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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-3069

Matthew Staszak

Plaintiff - Appellant

v.

United States of America; Darlene Gallardo, Unit Manager, Individually and in her official capacities

Defendants - Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Delta
(2:19-cv-00052-KGB)

JUDGMENT

Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

May 13, 2021

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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Matthew Staszak

Appellant

v.

United States of America and Darlene Gallardo, Unit Manager, Individually and in her official
capacities

Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Delta
(2:19-cv-00052-KGB)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is
also denied.

July 13, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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Affidavit of Terry M. Green

STATE OF ILLINOIS)
)ss.
COUNTY OF FRANKLIN)

Terry M. Green, first being duly sworn, states:

1. That I am the attorney for Matthew Staszak and represent him in the Southern District of Illinois in case No. 15-CV-20-JPG and Criminal No. 12-CR-40064-JPG.
2. That on the afternoon of November 30, 2018, I was scheduled to have an important telephone conference with Mr. Staszak concerning issues in the above described case. I believe the call had been set up originally by his counselor.
3. That a short time after the call commenced I was told by the manager, a Ms. Gallardo, that Matthew Staszak and I could not continue the call as it was initially set up. As I recall there was an issue having to do with my client using the phone line or office as previously planned.
4. I told Mr. Staszak, who was being relocated, that if we wished to talk further, in so many words to be careful what he had to say on his end. As I recall, I told him I'd do most of the talking as I was uncertain what the arrangements now were.
5. We continued on in this unusual manner discussing the matters of why the call was arranged in the first instance.
6. The manager came on the phone again (by my count the 3rd time) and informed me that we'd have to finish the call later.
7. This is the first time in the last 20+ years that I have had this experience of trying to complete an important conversation with a client in federal custody.
8. This problem with the call was difficult and upsetting and not the least conducive of Attorney-Client communication.

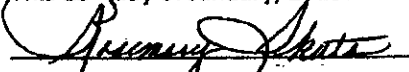
Further affiant sayeth not.



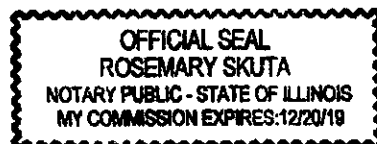
Terry M. Green, Affiant

Subscribed and sworn to before me

This 23rd day of January, 2019.



Notary Public



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AFFIDAVIT OF MATTHEW L. STASZAK

I Certify under penalty of perjury under 28 U.S.C. Section 1746 that the foregoing facts are true and correct to the best of my knowledge.

1. That I am the Petitioner in ongoing litigation for Case No. 15-cv-00020-JPG within the jurisdiction of the Southern District of Illinois. I am over the age of 18 and I am of sound judgment, honesty, truthfulness and character. I am currently represented by Counsel Terry M. Green in the above styled case, in which, is the primary concern of this Affidavit sworn.

2. On November 30, 2018, around 1430 hours while I was located within the confines of the FCC Forrest City (Low) Wynne Building and inside the office of Unit Manager Darlene Gallardo my Attorney-Client Privilege was violated by Gallardo.

3. My Attorney/Counsel is aware of this incident and is in fact a witness thereof to this violation. I am under the impression that Counsel will file an Affidavit to this incident at a later time.

4. That currently I have filed Informal Resolution or known as a BP-8 and that the BP-8 has not been answered by Darlene Gallardo as to present date of January 12, 2019.

5. That currently I have filed a BP-9 to the Complex Warden where it has been "REJECTED" due to reasons that are improper and/or false information provided to Affiant on January 9, 2019, by W-A Unit Secretary.

6. That currently I have completed the BP-10 to be submitted to the South Central Regional Director and mailed to the Director upon receiving an Affidavit from Counsel Green.

7. That the facts of the incident are as follows:

- a.) Gallardo subjected Staszak and his Counsel to a rude, unprofessional interruption by barging into Case Manager Danaher's Office;
- b.) The attorney-client call was important between Green/Staszak as Staszak had important matters to discuss with his Counsel (that he has yet been able to discuss with his attorney);
- c.) that Staszak's Unit Counselor K. Brister scheduled the call in the privacy of Danaher's Office, in which, Staszak has used Danaher's Office in the past, more than once, to conduct his private calls with his attorney without rude and unprofessional interruption from any member of staff to include M. Danaher;

d.) that Gallardo brazenly informed Staszak his Attorney-Client call must end immediately;

e.) that Staszak was informed by Gallardo to pack all of his legal documents and move immediately to Gallardo's Office;

f.) Staszak responded to Gallardo's demands by responding respectfully but firmly: "No, I am not comfortable with this.";

g.) Gallardo then grabbed the phone receiver from Staszak and began conversing with Staszak's Counsel;

h.) Gallardo and Green had a brief dialogue;

i.) Staszak was handed back the phone where his Counsel advised him: "Move to the other office but watch what you say. We need to get this done.";

j.) Staszak reluctantly moved to Gallardo's Office as she had demanded;

k.) that about 15 minutes later interrupted again after intently listening to Staszak's Attorney-Client call, which appeared to cause Gallardo to become ire and frustrated with Staszak due to his limited speech with his attorney, where at this time Gallardo again grabbed the phone from Staszak and demanded end;

l.) that after a few more minutes and by this time Staszak being under a state of duress by Gallardo demanded that Staszak end the call within fifteen minutes being the third interruption of the privileged call by Gallardo;

m.) that Gallardo's misconduct violated Staszak's Attorney-Client Privileges due to the fact she insisted to remain in the room for the call and intently listen to Staszak's privileged communications and informations with his Counsel;

n.) that this is a once and again attempt by the Government, based upon information and belief of Staszak, of further retaliation and harrassment by Officers and Agents of the Government due to the already obvious display of the wide-open, take-no-prisoners approach of past witnessed displays of Government conduct both publically and in writing;

o.) that Staszak expected this type of misconduct at some point upon his return to FCC Forrest City from the Southern District of Illinois by the Government, due to the chain-of-events displayed by the Government during the Evidentiary process.

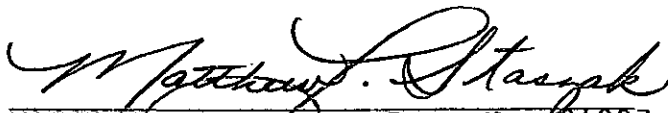
p.) and that Staszak has full intentions of filing litigation against the United States and Darlene Gallardo due to the misconduct committed by Gallardo within her official and individual capacities as a federal officer for the United States Government and that Staszak will seek damages.

VERIFICATION

I, Affiant, Matthew L. Staszak, Reg No. 24227-171 by my signature below pursuant to 28 U.S.C. Section 1746, Declare under Penalty of Perjury that the fore going is factual, true and correct based upon personal knowledge.

Date: January 12, 2019

Respectfully submitted,

 1/12/2019
MATTHEW L. STASZAK, Reg. No. 24227-171
Federal Correctional Complex (Low)
P.O. Box 9000-Low
Forrest City, Arkansas 72336-9000