

28 U.S.C. 351(a) Complaint
In The United States Court of Appeals
Eighth Circuit

Melinda-Sue:Harrington , Complainant
c/o 2450 Elmwood Ave
Kansas City, MO. 64127

Chief District Judge Fernando J. Gaitan, Accused
United States District Court
Western District of Missouri
400 East 9th Street
Kansas City, Missouri 64106

Reference Case No. 10-00131-01-CR-W-FJG

UNITED STATES OF AMERICA v. DENNY RAY HARDIN

Statement of Truth

I, Melinda-Sue:Harrington, now file this formal complaint against Chief District Judge Fernando J. Gaitan because of his repeated refusal to administer “Due Process of Law”; repeated refusal to act within the laws that govern his conduct and his failure to conduct the business of the court in a professional and efficient manner. Based upon these acts, I believe Chief District Judge Fernando J. Gaitan has become delusional and Mentally Incompetant in his belief that he can violate Constitutional Rights, Codes of Judicial Conduct and Law that governs his public office. The following are “facts” that give raise to this “complaint”. I, Melinda-Sue:Harrington do declare under the penalty of perjury that the foregoing facts are true and correct to the best of my knowledge and beliefs without purpose to mislead. The right to amend is reserved.

"Facts"

1) On May 10, 2010, I was present; witnessed ; and have first hand personal knowledge of the fact that Denny-Ray:Hardin asked US District Court Magistrate Judge Robert E. Larsen to state the courts jurisdiction for the record. Rule 12(b)(3)(B) says at anytime while the case is pending the court may hear a claim that the Indictment fails to invoke the Court's jurisdiction.To date Magistrate Larsen has failed to establish his jurisdiction in this cause of action on the record. I assert this is denial of "Due Process of Law" in violation of the 5th Amendment.

"Jurisdiction, once challenged, cannot be assumed and must be decided."

Maine v. Thiboutot, 100 S. Ct. 250

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."

Hagans v. Lavine, 415 U. S. 533

In regard to courts of inferior jurisdiction, "if the record does not show upon its face the facts necessary to give jurisdiction, they will be presumed not to have existed." Norman v. Zieber, 3 Or at 202-03

Notification of legal responsibility is "the first essential of due process of law". See also: U.S. v. Tweel, 550 F.2d.297. "Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading."

US v Will, 449 US 200,216, 101 S Ct, 471, 66 LEd2nd 392, 406 (1980) Cohens V Virginia, 19 US (6 Wheat) 264, 404, 5LEd 257 (1821)

"When a judge acts where he or she does not have jurisdiction to act, the judge is engaged in an act or acts of treason."

2) On May 10, 2010, I was present; witnessed ; and have first hand personal knowledge of the fact that Denny-Ray:Hardin Explicitly reserved all his rights UCC1-308 /1-207 and he demanded his remedy in accordance with the "15 Statutes at Large" .

§ 1-308. Performance or Acceptance Under Reservation of Rights.

(a) A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice," "under protest," or the like are sufficient.

15 Statutes at Large, Chapter 249 (section 1), enacted July 27 1868

Chap. CCXLIX. ---An Act concerning the Rights of American Citizens in foreign States

Whereas the rights of expatriation is a nature and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the right of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the government thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed; Thereof.

Be it enacted by the Senator and the House of Representatives of the United States of American in Congress assembled, That any declaration, instruction, opinion, order, or decision, of any officers of is government which denies., restricts , impairs or questions the rights of expatriation , is hereby declared inconsistent with the fundamental principles of this government.

3) On May 10, 2010 I was present; witnessed ; and have first hand personal knowledge of the fact that Magistrate Robert Larsen stated he would appoint Denny-Ray: Hardin stand by counsel; as the record reflects. On May 13, 2010 Magistrate Larsen stated he had appointed Anita Burns as counsel for Denny-Ray:Hardin. I Heard Denny-Ray:Hardin terminate her counsel in open court and assert his right to act as his own counsel within the 6th Amendment. Magistrate Larsen refused this right in violation of 28 U.S.C. 1654. Anita Burns has acted in clear “Prosecutorial Misconduct” and “Fraud on the Court” with Magistrate Larsen to order a “Mental Competency Evaluation”. A mental evaluation is supposed to be completed in 45 days within 18 U.S.C. 4243 at a medical facility; Denny-Ray:Hardin was sent to LITTLETON DETENTION CENTER which by their own admission is not a medical facility; this is clear fraud on the court as the record reflects. Magistrate Larsen with no motions from the Prosecuting Attorney or the appointed Public Defender ordered Denny-Ray:Hardin be held longer to complete this evaluation. I assert this is clear “Conspiracy Against Rights” 18 U.S.C. 241 and “Deprivation of rights under the color of law” 18 U.S.C. 242. The Court’s file contains lawful notification of these crimes.

4) On May 13, 2010, Magistrate Larsen closed court to all motions of Denny-Ray: Hardin, by order to the clerk of the court, not to file any pro se motions in this case because Denny-Ray:Hardin was represented by counsel. I believe this to be ineffective assistance of counsel at best. and denial of rights under the color of law 18 USC 242. I have first hand personal knowledge that Denny-Ray:Hardin has not ever filed any pro se motions in this cause of action but in fact he has filed all his paperwork sui juris. (The truth is in the record) This is a clear violation of 28 U.S.C. 452 that deems “Court is always open” for this purpose. On June 28, 2010 Denny-Ray: Hardin filed “Application for Habeas Corpus” to Chief Judge Fernando J. Gaitan that has not been docketed to date. (see attached exhibit)Because Denny-Ray:Hardin is restrained for “Mental Evaluation” “Habeas Corpus” is unimpaired 18 U.S.C. 4247(G). The Constitution for the united States of America at Article I, Section 9 states that: “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Case of Rebellion or Invasion the public Safety may require it.”

“Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law.”

Rubinstein v. Collins, 20 F.3d 160, 1990

“Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus.”

[U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

5) On September 6, 2010 “Demand to Open Court” was sent to Chief Judge Fernando J. Gaitan, to date Court is closed to Denny-Ray: Hardin with Magistrate Larsen stating that he will not address the judicial notices because Denny-Ray:Hardin has appointed counsel. Again, counsel that Larsen himself appointed; which Denny-Ray:Hardin fired in open court and to which any sane person could only view as ineffective assistance of counsel and a puppet to do the judges and prosecutions bidding. By Complying with the order of Magistrate Larsen, the clerk of the court has violated Denny-Ray:Hardin’s 1st Amendment right to petition for redress of grievances and suspended Habeas Corpus in violation of Article I, Section 9 of the Constitution for the United States of America. This is clearly “Conspiracy against rights” 18 U.S.C. 241, “denial of rights under the color of law” 18 USC 242 and denial of “Due process of Law” in violation of the 5th Amendment.

6) On May 13, 2010, there was to be a hearing for release pending trial within 18 U.S.C. 3142. Magistrate Larsen based upon Anita Burns’s; (i.e. Larsen’s appointed ineffective counsel)“Motion for Mental Evaluation” refused to conduct a “Bail Hearing” within his duty 18 U.S.C. 3041 and denied “Bond” in violation of the 8th Amendment. I believe this to be premeditated conspiracy between Magistrate Larsen, Anita Burns (his appointed puppet), and U.S. Attorney Brian Casey. Based upon “False Declarations to the Court”

18 U.S.C. 1623 that the "STATE OF MISSOURI" had Denny-Ray:Hardin declared delusional. Magistrate Larsen refused a hearing and ordered Denny-Ray;Hardin incarcerated based upon "Fraud" 18 U.S.C. 1001. Denny-Ray:Hardin was not ever determined to be delusional by any authority of the state of Missouri.

7) On September 9, 2010 I was present; witnessed ; and have first hand personal knowledge of the fact that Magistrate Robert Larsen denied Denny-Ray:Hardin his right to subpoena witnesses in regards to the mental evaluation. Magistrate Larsen denied Denny-Ray:Hardin his right to a lawful "Mental Competency Hearing" 18 U.S.C. 4247(d) and I watched what could only be equated to as a "Witch Hunt" to deny an American National his right to cross examine his accusers.

All of these facts take rise to the fact that the courts deem us all guilty until proven innocent and will disregard all law to keep from having to prove their allegations as truth. Denny-Ray:Hardin has not been found guilty of any crime and in fact the prosecution; judge and the biased appointed counsel for Denny-Ray:Hardin have worked in concert to orchestrate an inquisition and deem Denny-Ray:Hardin guilty without ever having to show proof. Denny-Ray:Hardin has been housed with adjudicated inmates serving lifetime sentences for murder putting his very life in jeopardy.

Ableman v. Booth, 21 Howard 506 (1859)

"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."

Stump v. Sparkman, id., 435 U.S. 349 Some Defendants urge that any act "of a judicial nature" entitles the Judge to absolute judicial immunity. But in a jurisdictional vacuum (that is, absence of all jurisdiction) the second prong necessary to absolute judicial immunity is missing. A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity.

Relief requested

I believe that according to the first hand personal knowledge facts of what I have heard and witnessed that Chief District Judge Fernando J. Gaitan is acting outside of his scope of jurisdiction; with malice, intent in knowledge to inflict harm and injury on an American National. I believe that Chief District Judge Fernando J. Gaitan is suffering delusions of grandeur which he believes he is above the law; and can inflict injury to the people, where no relief can be granted. I believe that Chief District Judge Fernando J. Gaitan has become incapable of being a unbiased judge who rules by the law and should be removed from the bench pending complete investigation into the misrepresentation of the record, for allowing a subordinate to act outside of his jurisdiction and for heinous crimes against the American people. Without a true statement of jurisdiction Gaitan has caused irreparable damage to Denny-Ray:Hardin and his family to cover up the crimes he has let Magistrate Judge Larsen, Public Defender Anita Burns(i.e. Larsens appointed biased counsel) commit in violation of their oaths of office, the Constitution for the united States of America and the American People.I believe Chief Judge Fernando J. Gaitan acting upon "A bill of attainder" and that is why to date jurisdiction has not been stated for the record. It has been denied.

"A bill of attainder is defined to be 'a legislative Act which inflicts punishment without judicial trial'"
"...where the legislative body exercises the office of judge, and assumes judicial magistracy, and pronounces on the guilt of a party without any of the forms or safeguards of a trial, and fixes the punishment."
In re De Giacomo, (1874) 12 Blatchf. (U.S.) 391, 7 Fed. Cas No. 3,747, citing Cummings v. Missouri, (1866) 4 Wall, (U.S.) 323.

Downs v. Bidwell, 182 U.S. 244 (1901)"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgement in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."

I close with this question, "**Is this JUSTICE the American way?**" This is the second complaint I have sent. The first was dismissed according to William Jay Riley because it was stated I failed to sign or affirm under the penalty of perjury to the truthfulness of the complaints. This is an outright lie. (see attached copy of complaint form sent in that is clearly marked appropriatley and notorized).

I also have sent in a habeas corpus signed by nine people who have first hand personal knowledge of the facts in this cause of action which was summarily flat out denied by the Clerk of the court Michael E. Gans suspending habeas corpus for Denny-Ray:Hardin. I received a judgment and mandate showing no reason or lawful authority to deny habeas corpus and neither document was signed by any judge of the United States Court of Appeals for the Eighth Circuit.

Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or conniving with others who perform a criminal act or for their administrative/ministerial duties, or for violating a citizen's constitutional rights. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act; he is performing a ministerial act.

Nowhere was the judiciary given immunity, particularly nowhere in Article III; under our Constitution, if judges were to have immunity, it could only possibly be granted by amendment (and even less possibly by

legislative act), as Art. I, Sections 9 & 10, respectively, in fact expressly prohibit such, stating, "No Title of Nobility shall be granted by the United States" and "No state shall... grant any Title of Nobility." Most of us are certain that Congress itself doesn't understand the inherent lack of immunity for judges.

Article III, Sec. 1, "The Judicial Power of the United States shall be vested in one supreme court, and in such inferior courts, shall hold their offices during good behavior."

Tort & Insurance Law Journal, Spring 1986 21 n3, p 509-516, "Federal tort law: judges cannot invoke judicial immunity for acts that violate litigants' civil rights." - Robert Craig Waters.

WHEREAS, officials and even judges have no immunity (See, Owen vs. City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21; officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America. See: Title 42 U.S.C. Sec. 1983.

"When lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity not their official capacity. When federal officials perpetrate constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity." Williamson v. U.S. Department of

Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991).

"Personal involvement in deprivation of constitutional rights is prerequisite to award of damages, but defendant may be personally involved in constitutional deprivation by direct participation, failure to remedy wrongs after learning about it, creation of a policy or custom under which unconstitutional practices occur or gross negligence in managing subordinates who cause violation." (Gallegos v. Haggerty, N.D. of New York, 689 F. Supp. 93 (1988)).

Have we come to a point where the appointed officers of the court are allowed to injure the people just because they say so and not by the preponderous proof of evidence? Have our court appointed officers become the modern day organized crime Lords? Public opinion thinks so. And so do I.

With the submission of this complaint; all courts have been exhausted for Denny-Ray:Hardin and habeas corpus will be submitted to the Supreme Court for the United States of America; along with all documents submitted to all inferior courts as exhibits.

Respectfully submitted,
Without prejudice,

Melinda-Sue Harrington, POA

Melinda-Sue:Harrington, POA
All rights reserved
UCC1-308/1-207

Mailing Address:
Melinda-Sue:Harrington
c/o 2450 Elmwood Ave
Kansas City, MO. 64127

In The United States District Court For The
Western District of Missouri
Western Division

United States of America,
Denny Ray Hardin, Ex Rel
Petitioners,

vs

KEEPER OF THE KEY
WARDEN Garcia
Federal Correctional Institution
9595 West Quincy Ave
Littleton, Colorado 80123
Respondent

] "Court of Record"
] Public Declaration
] Public Law 94-550
] Case No. 10-00131-01-CR-W-FJG
] Chief Judge:
] Fernando J. Gaitan
] By Affidavit

"APPLICATION FOR HABEAS CORPUS"

Comes Now, Denny Ray Hardin, sui juris, as an "American Citizen" (Not "Pro Se", Not "Pro Per" and not as a "UNITED STATES CITIZEN") to exercise his right under Article I, Section 9 of the Constitution for the United States of America to petition for the "Writ of Habeas Corpus". In support of this application, Petitioner states the following facts are true and correct to the best of his knowledge and beliefs without purpose to mislead.

"FACTS IN SUPPORT"

1. Petitioner is currently being held "Hostage" 18 USC 1203 by WARDEN Garcia at the following location:

Federal Correctional Institution
Englewood, Co.

9595 West Quincy Ave.

Littleton, Colorado 80123

Petitioner is currently in "Administrative Detention" of the "Segregation Housing Unit" where he has been for the past 17 days, based upon "Orders" of Lt. W. Cline of WARDEN Garcia's staff. This is in compliance with the unlawful order of Magistrate Robert Larson issued May 24th,

2. On May 5, 2010, "Foreign Agent (Brian P. Casey) 22 USC 611" acted in "Fraud" 18 USC 1001 to commence a criminal prosecution in the name of a "foreign state" prohibited by the 11th Amendment of the United States Constitution. Petitioner was not allowed to "testify or present evidence" within his rights 42 USC 1981, as required by the 5th Amendment. Therefore, Petitioner was denied "Due Process of law" before the Grand Jury. Brian P. Casey presented "False declarations before the Grand Jury" in violation of 18 USC 1623 and "Perjury" 18 USC 1621. Brian P. Casey succeeded in his scheme to defraud the Grand Jury 18 USC 1346 and obtained an unlawful "Indictment".

3. On May 10, 2010, Petitioner was "Kidnapped" 18 USC 1201, by FBI Agent Nathan VanCycle from the Eastern District of Missouri and transported to the Western District of Missouri. Agent VanCycle impersonated "U.S. Marshalls" to kidnap Petitioner against his will, without consent, without a warrant, by force of arms and threats of deadly force in violation of the 4th Amendment of the Constitution for the United States of America.

4. On May 10, 2010, Petitioner appeared before Magistrate Robert Larsen, there he demanded his "Remedy" under the "15 Statues at Large" and demanded a "true statement of the proper jurisdiction of the Court." Robert Larsen refused to state his jurisdiction. Petitioner informed Robert Larsen of his "Conflict of Interest" in this cause of action, Robert Larsen refused to "recuse" himself from the case. Petitioner believes Robert Larsen has engaged in "Insurrection and Rebellion" 18 USC 2383, "Seditious Conspiracy" 18 USC 2384 and "Treason" 18 USC 2381. These crimes are established by the acts of "Expatriation" of Robert Larsen acting in violation of the "15 Statues at Large".

5. On May 13, 2010, Petitioner was unlawfully appointed the "Foreign agent (Anita Burns) 22 USC 611" over Petitioner's Objections to "Counsel of Choice" under the 6th Amendment. Thus, began the "Conspiracy against rights" 18 USC 241 by the "Foreign Agents" Robert Larsen, Brian P. Casey, Nathan VanCycle and Anita Burns. Burns and Casey acted in clear "Prosecutorial Misconduct" by presenting exact

"Motions for Competency Evaluation". Robert Larsen refused Petitioner his right to terminate Antia Burns and left her on the case in clear bias and prejudicial conduct. The Supreme Court of the United States has repeatedly upheld the 6th Amendment right to "Counsel of Choice". Please See: Johnson v. Zerbest 1938, Argersinger v. Hamlin 1972 and U.S. v. Lopez 2006. Based upon the "Conspiracy" to incarcerate Petitioner for competency evaluation, Bond was denied in violation of the 7th Amendment. Petitioner has now been incarcerated 48 days, without trial, without prosecution, without conviction and without sentence. Petitioner sits in the Federal Correctional Institution in "Solitary Confinement", without phone privileges enjoyed by other inmates. 30 days at this Institution without any competency evaluation.

6. Based upon the Court's Records and the Transcripts of the foregoing proceedings it is clear Magistrate Robert Larsen has exceeded his authority established in 18 USC 3041. Magistrate Larsen has issued "Orders" without Jurisdiction or authority of law to create involuntary servitude of Petitioner in violation of 18 USC 1592. These "Hostile Acts" constitute acts of "Piracy" 18 USC 1651 and clear violations of Magistrate Larsen's "Oath of Office" 28 USC 453.

Through his scheme, Larsen has defrauded the Federal Bureau of Prisons that his conduct is lawful, when in fact it is all criminal. Petitioner has become "Pirate Property" "Receipt of Pirate Property" 18 USC 1660 is a crime.

7. Petitioner is currently in "Solitary Confinement" and suffering mental torture at the hands of Warden Garcia and his staff. Petitioner believes Warden Garcia's goal is to mentally break Petitioner by isolation, loss of contact with loved ones (Phone and Mail), thus causing depression and establishing lack of mental competency. Warden Garcia has inflicted this torture on an "American Citizen" with malice, intent and knowledge to punish Petitioner for his "Power of Attorney" filing documents in the court, and with him, establishing a "Fiduciary relationship". The institution rules and general knowledge says someone sent to the hole will see the "Unit Disciplinary Committee" within 72 hours for punishment. Petitioner has not seen them since June 12th. Therefore, without any infraction of the Rules/Regulations Petitioner is being forced to endure mental anguish, duress, stress, isolation, loss of social activities, loss of interaction with loved ones and persecution by Warden Garcia and his staff. Warden Garcia justifies this torture with his statement he has been threatened by Petitioner, who has sent him nothing, who has the right to every legal process to regain his liberty and Petitioner is clearly being punished/tortured for exercising his rights within the laws of the United States of America. Warden Garcia has become a motivated participant of the "Conspiracy against rights" of Petitioner.

Relief Requested

Petitioner demands that which the law requires under Title 28, Section 91 of the United States Codes. Petitioner is entitled to an "Order to show Cause" why the "Writ of Habeas Corpus" should not issue. If answered, Petitioner is entitled to be present at a "Show Cause Hearing". If not answered, Petitioner is entitled to an "Order of Release". Petitioner asks for nothing more than this matter be handled within the time limits set by the Federal Rules of Civil Procedure and he be granted "Due Process of law" in accordance with the 5th Amendment. For the foregoing reasons Petitioner believes he is entitled to relief in this cause of action.

Denny Ray Hardin

Denny Ray Hardin, Sui Juris
All rights reserved UCC 1-308/1-207

Certificate of Service

I, Denny Ray Hardin, do hereby certify that a copy of the foregoing was placed in an envelope and handed to staff for delivery to Warden Garcia on this 28th day of June 2010

Denny Ray Hardin
Denny Ray Hardin, sui juris
FCI Englewood
9595 West Quincy Ave
Littleton Colorado 80123

Exhibit 2

United States Court of Appeals

For the Eighth Circuit

Thomas F. Eagleton Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

June 24, 2010

Mr. Denny Ray Hardin
c/o Melinda Sue Harrington
2450 Elmwood Avenue
Kansas City, MO 64127

Re: JCP No. 08-10-90025 Petition of Denny Ray Hardin

Dear Mr. Hardin:

I wish to acknowledge receipt of a judicial complaint which you have filed against Hon. Robert E. Larsen. A copy of the complaint has been sent to the chief judge of the circuit for his review and appropriate action. A copy has also been sent to Hon. Fernando J. Gaitan, chief judge of the Western District of Missouri. You will be promptly notified of any action taken.

Sincerely,



Michael E. Gans
Clerk of Court

MEG/pa

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-10-90025

In re Complaint of John Doe*

This is a judicial complaint against the United States magistrate judge assigned to the complainant's pending federal criminal case. The complainant is presently in the custody of the United States Bureau of Prisons, awaiting a mental competency evaluation.

The judicial complaint fails to comply with Rule 2(f) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability. Rule 2(f) states:

(f) Signature and oath. The complaint form must be signed and the truth of the statements verified in writing under oath. As an alternative to taking an oath, the complainant may declare under penalty of perjury that the statements are true. The complainant must provide an address where he or she can be contacted.

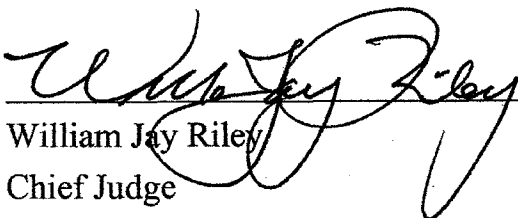
See also 28 U.S.C. § 358(a) (permitting each judicial council to “prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate”). The complainant makes a series of allegations against the magistrate judge and others in a ten-page, single-spaced letter

*Under Rule 4(f)(1) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

attached to the official judicial complaint form.** The complainant signed the letter but neither he nor his attorney-in-fact checked the appropriate box (1) taking an oath attesting to the truth of the complainant's allegations or (2) declaring under penalty of perjury that those statements are true.

The complaint is dismissed without prejudice.

August 21, 2010



William Jay Riley

Chief Judge

U.S. Court of Appeals for the Eighth Circuit

**The complainant is reminded that allegations "directly related to the merits of a decision or procedural ruling" must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); see Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B). Filing timely objections with the presiding district judge is the proper way to challenge the merits of a magistrate judge's ruling. Although allegations of judicial bias, collusion with a party, or other improper motive are not necessarily merits-related, such allegations must be dismissed as merits-related when the only support for the allegation of bad acts or motive is the merits of the judge's rulings. See J.C.U.S. Rule 3(h)(3)(A). The complainant is also reminded the judicial complaint procedure is limited to United States judges; it does not apply to prison officials or attorneys. See 28 U.S.C. §§ 351(a), and (d); J.C.U.S. Rule 4; Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability Rule 1(c).

Exhibit 4

United States Court of Appeals

For the Eighth Circuit

Thomas F. Eagleton Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

August 27, 2010

Mr. Denny Ray Hardin
c/o Melinda Sue Harrington
2450 Elmwood Avenue
Kansas City, MO 64127

Re: JCP No. 08-10-90025 Petition of Denny Ray Hardin

Dear Mr. Hardin:

Enclosed is a copy of an Order filed today in the above-referenced judicial complaint at the direction of Chief Judge William Jay Riley.

Pursuant to the Rules for Judicial Conduct and Judicial-Disability Proceedings, I am notifying you of your right to petition the Judicial Council for review of the Chief Judge's decision. If you decide to file a petition for review, it must be received in this office of the Clerk of the Court of Appeals within thirty-five (35) days of the date of this letter and must be filed in compliance with Rule 18 of the Judicial-Conduct and Judicial-Disability Proceedings and Rule 6 of the Rules Governing Complaints of Judicial Misconduct and Disability. I urge you to read carefully your copy of these rules - particularly Rule 18 - before proceeding further and to note the 35-day time limit if you seek further review.

Sincerely,



Michael E. Gans
Clerk of Court

MEG/psa

Exhibit 5

JUDICIAL COUNCIL OF THE 8TH CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

COMPLAINT FORM

MAIL THIS FORM TO THE CLERK, UNITED STATES COURT OF APPEALS, 111 S. 10TH STREET, ROOM 24.329, ST. LOUIS, MO 63102. MARK THE ENVELOPE "JUDICIAL MISCONDUCT COMPLAINT" OR "JUDICIAL DISABILITY COMPLAINT." DO NOT PUT THE NAME OF THE JUDGE OR MAGISTRATE ON THE ENVELOPE.

1. Complainant's name: Denny-Rayi Hardin by: Melinda Sue Hamilton POA

Address: 40 2450 Elmwood Avenue
Kansas City, Missouri 64127

Daytime telephone: (816) 231-2258

2. Judge or magistrate complained about:

Name: Magistrate Robert E. Larsen

Court: U.S. District Court Western District of Missouri

3. Does the complaint concern the behavior of the judge or magistrate in a particular lawsuit or law suits?

Yes No

If "yes", give the following information about each lawsuit (use the reverse side if there is more than one):

Court: U.S. District Court Western District of Missouri

Docket number: 4:10-CF-00131-FSG-1

Are (were) you a party or lawyer in the lawsuit?

Party Lawyer Neither

If a party, give the name, address, and telephone number of your lawyer:

Court appointed PD - Anita Barnes - FILED
By: Denny-Rayi
Hardin

Docket number of any appeals to the ___th Circuit:

4. Have you filed any lawsuits against the judge or magistrate?

Yes No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court:

Docket number:

Present status of suit:

Name, address, and telephone of your lawyer:

Court to which any appeal has been taken:

Docket number of the appeal:

Present status of appeal:

5. On separate sheets of paper, not larger than 8 1/2 by 11 ", describe the conduct or the evidence of disability that is the subject of this complaint. See Rule 2(b) and 2(d). Do not use more than five (5) pages, single-sided only. Most complaints do not require that much.

6. You should either:

- (1) check the first box below and sign this form in the presence of a notary public; or
- (2) check the second box and sign the form. You do not need a notary public if you check the second box.

I swear (affirm that-----

I declare under penalty of perjury that-----

- (a) I have read Rules 1 and 2 of the Rules Governing Complaints of Judicial Misconduct and Disability, and
- (b) The statements made in this complaint are true and correct to the best of my knowledge.

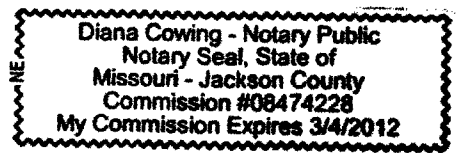
Denny-Reej. Harshin
By: Melinda Sue Harrington POA
Signature

Executed on June 15, 2010
Date

Sworn and subscribed to before me June 15, 2010
Date

Diana Cowing
Notary Public *Diana Cowing*

My commission expires: 3/4/2012





[Track & Confirm](#)

[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: **7007 0710 0001 7749 7407**

Expected Delivery Date: **October 22, 2010**

Class: **First-Class Mail®**

Service(s): **Certified Mail™**

Status: **Delivered**

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 11:24 am on October 22, 2010 in SAINT LOUIS, MO 63102.

Detailed Results:

- **Delivered, October 22, 2010, 11:24 am, SAINT LOUIS, MO 63102**
- **Arrival at Unit, October 22, 2010, 9:21 am, SAINT LOUIS, MO 63101**
- **Acceptance, October 20, 2010, 11:31 am, KANSAS CITY, MO 64116**

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

