

No: \_\_\_\_\_

**ORIGINAL**

\_\_\_\_\_  
**IN THE SUPREME COURT OF THE UNITED STATES**

**FILED**

**AUG 26 2020**

**OFFICE OF THE CLERK  
SUPREME COURT, U.S.**

**In re. Roger Liverman, — PRO SE PETITIONER**

**vs.**

**Lawanda McMurray, et al, — RESPONDENT(S)**

\_\_\_\_\_  
**ON PETITION FOR A WRIT OF MANDAMUS, TO  
THE COURT OF APPEALS, FIFTH CIRCUIT**

\_\_\_\_\_  
**PETITION FOR WRIT OF MANDAMUS**

Roger Liverman  
422 Holiday Drive  
Ponder, Texas 76259  
(940) 372-3686

## **QUESTIONS PRESENTED**

Writ of Mandamus is the only "remedy" to correct the legal issues before the Court. Purpose of the Writ of Mandamus and Title 18 U.S.C. §4 Misprision Felony along with the underlying "felonies" involved.

**TO CORRECT A FRAUD UPON THE COURT BY THE COURT.**

- **BY FALSE AND MISLEADING ENTRIES INTO THE OFFICIAL DOCKET**
- **FALSE ENTRY TO TERMINATE A PROCEEDING CONTRARY TO THE ALLEGED ORDER BY THE COURT**
- **SETTING UP A FINALITY TRAP TO PREVENT AND BAR PETITIONER FROM ACCESSING THE COURTS TO HEAR HIS APPEAL**
- **COMMITTED MAIL FRAUD, THROUGH RECEIVING A REQUEST FOR A TRUE AND CORRECT CERTIFIED COPY OF THE DOCKET, WITH A U.S. POSTAL MONEY ORDER WHICH IS NOW IN QUESTION WHETHER IS TRUE AND CORRECT**
- **FAILURE TO FORWARD TITLE 18 U.S.C. §4 MISPRISION FELONY NOTIFICATION TO THE PROPER AUTHORITIES REQUIRED BY STATUTE.**

## **CERTIFICATE OF INTERESTED PARTIES**

The undersigned counsel of record for Petitioner Roger Liverman certifies that the following listed persons and entities as described in the U.S. Supreme Court Rules have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

### **Fifth Circuit Court of Appeals**

**Case No: 19-51053**

U.S. Appellate Judge James C. Ho

U.S. Appellate Judge Jerry E. Smith

U.S. Appellate Judge Gregg J. Costa

Lyle W. Cayce, Clerk

Melissa V. Mattingly, Deputy Clerk

Laney L. Lampard, Deputy Clerk

### **Western District of Texas (Midland)**

**Case No: 7:19-cv-00062-DC**

U.S. District Judge David Counts

U.S. Magistrate Judge Ronald C Griffin

Jeannette Clack, Clerk

Philip J. Devlin, Chief Deputy Clerk

### **Eastern District of Texas**

**Case No: 4:16-cv-00801-ALM-KPJ**

U.S. District Judge Amos L Mazzant, III

U.S. Magistrate Judge Kimberly C Priest Johnson

**Petitioner :** Roger Liverman, 422 Holiday Drive, Ponder, Texas 76259.

**Respondent :** Denton County, Texas

Paul Johnson individually "employee" of Denton County, Texas,  
Denton County Criminal District Attorney.

Lara Tomlin individually "employee" of Denton County, Texas,  
Denton County Criminal District Attorney.

Rick Daniel individually "employee" of Denton County, Texas,  
Denton County Criminal District Attorney,

Lindsey Sheguit individually "employee" of Denton County, Texas,  
Denton County Criminal District Attorney,

Matthew Shovlin, individually "employee" of Denton County, Texas,  
Denton County Criminal District Attorney.

Rex George, individually "employee" of Denton County, Office of  
Criminal District Attorney

Larry Don Kish, individually "employee" of Denton County, Sheriff's  
Office Investigator.

**Counsel for Respondent:** Robert J Davis, State Bar No. 05543500, Matthews,  
Shiels, Knott, Eden, Davis & Beanland, LLP, 8131 LBJ  
Freeway, Suite 700, Dallas, Texas 75251, Office Tel.  
972-234-3400

**Respondent:** Judge Pete "Pedro" Gomez, Jr (individually)

**Counsel for Respondent:** Scot M. Graydon,

Assistant Attorney General P O Box 12548 Capitol  
Station Austin, TX 78711-2548 (512) 463-2120 Fax:  
(512) 320-0667 Email: scot.graydon@oag.texas.gov

**Respondent:** Ronald Pettigrew (individually) Texas Ranger \* Default  
Never served Plaintiff with Answer\*

Note: In a filing Attorney Jason Bramow, Assistant  
Attorney General, State of Texas made the following  
claim: "Because Defendant Pettigrew has not answered,"

**Counsel for Respondent:** Jason Bramow, Assistant Attorney General, State of  
Texas, P.O. Box 12548, Capitol Station, Austin, Texas  
78711-2548. Office Tel. 512-463-0667

**Respondent:** LaWanda McMurray, (individually) District  
Clerk/Probate Clerk of Upton County  
Probate Judge Vicki Bradley, Deceased  
Judge Kathleen Stone, (individually)  
Probate Judge Bill Eyler, (individually), Upton County  
\*not an Attorney\*  
Upton County, Texas  
Default – Didn't answer Summons on the Date Required.

**Counsel for Respondent:** Denis Dennis, Attorney of Record  
Kelly, Morgan, Dennis, Corzine & Hansen P.O. Box  
1311 Odessa, TX 79760 (432) 367-7271 Fax: 432/363-  
9121 Email: ddennis@kmdfirm.com

**Appellee:** David Gibson \* Default Never served Plaintiff with Answer\*

**Counsel for Respondent:** David R. Gibson The Gibson Law Group, PC 15400  
Knoll Trail Drive, Suite 205, Dallas, TX 75248  
817-769-4044 Fax: 817-764-4313 Email:  
david.gibson@gibsonlawgroup.com

**Appellee:** James McDonald

**Counsel for Appellee:** Unknown in Default never answered Suit

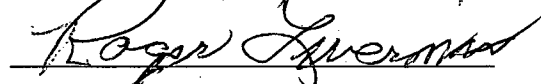
**Respondent:** Albert G. Valadez, Appearing Pro Se, State Bar No.  
20421840, 104 West Callaghan Street, Fort Stockton,  
Texas 79735, Office Tel. 432-336-7562

**Counsel for Respondent:** Albert G. Valadez, Appearing Pro Se, State Bar  
No. 20421840, 104 West Callaghan Street, Fort Stockton,  
Texas 79735, Office Tel. 432-336-7562

**Respondent:** Katheryn Payne Hall Dutko

**Counsel for Respondent:** Albert G. Valadez, State Bar No. 20421840, 104  
West Callaghan Street, Fort Stockton, Texas 79735,  
Office Tel. 432-336-756

**Counsel of Record for Petitioner**



Roger Liverman, Pro Se

• 422 Holiday Drive, Ponder, Texas 76259

Tel. 940-372-3686

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## **CASE HISTORY**

Roger Liverman, Pro Se Petitioner filed an appeal U.S. District Court Western District of Texas (Midland/Odessa Division” from:

- The District Court (Judge David Counts) issued an Order Adopting Report and Recommendation and Affirming the Magistrate Judge’s Order on October 25, 2019 [Doc 60] in case number 7:19-cv-00062.
- The District Court (Judge David Counts) issued a Final Judgment on October 25, 2019 [Doc 61] in case number 7:19-cv-00062.

Roger Liverman, Pro Se Petitioner timely filed a Notice of Appeal on November 06,2019. No. 19-51053 COA. The U.S. Court of Appeals, Fifth Circuit has jurisdiction over the appeal under Title 28 U.S.C. Sec.1291 Final decisions of district courts.

“The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.”

## Title 28 U.S. Code § 1651. Writs

- (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.
- (b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

(June 25, 1948, ch. 646, 62 Stat. 944; May 24, 1949, ch. 139, § 90, 63 Stat. 102.)

The Judiciary Act of 1789, officially titled "An Act to Establish the Judicial Courts of the United States," was signed into law by President George Washington on September 24, 1789. Article III of the Constitution established a Supreme Court but left to Congress the authority to create lower federal courts as needed.

"And there shall be appointed in each district a meet person learned in the law to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute in such district all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned,"

The Judiciary Act of 1789 (ch. 20, 1 Stat. 73

The Judiciary Act of 1789 gave the **U.S. Supreme Court** original jurisdiction to **issue writs of mandamus** (legal orders compelling government officials to act in accordance **with** the law). ... Therefore, the **Court has** the final say over when a right is protected by the Constitution or when a Constitutional right is violated

## STATEMENT OF THE CASE BEFORE THE COURT

The following facts are true and accurate. These facts do not constitute all of the facts known to the parties concerning the charged offense; they are being submitted to demonstrate that sufficient facts exist that the individuals cited in the Formal Notifications of Title 18 U.S.C. § 4 Misprision Felony committed the offenses alleged by Petitioner.

### **Jurisdiction:**

The Judiciary Act of 1789, officially titled "An Act to Establish the Judicial Courts of the United States," was signed into law by President George Washington on September 24, 1789. Article III of the Constitution established a Supreme Court but left to Congress the authority to create lower federal courts as needed.

"And there shall be appointed in each district a meet person learned in the law to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute in such district all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned,"

The Judiciary Act of 1789 (ch. 20, 1 Stat. 73)

The Judiciary Act of 1789 gave the **U.S. Supreme Court** original jurisdiction to **issue writs of mandamus** (legal orders compelling government officials to act in accordance **with** the law). ... Therefore,

the **Court has** the final say over when a right is protected by the Constitution or when a Constitutional right is violated.

- **THE EXTRAORDINARY REMEDY IS APPROPRIATE IN THIS CASE**

Petitioners are entitled to relief because (1) their right to the writ is clear and indisputable; (2) they have no other adequate means to obtain relief; and (3) the writ is appropriate under the circumstances. In re Gee, 941 F. 3d 153,157 (5<sup>th</sup> Cir. 2019) (per curium) [although unsigned, in re Gee is published, binding precedent.] In re Volkswagen of Am., Inc 545 F.3d 304,311 (5<sup>th</sup> Cir.2008) (en banc),

- As the record with show, the entry of the “Order”, allegedly<sup>1</sup> issued by the three-judge panel is contrary to what the Clerk of the Fifth Circuit entered in the Official Docket -- a fact that the “Certified Copy” obtained and Certified and True and Correct, by the Clerk, sent through the U.S. Mails and paid by Petitioner with a U.S. Postal Money Order.
- As the record will show, the Clerk did not Enter or Record, Petitioner’s Writ of Mandamus clearly a “Ministerial Act” required

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<sup>1</sup> There is a question concerning the legitimacy of this “Order” No stamped file dates, or signatures of the Court to Verify its authenticity. Contained within the Certified Docket Certified by the Clerk as true and correct---stating Panel Not Available. Is highly suspect.

by Duties of the Clerk, Office of the Clerk regarding Default Judgments.

Federal Rules of Civil Procedure Rule 55 (a) – Default, Default Judgment:

“55(a) 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 the party’s default”

- As the record will show, the Clerk did not maintain a true and correct Docket as Certified<sup>2</sup> and required--- a fact that is clear and indisputable.
- As the record will show, the Courts<sup>3</sup> both Appellate and District Courts did not act on the Title 18 U.S.C. § 4 Misprision Felony Notifications made by Petitioner.

Note: The Courts, by not acting according to statutory requirements becomes “active concealment of a Felony” in furtherance of a crime. The “overt act” is No Action taken on the Formal Notification’s made by Roger Liverman, Petitioner.

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<sup>2</sup> Petitioner requested and obtained through the mails and with a U.S. Postal Money Order, received a Certified Copy of the Docket, certified by the Clerk.

<sup>3</sup> U.S. Court of Appeals, Fifth Circuit, New Orleans, No. 19-51053 ----- U.S. District Court Western District of Texas, Midland Division Case No. 7:19-CV-62

In the instant case, the language contained in Title 18 U.S.C. § 4 Misprision of Felony is quite clear concerning the duties and responsibilities of a Private Citizen to notify a “Judge or someone in Authority”. Congress has provided that a citizen “shall” do this.

Due to the Separation Clauses in the U.S. Constitution, the Appellate Court, District Court does not have authority to execute the enforcement of law, that is reserved to the Executive Branch. The Courts can only “interpret” the law. --- U.S. Constitution Article I, II, III.

### **Legal Analysis:**

Nowhere has Congress given it the option to ignore the language and provisions of the statute Title 18 U.S.C. Sec. 4 Misprision Felony by the Court. The Court does not have the discretion and ability to determine how it will effectuate its statutory duty to achieve the goals expressed by Congress.

The word “shall” is imperative, and, it deprives the Court of the right to do something that is clearly contrary to Congressional intent.

A writ of mandamus or prohibition is available “to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.” Roche v. Evaporated Milk Ass’n, 319 U.S. 21, 26 (1943).

The writ may issue if there is no other adequate means of obtaining the desired relief; if the petitioner's right to issuance of the writ is "clear and indisputable"; and if the appellate court in its discretion is satisfied that mandamus is appropriate under the circumstances. Cheney v. U.S. Dist. Court, 542 U.S. 367, 380-81 (2004) (quotation marks omitted); Mallard v. U.S. Dist. Court, 490 U.S. 296, 309 (1989); In re Avantel, S.A., 343 F.3d 311, 317 (5th Cir. 2003).

Each of these factors is satisfied here, as the sweeping sanctions clearly exceed the U.S. Court of Appeals, Fifth Circuit / U.S. District Court, Western District of Texas, Midland Divisions authority. Creating a Fraud Upon the Court by the Court.

The United States Court of Appeals for the Sixth Circuit has set forth five elements of fraud upon the court which consist of conduct: "1. On the part of an officer of the court; 2. That is directed to the 'judicial machinery' itself; 3. That is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth; 4. That is a positive averment or is concealment when one is under a duty to disclose; 5. That deceives the court." Demjanjuk v. Petrovsky, 10 F.3d 338, 348 (6th Cir. 1993).



Although other United States Courts of Appeals have not articulated express elements of fraud upon the court as the Sixth Circuit did, the doctrine has been characterized “as a scheme to interfere with the judicial machinery performing the task of impartial adjudication, as by preventing the opposing party from fairly presenting his case or defense.”

### **Finality Trap**

Only through the use of the Writ of Mandamus to the U.S. Supreme Court ----- can the Finality Trap that was created by the Clerk of the Fifth Circuit Court of Appeals to put this case in Limbo and which violated Petitioners Right of Due Process and Equal Protection Clauses of the U.S. Constitution

The alleged “Order” [so called because there are no dates stamped or judicial signatures, proving such “Order” was official. The “Order” only dismisses part of the multi-claim litigation and left the remainder intact. The Clerk of the Fifth Circuit entered in the docket- see Appendix Tab 1 Certified Docket – That this case was Dismissed in its Entirety... Which is not true. Hence the “trap” was set. Creating a Fraud Upon the Court by the Court.

The necessary measure of protection for government documents and records is provided by 18 U.S.C. § 2071. Section 2071(a) contains a broad prohibition against destruction of government records or attempts to destroy such records. This section provides that whoever:

willfully and unlawfully; conceals, removes, mutilates, obliterates or destroys; or attempts to conceal, remove, mutilate, obliterate or destroy; or carries away with intent to conceal, remove, mutilate, obliterate or destroy; any record, proceeding, map, book, paper, document or other thing deposited in any public office may be punished by imprisonment for three years, a \$2, 000 fine, or both.

There are several important aspects to this offense. First, it is a specific intent crime. This means that the person must act intentionally with knowledge that he/she is violating the law. See United States v. Simpson, 460 F.2d 515, 518 (9th Cir. 1972).

Moreover, one case has suggested that this specific intent requires that the person know that the documents involved are public records. See United States v. DeGroat, 30 F. 764, 765 (E.D.Mich. 1887).

Subsection (b) of Title 18 U.S.C. § 2071 contains a similar prohibition specifically directed at custodians of public records.

“Any custodian of a public record who "willfully and unlawfully conceals, removes, mutilates, obliterates, **falsifies**, or destroys (any record) shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States." While the range of acts proscribed by this subsection is somewhat narrower than subsection (a), it does provide the additional penalty of forfeiture of position with the United States.

**Note:** This filing is both a Writ of Mandamus to compel the lower courts to perform “ministerial acts” required by law and custom and a Formal Notification of Misprision Felony to a “ as soon as possible make known the same to some judge or other person in civil or military authority under the United States”

Roger Liverman, Petitioner, appearing “pro se” in order to comply with the statutory language regarding Title 18 U.S.C. § 4 Misprision Felony and hereby makes this:

“Formal Notification to the United States Supreme Court of Title 18 U.S.C. § 4 Misprision Felony of the Clerk, Fifth Circuit Court of Appeals, New Orleans for Violating Title 18 U.S.C. § 2071(b)”

**Background of Formal Notification made to the Court of Appeals, Fifth Circuit.**

The Clerk, Office of the Clerk, U.S. Court of Appeals, Fifth Circuit received this notification in December 2019. On January 08, 2020 Petitioner received a letter from the Clerk stating- “We are taking no action on this document as we are unable to determine the relief you are requesting.”

**U.S. District Court, Western District of Texas (Midland Division)**

Now Comes, Roger Liverman, Plaintiff-Appellant appearing Pro Se, hereby filed a Formal Notification of Title 18 U.S.C. § 4 Misprision Felony of Jeannette J. Clack, Clerk of Court, Philip J. Devlin, Chief Deputy, Office of the Clerk, U.S. District Court, Western District of Texas (Midland Division) for Violating Title 18 U.S.C. § 2071. Concealment, Removal, or Mutilation Generally.

Pro Se Plaintiff-Appellant respectfully Request that this matter be referred to the United States Department of Justice for further Investigation and Prosecution to the fullest extent of the law.

Pursuant to Title 18 U.S.C. Sec. 4 Misprision of Felony

“Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both”. (June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

Petitioner in accordance to rules regarding-- Representations to Court

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the

person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -

(1) It is not being presented for any improper purposes, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or establishment of new law,

(3) the allegations and other factual contentions have evidentiary support or, if specifically, so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;"

### **Statement of Facts**

- On November 27, 2019, Roger Liverman Plaintiff-Appellant appearing Pro Se and "in forma pauperis made a specific request for the complete file and exhibits for Appeal Brief filing. Sent Return Receipt Requested, Green Card signed by S. Estrada, December 4, 2019.
- On December 05, 2019, the United States Court of Appeals, Fifth Circuit, Office of the Clerk sent a letter to Mr. Roger Liverman, 422 Holiday Drive, Ponder, Texas 76259 regarding No. 19-51053

Roger Liverman v. LaWanda McMurray, et al DC No. 7:19-CV-62.

The letter stated:

“Pro Se litigants may request the record from the district court to prepare their brief. Those proceeding in forma pauperis may receive the record without payment of shipping costs. If you wish to receive exhibits, you must specifically request them,

Once you obtain the record, you should check it within 14 days of receipt for any missing or incomplete items. If you need to request a supplement record or order transcripts, do so promptly, the court will not grant extensions of time to file your brief because you did not timely check the record.”

- On December 10, 2019, Roger Liverman Plaintiff-Appellant appearing Pro Se and “in forma pauperis made a specific request for the missing exhibits and attachments needed for Appeal Brief filing. Sent Return Receipt Requested, Green Card signed by S. Estrada, December 12, 2019.
- On December 19, 2019, Roger Liverman Plaintiff-Appellant appearing Pro Se and “in forma pauperis made a specific request for the missing exhibits and attachments needed for Appeal Brief filing. Made several phone calls to both the Office of the Clerk, U.S. District Court, Western District of Texas (Midland Division) and to the United States Court of Appeals, Fifth Circuit, Office of the Clerk regarding the “missing” filings and exhibits. I was informed that the Documents being sought are “not in the file.”

Specifically, missing documents are the Attachment and Exhibits attached to Pro Se Plaintiffs Objection to Entire US Magistrate Judges Order Denying Plaintiffs Emergency to Recuse and For Sanctions [see Entry 58 (Entered: 10/17/2019)] and Notice of Filing Pro Se Plaintiffs Objection to Entire Report and Recommendation of the US Magistrate Judge [see Entry 59 (Entered: 10/17/2019)] highlighting the false, statements contained therein to the U.S. District Judge David Counts.

- On December 19, 2019, the United States District Court, Western District of Texas, Office of the Clerk sent a letter dated December 16, 2019, to Mr. Roger Liverman, 422 Holiday Drive, Ponder, Texas 76259 regarding: MO:19-CV-62-DC-RCG, stating:  
  
“A CD was mailed to you with a digital copy of your documents, the clerk was kind enough to print a courtesy copy for you. Please refer to your CD which contain all the pages you previously requested. Feel free to contact us with any questions.”
- Roger Liverman, Plaintiff-Appellant appearing “Pro Se and in forma pauperis” called the United States District Court, Western District of Texas, Office of the Clerk to inform them I am 76 years old and do not have a computer or know how to use one, Needless

to say, the person I spoke to was not helpful. Informed me that I was not getting anything from her.

One of the principal responsibilities of the federal criminal law is the protection of government property. The property holdings of the United States, its departments and agencies are extensive and include both real and personal property in this country and abroad. In order for the Federal government to perform the wide range of duties assigned to it by law, it must have ready access to these properties and resources. Therefore, it is very important that these properties be protected from any theft, misuse or misappropriation.

#### 9-66.400 - Protection of Public Records, Documents and Other Government Information

##### Protection of Public Records and Documents CRM at 1663

The taking of a public record or document is prohibited by 18 U.S.C. § 641. The destruction of such records may be reached under 18 U.S.C. § 1361. In both instances, however, proving a \$100 loss, the prerequisite to a felony conviction, may be difficult. Thus, neither of these statutes adequately protects government records.

The necessary measure of protection for government documents and records is provided by 18 U.S.C. § 2071. Section 2071(a) contains a broad prohibition against destruction of government records or attempts to destroy such records. This section provides that whoever: willfully and unlawfully; conceals, removes, mutilates, obliterates or



destroys; or attempts to conceal, remove, mutilate, obliterate or destroy; or carries away with intent to conceal, remove, mutilate, obliterate or destroy; any record, proceeding, map, book, paper, document or other thing deposited in any public office may be punished by imprisonment for three years, a \$2, 000 fine, or both.

There are several important aspects to this offense. First, it is a specific intent crime. This means that the defendant must act intentionally with knowledge that he is violating the law. See United States v. Simpson, 460 F.2d 515, 518 (9th Cir. 1972). Moreover, one case has suggested that this specific intent requires that the defendant know that the documents involved are public records. See United States v. DeGroat, 30 F. 764, 765 (E.D.Mich. 1887).

The acts proscribed by this section are defined broadly. Essentially three types of conduct are prohibited by 18 U.S.C. § 2071(a). These are: (1) concealment, removal, mutilation, obliteration or destruction of records; (2) any attempt to commit these proscribed acts; and (3) carrying away any record with the intent to conceal, remove, mutilate or destroy it. It should be noted that all of these acts involve either misappropriation of or damage to public records. This has led one court to conclude that the mere photocopying of these records does not violate 18 U.S.C. § 2071. See United States v. Rosner, 352 F. Supp. 915, 919-22 (S.D.N.Y. 1972).

Subsection (b) of 18 U.S.C. § 2071 contains a similar prohibition specifically directed at custodians of public records. Any custodian of a public record who "willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys (any record) shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States."

While the range of acts proscribed by this subsection is somewhat narrower than subsection (a), it does provide the additional penalty of forfeiture of position with the United States.

Title 18 contains two other provisions, of somewhat narrower application, which relate to public records. Section 285 prohibits the unauthorized taking, use and attempted use of any document, record or file relating to a claim against the United States for purposes of procuring payment of that claim. Section 1506 prohibits the theft, alteration or falsification of any record or process in any court of the United States. Both of these sections are punishable by a \$5,000 fine or imprisonment for five years.

### **Title 18 U.S.C. § 2071 Concealment, removal, or mutilation generally**

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any

judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

(June 25, 1948, ch. 645, 62 Stat. 795; Pub. L. 101-510, div. A, title V, §552(a), Nov. 5, 1990, 104 Stat. 1566; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

#### **Historical and Revision Notes**

Based on title 18, U.S.C., 1940 ed., §§234, 235 (Mar. 4, 1909, ch. 321, §§128, 129, 35 Stat. 1111, 1112). Section consolidates sections 234 and 235 of title 18, U.S.C., 1940 ed.

Reference in subsection (a) to intent to steal was omitted as covered by section 641 of this title. Minor changes were made in phraseology.

**Title 18 USC §1512 (b)** Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to - (1) influence, delay, or prevent the testimony of any person in an official proceeding; (2) cause or induce any person to -- (A) withhold testimony, or withhold a record, document, or other object, from an official proceeding; (B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; ... shall be fined under this title or imprisoned not more

than 20 years, or both. (3) ... (c) Whoever corruptly—(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or (2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

## **Background**

- The U.S. Magistrate Judge Ronald C Griffin, willfully and knowingly did make and use a false writing or document knowing the same to contain a materially false, fictitious, and fraudulent statement and entry with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction or agency of the United States, and did attempt to do the same to wit, U.S. Magistrate Judge Ronald C Griffin, created and signed, and submitted to U.S. District Judge David Counts and to the Clerk of the Court, U.S. District Court, Western Division, (Odessa/Midland) ORDER DENYING 25 Emergency Motion to Recuse Magistrate Judge Ronald C. Griffin and Sanction Defendants and Defendant Attorney of Record and Law Firm (Motion to Recuse and for Sanctions). Signed by Judge Ronald C Griffin. to appear [see entry 53 (Entered:10/03/2019) - on the Official Docket, a materially false instrument indicating that U.S. Magistrate Judge Ronald C Griffin signed and ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis.

Signed by Judge David Counts, [see entry 12 entered 04/03/2019 when he had not in fact done so.

- The U.S. Magistrate Judge Ronald C Griffin, willfully and knowingly did make and use a false writing or document knowing the same to contain a materially false, fictitious, and fraudulent statement and entry with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction or agency of the United States, and did attempt to do the same to wit, U.S. Magistrate Judge Ronald C Griffin, created and signed, and submitted to U.S. District Judge David Counts and to the Clerk of the Court, U.S. District Court, Western Division, (Odessa/Midland) REPORT AND RECOMMENDATION Signed by Judge Ronald C Griffin. to appear [see entry 54 (Entered:10/07/2019) - on the Official Docket<sup>4</sup>, a materially false instrument indicating that U.S. Magistrate Judge Ronald C Griffin signed and ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis. Signed by Judge David Counts, [see entry 12 entered 04/03/2019 when he had not in fact done so.
- It must be highlighted that in both the ORDER DENYING 25 Emergency Motion to Recuse Magistrate Judge Ronald C. Griffin and Sanction Defendants and Defendant Attorney of Record and Law Firm (Motion to Recuse and for Sanctions). Signed by Judge

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<sup>4</sup> Certified Docket by Clerk of the Court

Ronald C Griffin and the REPORT AND RECOMMENDATION

Signed by Judge Ronald C Griffin. to appear [see entry 54

(Entered:10/07/2019) - on the Official Docket, that the a materially false instrument indicating that U.S. Magistrate Judge Ronald C Griffin signed and ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis in the Prior Civil Litigation when he had not in fact done so.

- Because there was no Motion to Leave to Proceed in forma pauperis because Roger Liverman, Appellant paid the filing fee in that case as [see the attached receipt.] This is a Significant Fact.
- Notice of Filing Pro Se Plaintiffs Objection to Entire US Magistrate Judges Order Denying Plaintiffs Emergency to Recuse and For Sanctions [see Entry 58 (Entered: 10/17/2019)] and Notice of Filing Pro Se Plaintiffs Objection to Entire Report and Recommendation of the US Magistrate Judge [see Entry 59 (Entered: 10/17/2019)] highlighting the false, statements contained therein to the U.S. District Judge David Counts.
- On 10/24/2019, the Clerk of the Court, knowingly and willfully changed the Official Docket by entering a materially false instrument indicating that U.S. Magistrate Judge Ronald C Griffin signed and ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis. Signed by Judge Ronald C. Griffin<sup>5</sup>,

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<sup>5</sup> Thus, attempting to correct the False Narrative and Statement made by the U.S. Magistrate Ronald C Griffin in his ORDER DENYING 25 Emergency Motion to Recuse Magistrate Judge Ronald C. Griffin and Sanction Defendants and

(se) Modified text to correct Judge's name on 10/24/2019 with the document being altered, falsified and forged [see entry 12 entered 04/03/2019 when he had not in fact done so in violation of Title 18 U.S.C. § 2071 Concealment, Removal, or Mutilation Generally. contains a similar prohibition specifically directed at custodians of public records.

- Any custodian of a public record who "willfully and unlawfully conceals, removes, mutilates, obliterates, **falsifies**, or destroys (any record) shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States."

While the range of acts proscribed by this subsection is somewhat

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Defendant Attorney of Record and Law Firm (Motion to Recuse and for Sanctions).  
Signed by Judge Ronald C Griffin and the REPORT AND RECOMMENDATION  
Signed by Judge Ronald C Griffin to appear [see entry 54 (Entered:10/07/2019) - on the Official Docket,

However, this does not Correct a materially false instrument indicating that U.S. Magistrate Judge Ronald C Griffin signed and ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis in the Prior Civil Litigation when he had not in fact done so. Because the Appellant paid the filing fee in that prior litigation and thus NO ORDER GRANTING 2 Motion to Leave to Proceed in forma pauperis was ever filed or signed in that Case. A Fabricated false Statement that they Clerk of the Court, U.S. Magistrate Judge Ronald C Griffin and U.S. District Judge David Counts knew was going to be used in the Docket. [See Entry 60 ORDER ADOPTING REPORT AND RECOMMENDATION AND AFFIRMING THE MAGISTRATE JUDGES ORDER as to 54 Report and Recommendations Signed by Judge David Counts. (see) (Entered 10/28/2019) and FINAL JUDGEMENT. Signed by Judge David Counts (see) (Entered: 10/28/2019).

narrower than subsection (a), it does provide the additional penalty of forfeiture of position with the United States.

## CONCLUSION

### Relief Sought:

For the foregoing reasons, the Petitioner Roger Liverman respectfully requests that “clear and indisputable” facts; ---- Requires this Court to issue an Order compelling:


- The Clerk of the Fifth Circuit, Court of Appeals, New Orleans to Correct the Docket in this Proceeding.
- The Clerk to Enter Plaintiffs-Appellants Petition of Writ of Mandamus to compel the U.S. District Clerk, to Enter and Issue and Record the Federal Rule of Civil Procedure Rule 55 – Default; Default Judgment.
- Petitioner’s Formal Notifications to the Courts concerning Title 18 U.S.C. § 4 Misprision Felony be referred to the “Proper Authorities” in the U.S. Dept. of Justice, to be fully investigated and prosecuted to the fullest extent of the law.



The Clerks actions or lack of action caused a Fraud upon the Court and by the Court. It was a fraud directed at the machinery of the Court not by the parties involved. --- making Null and Void all actions by the Fifth Circuit, U.S. District Court concerning this matter.

**“Fraud vitiates whatever it touches”** and everything that those individuals conduct contained in the Formal Notifications--- has touched regarding this litigation and all actions made by these individuals in the past and currently. Now is suspect and shall be subject to review and audit.

Respectfully Submitted,



Roger Liverman, Plaintiff-Appellant

422 Holiday Drive,

Ponder, Texas 76259

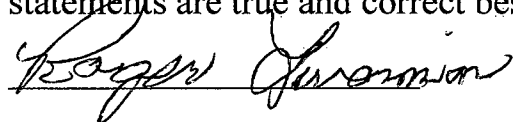
## Certificate of Compliance

The undersigned Petitioner provides the following Certificate of Compliance:

1. This Brief complies with the type-volume limitation because it contains approximately 4827 words, which is at or under the limit of 9,000 words, *excluding* the following parts: cover page, certificate of interested persons, table of contents, table of authorities, statement regarding oral argument, any addendum containing statutes, rules or regulations, and certificates of counsel.

2. This Brief complies with the typeface and type-style requirements because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font.

I, ROGER LIVERMAN, hereby signs under the penalty of perjury that these statements are true and correct best of my knowledge.



Petitioner, Pro Se

Roger Liverman

422 Holiday Drive

Ponder, Texas 76259