Wiggins* at 184.

Thus, a defendant who seeks to conduct his own defense at trial is as competent as his standby counsel. There exists no basis for judges to take account of particular defendant's mental capacities. *Indiana v. Edwards* represents unconstitutional holding by the U.S. Supreme Court.

H. 18 USC §§ 4241-4248 Constitute Unconstitutional Criminal Statutes

Greenwood v. Untied States, *Washington v. Harper*, *Sell v. United States*, and *Indiana v. Edwards* represent unconstitutional holdings by

the U.S. Supreme Court. These rulings constitute attempts by the high court to legitimize 18 USC §§ 4241-4248.

"A detailed history of the legislation is set forth in the opinion of the Court of Appeals. ... It is sufficient to note here that the bill was proposed by the Judicial Conference of the United States ... followed by consultation with federal and circuit judges." *Greenwood* at 373.

Yet "[t]he judicial power of federal courts is constitutionally restricted to 'cases' and 'controversies.' ...[T]hose words limit the business of federal courts to questions presented in an adversary context ..." *Flast v. Cohn*, 392 US 83, 93-94 (1968).

Furthermore, "[t]he Congress shall have Power ... [t]o make all Laws which shall be necessary and proper for carrying into Execution the forgoing Powers, and all other Powers vested by this Constitution in the Government of the United States ..." Clause 18, Section 8, Article I of the Constitution.

Based on the statutes' violation of said provisions of the Constitution as well as the First, Fourth, Fifth, and Sixth Amendments, 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes. Thus, said criminal statutes are beyond the jurisdiction of federal courts. *Ex Parte Nielsen*, 131 US 176, 185 (1889).

I. The U.S. Supreme Court Has Persistently Abused Judicial Discretion in Its Review on Writs

of Certiorari

Rule 10 of the U.S. Supreme Court states: "A petition for a writ of certiorari is not a matter of right, but of judicial discretion." Rule 10(c) provides: "A petition for a writ of certiorari will be granted" when "a state court or a United States court of appeals ... has decided an important federal question in a way that conflicts with a relevant decision of this Court."

It has been shown that *Greenwood v. United States* conflicts with *Davis v. United States*, *Washington v. Harper* contradicts *Stanley v. Georgia*, *Sell v. United States* reverses *Riggins v. Nevada*, and *Indiana v. Edwards* distorts *Faretta v. California* as well as *McKaskle v. Wiggins*. Yet there exists no provision to review the high court's later decisions when they interfere with its own earlier rulings.

Justice Kennedy has delivered the opinion in *Washington v. Harper*. Justice Breyer has delivered the opinion in *Sell v. United States*, which justice Kennedy and justice Ginsburg have joined. Justice Breyer has delivered the opinion in *Indiana v. Edwards*, which chief justice Roberts, justice Kennedy, justice Ginsburg, and justice Alito have joined.

A judge is not absolutely immune from criminal liability. *Ex Parte Virginia*, 100 US 339, 348-349 (1880). Thus, said justices are liable for aforementioned unconstitutional holdings as well as the unconstitutionality of 18 USC §§ 4241-4248.

FACTUAL BACKGROUND

1. On August 28, 2015 inmate submitted his Seventh Petition for Impeachment against then-president of the U.S. Barak Obama, judge Chesney, judge Orrick, judge Koh, judge Freeman, judge Spero, magistrate judge Nathanael Coursins, then-magistrate judge Paul Singh Grewal, then-U.S. attorney general Loretta D. Lynch, then-U.S. attorney for the northern district of California Melinda Haag, marshal O'Keefe, deputy marshal Harwell, and others to the House Judiciary Committee. After naming former U.S. attorney Stretch as her successor, former U.S. attorney Haag resigned from office on September 1, 2015.

2. As follow-ups to the Seventh Petition for Impeachment, inmate submitted his Eighth and Ninth Petitions for Impeachment against then-attorney general Lynch and then-FBI director James Comey to the House Judiciary Committee on August 16, and October 11, 2016 respectively.

3. Inmate filed a complaint against Star One Credit Union, Santa Clara County sheriff's department, Santa Clara County district attorney's office, and others on December 19, 2016 (Case No. 5:16-cv-07225-EJD, "*Star One*"). Doc. No. A1. The clerk's office reassigned the case to district judge Edward J. Davila after inmate declined to proceed before judge Cousins.

4. On January 3, 2017, first district court appointed judge van Keulen to replace judge Grewal.

5. On February 3, 2017, Santa Clara County filed a complaint against the Trump administration (Case No. 3:17-cv-00574-WHO), Doc. No. B1. This case is also known as the "*Sanctuary County*" lawsuit.

6. An order signed by judge Davila on March 21, 2017 directed inmate to explain why no defendant had appeared in *Star One*, Doc. No. A16. Inmate replied to the order to show cause on March 28, 2017, Doc. No. A17.

7. Inmate moved to intervene in *Sanctuary County* and to disqualify both judge Orrick and judge Cousins from the case on March 29, 2017, Doc. No. B84. An order signed by judge Davila on March 29, 2017 dismissed *Star One* without prejudice, Doc. No. A18. On April 3, 2017, judge Orrick denied the motion to intervene in *Sanctuary County*, Doc. No. B85.

8. On April 26, 2017, inmate applied for reconsideration of the dismissal of *Star One*, Doc. No. A19. Judge Jensen, instead of judge Davila, presided over the April 27, 2017 hearing on the ex parte application. After inmate questioned the legitimacy of the hearing, judge Jensen ordered CSO Yamaguchi and CSO Guttoruson to escort inmate out of judge Davila's courtroom. Another order signed by judge Davila on April 27, 2017 denied said application for reconsideration, Doc. No. A20.

9. Judge Davila normally hears criminal cases on Mondays. Thus, inmate arrived at his courtroom

around 1:30 p.m. on May 1, 2017. Before judge Davila started the afternoon session, former U.S. attorney Stretch directed CSO Yamaguchi and CSO Guttoruson to escort inmate out of judge Davila's courtroom. Once outside the courtroom, a group of deputy U.S. marshals and CSOs joined CSO Yamaguchi and CSO Guttoruson to detain inmate at the lobby of the San Jose courthouse. U.S. Marshals Service ("USMS") booked inmate into Oakland Alameda County Jail later that evening.

10. On May 2, 2017, first U.S. attorney's office filed a complaint to institute a criminal case against inmate (Case No. 3:17-cr-00263-MMC), Doc. No. 1. During the initial appearance on the same day, judge van Keulen appointed attorney Thompson as defense counsel, Doc. No. 4. First U.S. attorney's office then moved for inmate's detention, Doc. No. 2.

11. During a May 5, 2017 detention hearing, first U.S. attorney's office renewed its motion for detention, Doc. No. 3. On May 8, 2017, judge van Keulen referred inmate to Pretrial Services for mental health assessment, Doc. No. 5. Judge van Keulen ordered inmate to be detained under 18 USC § 3142(f)(2) on May 8, 2017 as well, Doc. No. 6.

12. On May 11, 2017, first U.S. attorney's office filed an indictment in the criminal case, Doc. No. 7. Also on May 11, 2017, judge Davila recused himself from the criminal case, Doc. No. 8. The clerk's office then reassigned the case to judge Koh, Doc. No. 9. Judge Koh, however, recused herself from the

criminal case on May 11, 2017 as well, Doc. No. 10.

13. On May 12, 2017, the clerk's office reassigned the criminal case to judge Freeman, Doc. No. 11. Still, judge Freeman recused herself from the case, Doc. No. 12. The clerk's office than reassigned the criminal case to judge Chesney on May 12, 2017 as well, Doc. No. 13.

14. On May 15, 2017, the clerk's office transferred the criminal case from judge van Keulen to judge Spero, Doc. No. 14. Also on May 15, 2017, attorney Thompson moved for psychiatric examination on inmate, Doc. No. 15.

15. On May 19, 2017, judge Spero ordered inmate's conditional release from Oakland Alameda County Jail, Doc. No. 18.

16. Inmate moved to dismiss the criminal case and to disqualify first U.S. attorney's office, attorney Thompson, as well as judge Chesney and judge Spero from the case on June 6, 2017, Doc. No. 24.

17. During a June 7, 2017 hearing in the criminal case, judge Chesney continued the hearing on inmate's June 6, 2017 motion to dismiss and joinder motions to disqualify, Doc. No. 24, as well as the hearing on attorney Thompson's May 15, 2017 motion for psychiatric examination, Doc. No. 15, until July 26, 2017, Doc. No. 25.

18. On July 14, 2017, inmate moved again to dismiss the criminal case and to disqualify first U.S. attorney's office, attorney Thompson, as well

as judge Chesney and judge Spero from the case, Doc. No. 29. During a hearing later that day, judge Spero directed inmate to participate in competency evaluation with a Dr. Collins at University of San Francisco, Doc. No. 30.

19. First U.S. attorney's office opposed inmate's June 6, 2017 motion to dismiss and joinder motions to disqualify, Doc. No. 24, as well as his July 14, 2017 second motion to dismiss and joinder second motions to disqualify, Doc. No. 29, in the criminal case on July 25, 2017, Doc. No. 34.

20. On August 9, 2017, inmate walked out of her courtroom as judge Chesney was about to rule on the June 6, 2017 motion to dismiss and joinder motions to disqualify as well as the July 14, 2017 second motion to dismiss and joinder second motions to disqualify in the criminal case. Afterwards, judge Chesney ordered inmate's arrest, Doc. No. 37.

21. Inmate petitioned U.S. Department of Justice to intervene in the criminal case on August 11, 2017, Doc. No. 40.

22. In response, judge Chesney directed USMS to take inmate into custody on August 15, 2017, Doc. No. 41.

23. Judge Chesney ordered inmate to remain in jail for competency/mental health evaluation during an August 23, 201 hearing in the criminal case.

24. On August 24, 2017, a psychologist at Santa

Rita Alameda County Jail performed such an evaluation as judge Chesney ordered. According to the prison psychologist's evaluation report, inmate was in good mental health to stand trial.

25. Also on August 24, 2017, judge Chesney ordered inmate to be committed to the custody of the Attorney General for a thirty-day psychological evaluation under 18 USC § 4241(a), Doc. No. 46.

26. Inmate submitted a request for his release from Santa Rita Alameda County Jail to judge Chesney on September 5, 2017. Three days later, judge Chesney forwarded the request to attorney Thompson "for whatever action he deem[ed] appropriate."

27. On September 18, 2017, inmate released attorney Thompson as his counsel in the criminal case.

28. Based on judge Chesney's August 24, 2017 order for commitment, Doc. No. 46, USMS booked inmate into Metropolitan Detention Center Los Angeles ("MDCLA") on September 28, 2017 for a thirty-day mental health evaluation.

29. On October 2, 2017, inmate submitted a Notice of Withdrawal of Insanity Defense to judge Chesney, On October 10, 2017, judge Chesney replied in response to the notice: "Please be advised that, as the Court has not yet received the report regarding the competency evaluation, Mr. Thompson remains your attorney of record."

30. On October 25, 2017, inmate submitted a

Motion to Dismiss to judge Chesney. On October 31, 2017, judge Chesney replied in response to the Motion to Dismiss: "Your seventh letter to the Court, dated October 25, 2017, received October 30, 2017, and titled 'Defendant's Motion to Dismiss,' has been forwarded to your attorney of record, James Thompson."

31. During the first week of December 2017, USMS transferred inmate from MDCLA back to Santa Rita Alameda County Jail. During a December 13, 2017 competency hearing in the criminal case, judge Chesney found inmate "unable to assist counsel in his own defense," Doc. No. 59.

32. On December 19, 2017, judge Chesney ordered inmate to be committed to the custody of the Attorney General and to be hospitalized in a suitable facility under 18 USC § 4241(d), Doc. No. 62.

33. On January 5, 2018, then-U.S. attorney Stretch resigned from office.

34. In response to judge Chesney's December 19, 2017 order for commitment, Doc. No. 62, inmate filed a Second Motion to Dismiss and Motion to Disqualify Judge in the criminal case on January 9, 2018, Doc. No. 63.

35. Due to judge Chesney's December 19, 2017 order for commitment, Doc. No. 62, USMS transferred inmate from Santa Rita Alameda County Jail on February 5, 2018 to FMC-Butner, North Carolina, on February 9, 2018 for a four-month competency evaluation and restoration

treatment.

36. Judge Chesney denied inmate's Second Motion to Dismiss, Doc. No. 63, as well as all previous motions to disqualify in the criminal case on February 28, 2018, Doc. No. 64, while left joinder Motion to Disqualify Judge still pending.

37. On April 5, 2018, inmate petitioned second district court for a Writ of Habeas Corpus to vacate judge Chesney's December 19, 2017 order for commitment and her denial of the January 9, 2018 Second Motion to Dismiss in the criminal case (Case No. 5:18-hc-2081-BO), Doc. No. D1.

38. The clerk's office assigned inmate's April 5 Petition for a Writ of Habeas Corpus to judge Boyle for review on April 24, 2018.

39. On April 25, 2018, judge Chesney continued the hearing on inmate's competency evaluation and restoration treatment until May 23, Doc. No. 67. On April 30, judge Chesney further continued the hearing until July 11, 2018, Doc. No. 71.

40. Based on the April 5, 2018 Petition for a Writ of Habeas Corpus, inmate submitted his Eleventh Petition for Impeachment to the House Judiciary Committee on May 9, 2018.

41. On June 26, 2018, judge Chesney ordered inmate to be committed at FMC-Butner for dangerousness study under 18 USC § 4246(a), Doc. No. 74. Hearing on the study was set for August 15, 2018, On July 2, FMC-Butner requested that inmate's dangerousness study be extended for

another thirty days, Doc. No. 75. Judge Chesney granted the request for extension on July 18, Doc. No. 76, and continued the August 15 hearing until October 18, 2018, Doc. No. 77.

42. On June 27, 2018, then-U.S. Supreme Court justice Kennedy announced his retirement.

43. On September 4, 2018, inmate submitted his Twelfth Petition for Impeachment to the House Judiciary Committee.

44. Judge Boyle has yet to respond to inmate's April 5, 2018 Petition for a Writ of Habeas Corpus thus far.

CLAIMS

c1. Claim 1: Civil Rights Violation, Fabrication, and Intimidation

On February 3, 2017, Santa Clara County filed its "*Sanctuary County*" lawsuit against the Trump administration, Doc. No. B1. Based on the Seventh Petition for Impeachment as well as improprieties at California Supreme Court, California Department of Justice, and Santa Clara County, inmate moved to intervene in *Sanctuary County* and to disqualify both judge Orrick and judge Cousins from the case on March 29, 2017, Doc. No. B84. Judge Orrick denied the motion to intervene without opposition from first U.S. attorney's office, Santa Clara County or California Department of Justice on April 3, 2017, Doc. No. B85.

However, Federal Rule of Civil Procedure

24(a)(2) provides: "On timely motion, the court must permit anyone to intervene who claims an interest relating to [the property or transaction that is] the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest."

Since denial of the motion to intervene covers up improprieties at California Supreme Court, California Department of Justice, and Santa Clara County, the decision has denied inmate the Fourteenth Amendment rights to "due process of law" as well as "equal protection of the laws" as to the state California.

Thus, judge Orrick has colluded with first U.S. attorney's office to falsify denial of inmate's motion to intervene in *Sanctuary County*. Both judge Orrick and former U.S. attorney Stretch have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c2. Claim 2: Civil Rights Violation, Fabrication, and Intimidation

Former U.S. attorney Stretch had failed to prosecute judge Orrick after his April 3, 2017 denial of inmate's motion to intervene in *Sanctuary County*. The failure stems from the ruling in *Inmates of Attica Correctional Facility v. Rockefeller*, 447 F.2d 375, 379-380 (2nd Cir. 1973). "It follows, as an incident of the constitutional separation of powers, that the courts are not to

interfere with the free exercise of the discretionary powers of the Attorneys of the United States in their control over criminal prosecutions."

"Plaintiffs urge, however, that Congress withdrew the normal prosecutorial discretion for the kind of conduct alleged here by providing in 42 USC sec. 1987 that the United States Attorney are 'authorized and required ... to institute prosecutions against all persons violating any the provision of [18 USC §§ 241, 242]' (emphasis supplied), and therefore, that no barrier to a judicial directive to institute prosecution remains." *Attica* at 381.

"This contention must be rejected, the mandatory nature of the word 'required' as it appears in § 1987 is insufficient to evince a broad Congressional purpose to bar the exercise of executive discretion in the prosecution of federal civil rights crimes. ... such language has never been thought to preclude the exercise of prosecutorial discretion. ... Nor do we find the legislative history of § 1987 persuasive of an intent by Congress to depart so significantly form the normal assumption of executive discretion." *Attica* at 381. "Thus, we do not read § 1987 as stripping the United States Attorneys of their normal prosecutorial discretion for the civil rights crimes specified." Attica at 382.

Nonetheless, former U.S. attorney Stretch's resignation from office on January 5, 2018 has acknowledged that Congress does intend to strip, with 42 USC § 1987, the United States Attorneys of their normal prosecutorial discretion for the civil

rights crimes specified. Former U.S. attorney Stretch has colluded with judge Orrick so as to evade prosecuting the latter for his denial of the motion to intervene in *Sanctuary County*. Both judge Orrick and former U.S. attorney Stretch have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c3. Claim 3: Civil Rights Violation, Fabrication, and Intimidation

Upon filing of the *Sanctuary County* lawsuit on February 3, 2017, Doc. No. B1, the clerk's office assigned judge Koh to adjudge the case. The City and County of San Francisco filed a similar civil complaint against the Trump administration a week later. The case is also known as the "*Sanctuary City*" lawsuit. The clerk's office then reassigned judge Orrick to adjudicate *Sanctuary County* based on a Notice of Related Case filed by the City and County of San Francisco.

Civil Local Rule 3-12(f)(3) of first district court provides: "If any judge decides that any of the cases are related, pursuant to the Assignment Plan, the Clerk shall reassign all related high-numbered cases to that judge [assigned to the lowest-numbered case] and shall notify the parties and the affected Judges accordingly."

As the City and County of San Francisco filed its *Sanctuary City* lawsuit a week after the *Sanctuary County* lawsuit, *Sanctuary County* has a lower case number than *Sanctuary City* does. Thus, the clerk's office has falsified the reassignment of *Sanctuary*

County to judge Orrick. In so doing, the clerk's office has allowed judge Koh to falsify the dismissal of *Star One*. Dismissal of *Star One* would have stripped inmate of standing to intervene in *Sanctuary County* except for his interest as an injured citizen of the state of California. Thus, both judge Koh and clerk Soong have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c4. Claim 4: Civil Rights Violation, Fabrication, and Intimidation

On December 18, 2016, inmate filed a civil complaint against Star One Credit Union, Santa Clara County sheriff's department, Santa Clara County district attorney's office, and others, Doc. No. A1. The complaint has asked first U.S. attorney's office to investigate financial improprieties relating to inmate's checking account with Star One Credit Union as well as the ensuing cover-up by both said sheriff's department and said district attorney's office.

An order signed by judge Davila on March 21, 2017 directed inmate to explain why no defendant had appeared in Star One, Doc. No. A16. Inmate replied to the order to show cause on March 28, 2017, Doc. No. A16. An order signed by judge Davila on March 29, 2017 dismissed *Star One* without prejudice, Doc. No. A18. On April 26, 2017, inmate applied for reconsideration of the dismissal of *Star One*, Doc. No. A19. Having retired since 2016, judge Jensen presided over the April 27, 2017 hearing on inmate's application for reconsideration without jurisdiction. After inmate questioned the

legitimacy of the hearing, judge Jensen ordered CSO Yamaguchi and CSO Guttoruson to escort inmate out of judge Davila's courtroom. Another order signed by judge Davila on April 27, 2017 denied the application for reconsideration, Doc. No. A20.

Yet Federal Rule of Civil Procedure 39(a)(2) provides: "When a jury trial has been demanded under Rule 38, the action must be designated on the docket as a jury action. The trial on all issues so demanded must be by jury unless the court, on motion or on its own, finds that on some or all of those issues there is no federal right to a jury trial."

Thus, judge Jensen has falsified denial of inmate's application for reconsideration of dismissal of *Star One* so as to prevent the case from proceeding to trial. The ruling has allowed first U.S. attorney's office to evade instituting criminal prosecution against Santa Clar County sheriff's department and Santa Clara County district attorney's office. Both judge Jensen and former U.S. attorney Stretch have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while both CSO Yamaguchi and CSO Guttoruson have violated 18 USC §§ 241, 242, 371, and 1512(b).

c5. Claim 5: Civil Rights Violation, Fabrication, and Intimidation

Inmate went to judge Davila's courtroom around 1:30 p.m. on May 1, 2017 so as to authenticate his denial of reconsideration of dismissal of *Star One*. Before judge Davila started the afternoon session,

former U.S. attorney Stretch had CSO Yamaguchi and CSO Guttoruson escort inmate out of judge Davila's courtroom. USMS next arrested inmate and booked him into Oakland Alameda County Jail.

Based on deputy marshal Harwell's sworn statement, first U.S. attorney's office filed a complaint to institute a criminal case against inmate on May 2, 2017, doc. No. 1. The complaint has asserted that a group of CSOs arrested inmate inside the San Jose courthouse on May 1, 2017 because of him attacking CSO Yamaguchi.

However, 18 USC § 3053 authorizes "United States marshals and their deputies," rather than CSOs, to make arrest without warrant. Since the complaint has stated that CSOs arrested inmate without warrant on May 1, 2017, first U.S. attorney's office has colluded with USMS to falsify the complaint in the criminal case.

In other words, there exists no probable cause for inmate's arrest on May 1, 2017. *Kalina v. Fletcher*, 522 US 118 (1997). Thus, former U.S. attorney Stretch, chief Valliere, AUSA Perez, deputy marshal Harwell, and CSO Yamaguchi have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while marshal O'Keefe has violated 18 USC §§ 241, 242, 371, and 1512(b).

c6. Claim 6: Civil Rights Violation, Fabrication, and Intimidation

Judge van Keulen appointed attorney Thompson as defense counsel in the criminal case under 18

USC § 3006A on May 2, 2017, Doc. No. 4. Nevertheless, "[t]the Criminal Justice Act of 1964 was enacted to provide compensation for attorneys appointed to represent indigent defendants in federal criminal trials." *Ferri v. Ackerman*, 444 US 193, 199 (1979).

Being hardly an indigent, inmate initially intended to retain civil rights attorney Harmeet K. Dhillon as defense counsel during the May 2, 2017 initial appearance in the criminal case. Yet judge van Keulen insisted on appointing attorney Thompson to represent inmate so as to cover up falsifying the complaint by both first U.S. attorney's office and USMS.

Thus, judge van Keulen has colluded with attorney Thompson to deny inmate Fourth Amendment right against "unreasonable seizures," Fifth Amendment right to "due process of law," and Sixth Amendment right to counsel. Both judge van Keulen and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c7. Claim 7: Civil Rights Violation, Fabrication, and Intimidation

During the May 2, 2017 initial appearance in the criminal case, inmate informed attorney Thompson that staffers at Oakland Alameda County Jail attempted to drug him under the disguise of TB test during the night before. Yet judge van Keulen insisted on appointing attorney Thompson as defense counsel and referred inmate to Pretrial Services for a mental health assessment on May 8,

2017, Doc. No. 5.

The U.S. Supreme Court has held in Estelle v. Smith, 451 US 454 (1981) that the pretrial mental health assessment ordered by judge van Keulen violates inmate's Fifth Amendment privilege against self-incrimination and Sixth Amendment right to counsel. Thus, both judge van Keulen and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c8. Claim 8: Civil Rights Violation, Fabrication, and Intimidation

Due to his motion to intervene in *Sanctuary County*, first U.S. attorney's office alleged that inmate posed high flight risk during both the May 2, 2017 initial appearance and the May 5, 2017 detention hearing in the criminal case. Subsequently, judge van Keulen set the preliminary hearing/arraignment for May 23, 2017, Doc. No. 3. On May 8, 2017, judge van Keulen ordered inmate to be detained until May 23, 2017, Doc. No. 6.

Federal Rule of Criminal Procedure 4(b)(1)(B) provides: "A warrant must describe the offense charged in the complaint." Based on its collusion with USMS to falsify the complaint in the criminal case, first U.S. attorney's office has misrepresented inmate's flight risk so as to justify inmate's arrest without warrant on May 1, 2017.

Thus, judge van Keulen has falsified her May 8, 2017 detention order. Judge van Keulen, former U.S. attorney Stretch, chief Valliere, and AUSA

Perez have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while marshal O'Keefe has violated 18 USC §§ 241, 242, 371, and 1512(b).

c9. Claim 9: Civil Rights Violation, Fabrication, and Intimidation

Based on a special deputy U.S. marshal's statement that inmate attacked an CSO inside the San Jose courthouse on May 1, 2017, first U.S. attorney's office filed an indictment in the criminal case on May 8, 2017, Doc. No. 7.

However, Federal Rule of Criminal Procedure 6(a)(1) provides: "When the public interest so requires, the court must order that one or more grand juries be summoned." Moreover, Criminal Local Rule 6-1 of first district court provides: "The General Duty judge of each courthouse of the District is empowered to impanel one or more grand juries as the public interest requires."

"If, by fraud, collusion, trickery, and subornation of perjury on the part of those representing the State, the trial of an accused person results in his conviction he has been denied due process of law." *Lisenba v. California*, 314 US 219, 237 (1941).

Because first U.S. attorney's office has colluded with USMS to falsify the complaint, first district court has yet to impanel any grand jury in the criminal case. Accordingly, former U.S. attorney Stretch, chief Valliere, AUSA Kaleba, and marshal O'Keefe have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c10. Claim 10: Civil Rights Violation, Fabrication, and Intimidation

During the May 19, 2017 detention hearing in the criminal case, judge Spero ordered inmate's conditional release from Oakland Alameda County Jail, Doc. No. 18.

Federal Rule of Criminal Procedure 5.1(f) provides: "If the magistrate judge finds no probable cause to believe an offense has been committed or the defendant committed it, the magistrate judge must dismiss the complaint and discharge the defendant."

Because first U.S. attorney's office has colluded with USMS to falsify both the complaint and indictment, judge Spero should have dismissed the criminal case and discharged inmate. Instead, judge Spero ordered inmate's release from prison under the condition that he undergo psychological examination.

In so doing, judge Spero, former U.S. attorney Stretch, chief Valliere, AUSA Kaleba, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while marshal O'Keefe has violated 18 USC §§ 241, 242, 371, and 1512(b).

c11. Claim 11: Civil Rights Violation, Fabrication, and Intimidation

Judge Koh recused herself from the criminal case on May 11, 2017, Doc. No. 10. Judge Freeman recused herself from said case on May 12, 2017, Doc. No. 12.

28 USC § 455(b)(1) requires a federal judge to disqualify herself where she has "personal knowledge of disputed evidentiary facts concerning the proceeding."

Knowing that first U.S. attorney's office has colluded with USMS to falsify both the complaint and the indictment, judge Koh and judge Freeman recused themselves from the criminal case so as to evade dismissing said case. Both judges have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c12. Claim12: Civil Rights Violation, Fabrication, and Intimidation

Judge Davila recused himself from the criminal case on May 11, 2017, Doc. No. 7.

Nonetheless, Criminal Local Rule 18-1(c) of first district court provides: "Unless otherwise ordered, the Clerk shall assign all criminal actions and proceedings involving offenses allegedly committed in the counties of Santa Clara, Santa Cruz, San Benito or Monterey to a judge assigned to the San Jose Courthouse."

Since the alleged crime originated from his courtroom, the clerk's office should have assigned the criminal case to judge Davila first. Yet judge Davila recused himself from the case without being assigned to said case. Thus, the clerk's office has falsified filing judge Davila's recusal from the criminal case.

On May 12, 2017, the clerk's office reassigned

the criminal case to judge Chesney, Doc. No. 13.

The reassignment has resulted from both judge Koh's and judge Freeman's recusals from the criminal case. In order for the clerk's office to legally reassigned the case to judge Chesney, judge Davila has to recuse himself from the criminal case. Since the clerk's office has falsified filing judge Davila's recusal from the criminal case, judge Chesney has falsified said recusal.

Thus, the clerk's office has colluded with judge Chesney to falsify her assignment to the criminal case in order that she could impose unconstitutional 18 USC §§ 4241-4248 on inmate, *infra*. Both judge Chesney and clerk Soong have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c13. Claim 13: Civil Rights Violation, Fabrication, and Intimidation

On May 15, 2017, attorney Thompson moved for psychiatric examination on inmate in the criminal case, Doc. No. 15. During a June 7, 2017 hearing in the case, judge Chesney continued the hearing on said motion until July 26, 2017, Doc. No. 25.

Pretrial psychiatric examination denies inmate Fifth Amendment privilege against self-incrimination and Sixth Amendment right to counsel. *Estelle v. Smith*, 451 US 454 (1981). Thus, both judge Chesney and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c14. Claim 14: Civil Rights Violation, Fabrication, and Intimidation

On June 6, 2017, inmate moved to dismiss the criminal case and to disqualify judge Chesney, judge Spero, first U.S. attorney's office, and attorney Thompson from the case, Doc. No. 24. On July 14, 2017, inmate moved again to dismiss the criminal case and to disqualify both judges, first U.S. attorney's office, and attorney Thompson from the case, Doc. No. 29. During a hearing later that day, judge Spero ordered inmate to participate in competence evaluation at University of San Francisco, Doc. No. 30.

First U.S. attorney's office opposed inmate's June 6, 2017 motion to dismiss and joinder motions to disqualify as well as his July 14, 2017 second motion to dismiss and joinder second motions to disqualify in the criminal case on July 25, 2017, Doc. No. 34. On August 9, 2017, inmate walked out of her courtroom as judge Chesney was about to rule on said motions to dismiss and joinder motions to disqualify. As a result, judge Chesney ordered inmate's arrest due to his failure to abide by judge Spero's order for competency evaluation, Doc. No. 37.

Since judge Spero's July 14, 2017 order for competency evaluation denies inmate the Fifth Amendment privilege against self-incrimination and Sixth Amendment right to counsel, judge Chesney has falsified her August 9, 2017 arrest order. Accordingly, judge Chesney, judge Spero, former U.S. attorney Stretch, chief Valliere, AUSA

Kaleba, AUSA Lee, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b) and 1512(c).

c15. Claim 15: Civil Rights Violation, Fabrication and Intimidation

Based on judge Chesney's August 9, 2017 arrest order, USMS took inmate into custody on August 15, 2017, Doc. No. 41.

Federal Rule of Criminal Procedure 4(b)(11)(B) provides: "A warrant must describe the offense charged in the complaint." As first U.S. attorney's office has colluded with USMS to falsify the complaint in the criminal case, judge Chesney has directed USMS to take inmate into custody on August 15, 2017 with falsified warrant.

Accordingly, judge Chesney has violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while marshal O'Keefe has violated 18 USC §§ 241, 242, 371, and 1512(b).

c16. Claim 16: Civil Rights Violation, Fabrication and Intimidation

On August 24, 2017, judge Chesney ordered inmate to be committed to custody of the Attorney General for a thirty-day psychological evaluation under 18 USC § 4241(a), Doc. No. 46.

Since 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes, *supra*, judge Chesney has colluded with both U.S. attorney's office and attorney Thompson to falsify the

December 19, 2017 order for commitment. Thus, chief justice Roberts, justice Kennedy, justice Breyer, justice Ginsburg, justice Alito, judge Chesney, former U.S. attorney Stretch, Chief Valliere, AUSA Kaleba, AUSA Lee, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c17. Claim 17: Civil Rights Violation, Fabrication, and Intimidation

Under 18 USC § 4241(d), judge Chesney ordered inmate to be committed to the custody of the Attorney General and to be hospitalized in a suitable facility on December 19, 2017, Doc. No. 62.

Because 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes, *supra*, judge Cheney has colluded with both U.S. attorney's office and attorney Thompson to falsify the December 19, 2017 order for commitment. Thus, chief justice Roberts, justice Kennedy, justice Breyer, justice Ginsburg, justice Alito, judge Chesney, for U.S. attorney Stretch, chief Valliere, AUSA Kaleba, AUSA Lee, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b) and 1512(c).

c18. Claim 18: Civil rights Violation, Fabrication, and Intimidation

On February 28, 2018, judge Chesney denied inmate's Second Motion to Dismiss and all previous motions to disqualify in the criminal case, Doc. No. 63. Specifically, judge Chesney has denied inmate's June 7 and July 14, 2017 motions to disqualify

attorney Thompson as defense counsel as well as the September 18 and December 19, 2017 notices to proceed pro se and release counsel.

"But the Constitution does not force a lawyer upon a defendant, He may waive his Constitutional right to assistance of counsel if he knows what he doing and his choice is made with eyes open." *Adams v. United States*, 317 US 269, 279 (1942) (quoting *Johnson v. Zerbst*, 304 US 458, 468-469 (1938)).

Thus, judge Chesney, acting U.S. attorney Tse, chief Valliere, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c), while marshal O'Keefe, acting marshal Pettit, and warden Holland have violated 18 USC §§ 241, 242, 371, and 1512(b).

c19. Claim 19: Civil Rights Violation, Fabrication, and Intimidation

Acting U.S. attorney Tse has failed to dismiss the criminal case since former U.S. attorney Stretch announced his resignation on January 5, 2018.

"If, by fraud, collusion, trickery, and subornation of perjury on the part of those representing the State, the trial of an accused person results in his conviction he has been denied due process of law." *Lisenba v. California* at 237.

Besides, Federal Rule of Criminal Procedure 48(a) provides: "The government may, with leave of court, dismiss an indictment, information, or

complaint."

Thus, acting U.S. attorney Tse has evaded dismissing the criminal case so as to justify the civil rights crimes by judge Chesney, first U.S. attorney's office, and USMS against inmate. Judge Chesney, acting U.S. attorney Tse, former U.S. attorney Stretch, marshal O'Keefe, and acting marshal Pettit have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c20. Claim 20: Civil Rights Violation, Fabrication, and Intimidation

On April 5, 2018, inmate petitioned second district court for a Writ of Habeas Corpus, Doc. No. D1. The clerk's office assigned the petition to judge Boyle for review on April 24, 2018. Judge Boyle has yet to respond to said petition thus for.

28 USC § 2243 provides: "A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause ..., unless it appears from the application that the applicant or person detained is not entitled thereto."

Moreover, '[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Clause 2, Section 9, Article I of the Constitution.

Accordingly, judge Boyle's inaction on the April 5, 2018 petition has deprived inmate of the

constitutional Privilege of the Writ of Habeas Corpus. Both judge Boyle and warden Holland have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c21. Claim 21: Civil Rights Violation, Fabrication, and Intimidation

On June 26, 2016, judge Chesney ordered inmate to be committed at FMC-Butner for dangerousness study under 18 USC § 4246(a), Doc. No. 74.

Because 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes, *supra*, judge Chesney has colluded with first U.S. attorney's office to falsify her June 26, 2018 order for commitment in the criminal case.

Moreover, 18 USC § 4247(g) provides: "Nothing in section 4243, 4246, or 4248 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention." Accordingly, judge Chesney has falsified her June 26, 2018 order for commitment in order to legitimize judge Boyle depriving inmate of the constitutional Privilege of the Writ of Habeas Corpus.

Accordingly, chief justice Roberts, justice Kennedy, justice Breyer, justice Ginsburg, justice Alito, judge Boyle, judge Chesney, acting U.S. attorney Tse, chief Valliere, AUSA Kaleba, AUSA Lee, and attorney Thompson have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c22. Claim 22: Civil Rights Violation, Fabrication, and Intimidation

On June 26, 2018, judge Chesney ordered inmate to be committed at FMC-Butner for dangerousness study under 18 USC § 4246(a), *supra*. On July 2, 2018, FMC-Butner requested that inmate's dangerousness study be extended for another thirty days, Doc. No. 75.

As 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes, FMC-Butner has falsified its July 2, 2018 request for extension in the criminal case. Warden Holland, warden Smith, associate warden Rupska, chief Wheat, Dr. Koch, Dr. Zonno, Dr. Graddy, case manager Griffin, counselor Wiggins have violated 18 USC §§ 241, 242, 371, 1512(b), and 1512(c).

c23. Claim 23: 18 USC §§ 4241-4248 Constitute Unconstitutional Criminal Statutes

Due to the statutes' violation of relevant provisions of the Constitution and the First, Fourth, Fifth, and Sixth Amendments, *supra*, 18 USC §§ 4241-4248 constitute unconstitutional criminal statutes.

c24. Claim 24: 18 USC § 3006A Constitute Unconstitutional Criminal Statute

Judge van Keulen insisted on attorney Thompson's appointment on May 2, 2017 as defense counsel in the criminal case under 18 USC § 3006A so as to legitimize her May 8, 2017 order for mental health assessment on inmate.

Yet "[i]t is hardly necessary to say that the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his choice." *Powell v. Alabama*, 287 US 45,53 (1932).

Accordingly, 18 USC § 3006A constitutes unconstitutional criminal statute.

c25. Claim 25: 28 USC §§ 351-364 Constitute Unconstitutional Statutes

"The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, and other high Crimes and Misdemeanors." Section 4, Article II of the Constitution.

"The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour." Section 1, Article III of the Constitution.

"Judgment in Cases of Impeachment shall not extend further than to removal from office, ... but the Parties convicted shall nevertheless be liable and subject to Indictment and Punishment, according to Law." Clause 7, Section 3, Article I of the Constitution.

Having committed aforementioned civil rights crimes, chief justice Roberts, justice Breyer, justice Ginsburg, justice Alito, judge Boyle, judge Chesney, judge Orrick, judge Koh, and judge Freeman should face Impeachment Trial and Criminal Prosecution as soon as practical.

Nonetheless, Congress has enacted the Judicial Conduct and Disability Act of 1980, 28 USC §§ 351-364, to address judicial misconduct and disability in federal courts. Based on the statutes' interference with said provisions of the Constitution, 28 USC §§ 351-364 constitute unconstitutional statutes.

REQUEST FOR RELIEF

Inmate hereby requests the following relief:

(1) Declaratory judgment that 18 USC §§ 4241-4248, 18 USC § 3006A, as well as 28 USC §§ 351-364 constitute unconstitutional statutes.

(2) Declaratory judgment that defendants have committed civil rights crimes as set forth in Claim 1 through Claim 22.

(3) An order referring all defendants who are subject to impeachment to the House Judiciary Committee for Impeachment Trial.

(4) An order referring all defendants to the Attorney General for Criminal Prosecution under 42 USC § 1987.

(5) An order releasing inmate from federal custody at FMC-Butner.

(6) An order directing USMS to return all of inmate's property unlawfully seized by that agency.

(7) Monetary damages in the amount of $2,000,000,000.00 against chief justice Roberts, $1,000,000,000.00 against justice Kennedy,

$1,000,000,000.00 against justice Breyer, $1,000,000,000.00 against justice Ginsburg, $1,000,000,000.00 against justice Alito, $10,000,000.00 against judge Chesney, $10,000,000.00 against judge Orrick, $10,000,000.00 against judge Koh, $10,000,000.00 against judge Freeman, $10,000,000.00 against judge Jensen, $10,000,000.00 against judge Boyle, $7,000,000.00 against judge Spero, $7,000,000.00 against judge van Keulen, $6,000,000.00 against clerk Soong, $7,000,000.00 against acting U.S. attorney Tse, $7,000,000.00 against former U.S. attorney Stretch, $6,000,000.00 against chief Valliere, $5,000,000.00 against AUSA Kaleba, $5,000,000.00 against AUSA Lee, $5,000,000.00 against AUSA Perez, $6,000,000.00 against marshal O'Keefe, $6,000,000.00 against acting marshal Pettit; $5,000,000.00 against deputy marshal Harwell, $4,000,000.00 against CSO Yamaguchi, $4,000,000.00 against CSO Guttoruson, $7,000,000.00 against warden Holland, $7,000,000.00 against warden Smith, $6,000,000.00 against associate warden Ruspka, $6,000,000.00 against chief Wheat, $5,000,000.00 against Dr. Koch, $5,000,000.00 against Dr. Zonno, $5,000,000.00 against Dr. Graddy, $5,000,000.00 against case manager Griffin, $4,000,000.00 against counselor Wiggins, $6,000,000.00 against attorney Thompson.

(8) Punitive monetary damages against the aforementioned defendants.

(9) Any other relief to which inmate is entitled under Law.

Respectfully submitted this 25th day of September 2018.

/s/ Kuang-Bao Ou-Young
plaintiff pro se and inmate
Reg. No. 24238-111
Federal Medical Center
P.O. Box 1600
Butner, NC 27509

APPENDIX E

IN THE UNITED STATES HOUSE OF REPRESENTATIVES TEWNTY-FIRST PETITION FOR IMPEACHMENT

Complainant Kuang-Bao P. Ou-Young, a citizen of the State of California and the United States, petitions the honorable House of Representatives of the Untied States for impeachment against the following civil officers:

Roger L. Gregory, chief judge, U.S. Court of Appeals for the Fourth Circuit;

J. Harvie Wilkinson III, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Paul V. Niemeyer, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Diana Gribbon Motz, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Robert B. King, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

G. Steven Agee, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Barbara Milano Keenan, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

James A. Wynn, Jr., circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Albert Diaz, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Henry F. Floyd, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Stephanie D. Thacker, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Pamela A. Harris, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Julius N. Richardson, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

A. Marvin Quattlebaum, Jr., circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Allison Jones Rushing, circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Clyde H. Hamilton, senior circuit judge, U.S. Court of Appeals for the Fourth Circuit;

William B. Traxler, Jr., senior circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Dennis W. Shedd, senior circuit judge, U.S. Court of Appeals for the Fourth Circuit;

Terrence W. Boyle, chief judge, U.S. District Court for eastern North Carolina; and

James C. Dever III, district judge, U.S. district court for eastern North Carolina.

This petition is based on the federal criminal statute against deprivation of rights under color of law in 18 U.S.C. § 242 as well as Section 4, Article II of the Constitution.

18 U.S.C. § 242 provides:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ..., shall be fined under this title or imprisoned ...

As a result of violation of this statute, federal officials are subjected to impeachment according to Section 4, Article II of the Constitution:

> The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

This petition asserts that the aforementioned federal officers have knowingly violated 18 U.S.C. § 242 in a case which complainant filed with the district court. Upon proof of liability for such criminal offenses, the civil officers must be impeached and removed from office.

This petition represents a follow-up to the Amended Eighteenth Petition for Impeachment submitted on July 31, 2020 and supersedes the Amended Twentieth Petition for Impeachment of the same date.

STATEMENT OF FACTS

1. On May 2, 2017, the U.S. attorney's office for northern California instituted a criminal action against complainant at the U.S district court for northern California (Case No. 17-cr-263-MMC, "*Criminal Case*"), Doc. No. 1.

2. On December 19, 2017, U.S. district judge for northern California Maxine M. Chesney committed complainant to competency restoration at Federal Medical Center ("FMC"), Butner, North Carolina, Doc. No. 62.

3. On April 5, 2018, complainant petitioned the U.S. district court for eastern North Carolina for a writ of habeas corpus (Case No. 18-hc-2081-BO).

4. Judge Chesney committed complainant to competency evaluation at FMC-Butner on June 26, 2018, Doc. No. 74.

5. On September 17, 2018, judge Boyle summarily dismissed complainant's habeas corpus case, Doc. No. G7.

6. On September 28, 2018, complainant filed a complaint with the district court for eastern North Carolina based on Federal Tort Claims Act ("FTCA") because of his imprisonment at FMC-Butner from February 9 until October 3, 2018 (Case No. 18-ct-3272-D, "*FTCA I*"), Doc. No. Q1.

7. On October 30, 2018, judge Chesney dismissed *Criminal Case* without prejudice, Doc. No. 83.

8. On October 2, 2019, judge Dever summarily dismissed *FTCA I*, Doc. No. Q19.

9. On October 24, 2019, complainant appealed from the dismissal of *FTCA I* to the Fourth Circuit (Case No. 19-2216).

10. In a unanimous decision, judge Niemeyer, judge Agee, and judge Shedd affirmed the dismissal of *FTCA I* o March 12, 2020, Doc. No. R8.

11. On May 26, 2020, the Forth Circuit denied complainant's petition for rehearing en banc, Doc. No. R12.

GROUNDS FOR IMPEACHMENT

c1. 28 U.S.C. § 2243 provides:

> A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

Therefore, judge Boyle summarily dismissed complainant's habeas corpus case on September 17, 2018, ¶ 5. The order states:

> Here, the California district court is in the process of determining petitioner competence to stand trial. ... Because petitioner is in the process of exhausting his available remedies, the instant § 2241 petition is premature. ... Thus, the court DISMISSES the petition without prejudice. ...

Nevertheless, the Supreme Court has held that when a federal prisoner challenges the fact of his physical imprisonment by way of relief seeking a determination that he is entitled to immediate release, his sole remedy is a writ of habeas corpus. *Preiser v. Rodriguez*, 411 US 475, 488-499 (1973). Besides, judge Chesney dismissed *Criminal Case* on October 30, 2018, ¶ 7. Complainant regained his freedom the next day. Accordingly, judge Boyle has denied complainant the Fourth Amendment right against unreasonable seizures under color of 28

U.S.C. § 2243.

c2. Judge Boyle dismissed complainant's habeas corpus case because "the California district court [was] in the process of determining petitioner competency to stand trial." However, the Supreme Court has held that such pretrial psychological examination violates complainant's Fifth Amendment right against self-incrimination. *Estelle v. Smith*, 451 US 454, 462-463 (1981). Accordingly, the dismissal has deprived complainant of said Fifth Amendment right under color of 28 U.S.C. § 2243.

c3. On September 17, 2018, judge Boyle summarily dismissed complainant's habeas corpus case. Nonetheless, "[i]n almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." *Goldberg v. Kelly*, 317 US 254, 269 (1970). Thus, the dismissal has violated the due process clause of the Fifth Amendment under color of 28 U.S.C. § 2243.

c4. On September 28, 2018 complainant filed a complaint with the district court for eastern North Carolina based on FTCA because of his imprisonment at FMC-Butner, ¶ 6. Said complaint challenges the constitutionality of 18 U.S.C. §§ 4241-4248, 18 U.S.C. § 3006A, and 28 U.S.C. §§ 351-364 as well. On October 2, 2019, judge Dever summarily dismissed *FTCA I* owing to complainant's failure "to file an amended complaint together with proposed summons," ¶ 8. However, 28 U.S.C. § 2284(a) provides: "A district court of

three judges shall be convened when otherwise required by Act of Congress ..." and 28 U.S.C. § 2284(b)(3) proscribes: "A single judge shall not ... enter judgment on the merits." Accordingly, dismissal of *FTCA I* has violated 28 U.S.C. § 2284(b)(3).

Moreover, Federal Rule of Civil Procedure 41(b) provides:

> If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. ...

U.S. Attorney General William P. Barr or the U.S. attorney's office for eastern North Carolina had failed to respond to the constitutional challenge or the claims against federal officers or employees in *FTCA I.* Moreover, "[i]n almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." *Goldberg v. Kelly*, 317 US 254, 269 (1970). In sum, dismissal of *FTCA I* has violated 28 U.S.C. § 2284(b)(3) as well as the due process clause of the Fifth Amendment under color of Rule 41(b).

c5. As set forth in §§ c1, c2, dismissal of *FTCA I* has deprived complainant of the Fourth Amendment right against unreasonable seizures and the Fifth Amendment right against self-incrimination under color of Rule 41(b).

c6. Federal Rule of Appellate Procedure 34(a)(2) provides:

> Oral argument must be allowed in every case unless a panel of three judges who have examined the briefs and record unanimously agrees that oral argument is unnecessary for any of the following reasons:
> (A) ... (B) ...
> (C) the facts or legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

Accordingly, judge Niemeyer, judge Agee, and judge Shedd affirmed the dismissal of *FTCA I* in a unanimous decision on March 12, 2020, ¶ 10. The ruling states:

> We have reviewed the record and find no abuse of discretion. Accordingly, we affirm for the reasons stated by the district court. ... We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

However, the Fourth Circuit has filed complainant's motion for summary reversal as opening brief for the appeal, Doc. No. R7. And the U.S. Department of Justice has yet to respond to said motion or opening brief. Moreover, it goes without saying that the district court for eastern North Carolina lacks the record of judge Chesney's dismissal of *Criminal Case* on October 30, 2018. Thus, "[i]n almost every setting where important decisions turn on questions of fact, due process

requires an opportunity to confront and cross-examine adverse witnesses." *Goldberg v. Kelly*, 317 US 254, 269 (1970). As set forth in ¶¶ c4, c5, the ruling has denied complainant the Fourth Amendment right against unreasonable seizures, due process of law under the Fifth Amendment, and the Fifth Amendment right against self-incrimination under color of said appellate rule.

c7. On May 26, 2020, the Fourth Circuit denied complainant's petition for rehearing en banc, ¶ 11. The order states:

> The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed R. App. P. 35. The court denied the petition for rehearing en banc.

As set forth in ¶ c6, the order has deprived complainant of the Fourth Amendment right against unreasonable seizures, due process of law under the Fifth Amendment, and the Fifth Amendment right against self-incrimination under color of Fed. R. App. P. 35.

CONCLUSION

Circuit judges Gregory, Wilkinson, Niemeyer, Motz, King, Agee, Keenan, Wynn, Diaz, Floyd, Thacker, Harris, Richardson, Quattlebaum, Rushing, Hamilton, Traxler, and Shedd as well as district judges Boyle and Dever have denied complainant the Fourth Amendment right against unreasonable seizures, due process of law under the Fifth Amendment, and the Fifth Amendment right against self-Incrimination under color of law.

Thus, these judges have violated 18 U.S.C. § 242 and should be impeached as well as removed from office according to Section 4, Article II of the Constitution.

Respectfully submitted this 10th day of August 2020.

/s/ Kuang-Bao Ou-Young

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Complainant

APPENDIX F

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 242 provides:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threaten use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S.C. § 4241(a) provides:

> At any time after the commencement of a prosecution for an offense and prior to the

sentencing of the defendant, or at any time after the commencement of probation or supervised release and prior to the completion of the sentence, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceeding against him or to assist properly in his defense.

18 U.S.C. § 4241(d) provides:

> If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility—
>
> (1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he

will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until—

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or

(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the proceedings to go forward, the defendant is subject to provisions of sections 4246 and 4248.

28 U.S.C. § 455(a) provides:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

28 U.S.C. § 1253 provides:

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.

28 U.S.C. § 2284(a) provides:

> A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

28 U.S.C. § 2284(b)(3) provides:

> A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final judgment.