May 23, 1998

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STATEMENT FOR THE COMMISSION ON STRUCTURAL ALTERNATIVES

FOR THE FEDERAL COURTS OF APPEALS.

My testimony will be about my first hand experiences as pro se litigant since 1979 attempting originally to enforce final judgments of of the Superior Court of New Jersey, and later on acting a number of years in federal courts. To the deficiency of not being a lawyer, it must be added that with the English language, as the Commission will notice in the present report.

During these long years, until the present, I got in contact with organizations involved on judicial and legal reform : OWLA, ACLU , Foundation for Rights, PCLG, CJP, Now, Halt, Vocals, Pact, Fija, NCLR, Anti-Shyster, Americans for Legal Reform, The Constitutionists, New Jersey Council for Children's Rights , Families First, Pro se Litigants of America Coalition for Family Justice., etc. All of these groups got a common denominator : dissatisfaction with due process that they show to be violated at every turn by state and federal officials. Legal help is out of question for two fundamental reasons ; unaffordable legal fees and unwillin ness of lawyers to counteract judicial control that goes far beyond the judicial jurisdiction granted to judges. Moreover, no lawyer will sue a judge for racketeering activities. And that includes other judges that have the duty to defend the COURT OF THE PEOPLE. Nor the courts of appeal will condemn racketeering activities committed by federal judges and clerks when are brought to their attention on complaints under Title 28 sec. 372 (c). (See Exhibits 7 and 8).

The racketeering activities going on unpunished have become a routine in state and federal courts where :

a) Clerks file cases and actions with the date that they decided disregarding statutory limitations of time. Or they do not file or docket lawsuits and actions when they are inconvenient to federal officials These actions are specified in the Exhibit 2 and 3, Memorial for Impeachment of Clerks Suter (Supreme Court), Sisk(Court of Appeal- Third Circuit) and Walsh (U.S. District Court), and Supplement to this Memorial. These are consistent and systematic happenings in the U.S. District Court -District of Columbia as specified in Exhibit 1, Petition for Extraordinary Writ of Mandamus (Sep. 2, 1997) ,Supplement (Oct. IO, 1997) . This continues to happen up to the U.S. Supreme Court where Petitions and Motions for Reconsideration are not filed, cases being "closed" while pending such Motions for Reconsideration. Exhibits IO and 11 are among the actions not filed by the Supreme Court Clerk despite that corrections requested by the Clerk had been made and timely filed. (see Exhibits 2, 3,Impeachment of Clerks).

b) Clerks tamper with records and evidence JUST at the filing of actions. When the docket sheets are requested we found that all entries are falsified. They had been altered the captions, the nature of the suit, the demand for damages in legal cases (thus transforming a case that is "legal" into an "equitable" one in which jury trial is not mandatory), the statutes under which the lawsuit or the action in question was filed, and the claims of jurisdiction; parties are added,or eliminated,or appendiced (by Clerk) with the position of the federal officials, and service by sheriff or clerk not comply with in cases in which this service is to be done by clerk or sheriff, either to defendants (federal officials) or U.S. Attorney's Office. Thus the effect is that the clerks <u>decide</u> whom to sue instead of plaintiff, and making him/her self a party to the action on the way.

When files are investigated, we found that some of them, or the documentary evidence attached to the complaints, had disapeared or, without further scrupulosity , evidence had been cut off with a razor blade leaving the remainding part under the same staples of the briefs.

c) That these alterations are made under judges' influence and policy is obvious as Motions requesting correction of records are denied or ignored, or not even entered in the docket sheet.And further petitions for extraordinary writ of mandamus to compel correction are denied at the level of district court, and court of appeal.
Such alteration of records in Banks, commercial enterprises, or agencies of the government, other than the courts, will result in indictment and criminal conviction upon proofs. And here the proofs are in front of the judges : "the filings and the tampered record".

d) Equally the descriptions of the lawsuits and motions are created by the clerk that strategically misrepresents the requests and compelling evidence, as happens with Motions to Take Judicial Notice, Motions under Rule 60 for Fraud upon the Court, Motions for New Trial frequently not entered on the docket sheets. This creates a 20/20 situation : No appeal can be taken because the jurisdiction rests in the district court, and no hearing on Motion for New Trial takes place because the motion does not appear in the dictrict court docket, or the clerk does not schedule it. (Read Cover Page of EXHIBIT 11 where it is detailed that Supreme Court and Court of Appeals had been requested to remedy these situations . See also Exhibit 1, 9, another mandamus that includes this situation .

e) That these racketeering activities by clerks are done under the influence of judges and with their colaboration is obvious also when decisions are read, for such decisions reflect the alterations and fabrications made by the clerks instead to reflect the allegations, requests and pleadings of the complaints or motions.

Thus the clerk's alterations were in preparation and to facilitate the "fabrications" that later will appear in the decisions.

The result is that the true complaint had not been answer. What has been answered is the complaint created by judge and clerk , in concert

f) My experience with the statutes for disqualification is the following. It has been established the "practice" for judges "to preside their own cases". That is, the cases are assigned to the defendant-judge who given the alternative to be trial by jury or to dismiss the case in violation of the law, opts for dismissal. Other judges dont want to get involved in cases in which judicial and non-judicial federal officials are sued under criminal statutes. In one of my cases

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all judges of the U.S. District Court of New Jersey refused to preside the case against judges and clerk accused of offenses under Title 18 U.S.C.(19/) Judge Eduardo Robreno was sent from Pennsylvania by the Circuit Chief Judge who was a defendant in such case! The lawsuit had been defaulted; default entered on records. Judge Robreno dismissed the case; Motions for New Trial still pending since 1993, and a dozen of Court Orders were issued and signed by Circuit Judge Los Mansmann who is another defendant-appellee in the same case 93-927.

g) The transcripts follow the same pattern of tampering with records. No one of the transcripts on district court reflects my testimony. Affirmative sentences appear on the transcripts as negative, others incomprehensible or deleted, including those that I was requested by the court to repeat or words to spell. Concerted actions were obvious as Motions to correct my "altered" testimony remained ignored or denied, in district and appeal court.

h) Jury trial was avoided at all costs, including at the cost of defendants signing the court orders in their own cases. Exhibit 4 is an application to appoint a successor to Circuit Judge Los Mansmann for her permanent disability. Previously the same request had been made to the Third Circuit Council . To this litigant no other explanation could be for a judge that signs more than a dozen court orders in her own cases. Exhibits 5 and 6 are the formal Memorial for Removal from Office of Circuit Judge Los Mansmann, and First Amendment and Proposed Articles of Impeachment. These were submitted when the Circuit Council declined to declare Circuit Judge Los Mansmann to be disable.

Previous to these ultimate remedies, many complaints for judicial misconduct were filed against Circuit Judge Los Mansmann denouncing her racketeering acts and issuing of unlawful orders in total absence of jurisdiction. No result. Title 28 #372(c) violated always.

WITHOUT JURISDICTION. (see Exhibits 7 and 8)

All the actions here described and further specified by the EXHIBITS 1 to 12 are racketeering activities, acts without jurisdiction whatsoever granted to clerks or to judges, criminal acts to which no immunity has been granted nor will be devised ever in the future. No American Citizen can accept a criminal government or a government run by crime. When crime is committed , the judge is in his/her own, and does not represent the Court which is an entity that cannot commit crime. There are civil remedies for "negligence" of federal officials, but none for "crime" whose prosecution is the proper role of the Court.

WITHOUT JURISDICTION is the tampering with records, the fixing of cases, the fabrication of complaints, the destruction of evidence and filings, the refusal to take judicial notice of pleadings, the denial of jury trial in legal cases, the obstruction of discovery, the fraud upon the Court, the denial of access to Court.

The Exhibits 1 to 12 denounced these criminal activities. Evidence were attached to these documents. Such documents are preserved as "judicial records", and those that had been destroyed , as said,were reconstructed for these submissions with stamped copies of this pro se. They are available to this Commission upon request.

EXTEND OF CONTROL WITHOUT JURISDICTION.

In all actions here described by the Exhibits. the judges were exercizing a control" for which they have not been granted "jurisdiction". That is they were acting in their "private capacities", that no private citizen can exercize without being subject to criminal prosecution. The "control" was absolute upon clerks, transcribers, and litigants who shall institute again further lawsuits in defense of their most fundamental rights, and in defense of the Court that said judges defrauded.

This "control" extend also to U.S. Attorneys.

In case 93-927 (above cited) the clerk altered caption, that joined United States as indispensable PLAINTIFF in case under Title 18 U.S.C. in which defendants were sued in their "individual capacities". Clerk saw fit to eliminate United States ,joined Plaintiff, and placed United States as Defendant. No hearing took place, no court order issued, no challenge entered as to the original caption. The assigned judge decline to preside the case. The U.S. Attorney declared by letter that he has not made any determination as to represent defendants... and did not enter appearance in court until long after all federal officials defaulted, and default entered on records. Later he submitted a brief to the judge but not to be filed. Is not clear enough the controling power of the judge over the U.S. Attorney that need to resort to such subterfuges to cover-up the appearances of impropriety, and simultaneously not get involved in the "fixing" of the void dismissal ?

Further activities of U.S. Attorney raised cause for new lawsuit

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The same pattern of judicial-clerical activities repeated itself. Dockets sheets were "fabricated", captions altered, falsified the pleadings, claims of jurisdiction, nature of the suit, demand of damages, etc. Requests for corrections..ignored. And Mr Chertoff, sued in his "private capacities" for offenses under Title 18 U.S.C., used the U.S. Attorney' Office to represent him free of charge. Fraud upon the Court, obstruction of discovery, rejection of subpoena, denial to Take Judicial Notice of True Pleadings and filed documentary evidence..etc, succeeded one after another even after both, the presiding judge Dickinson R. Debevoise and U.S. Attorney Chertoff, resigned on the same day. Were not , judge and U.S. Attorney, covering-up for their own shortcomings ? Special prosecutor was demanded. This very Commission is also the product of "judicial control" if we consider that the Commission was to be constituted by the three branches of the government. But it ended with appointees of Chief Justice Rehnquist.

IMPOTENCY OF THE HIGHER COURTS TO ESTABLISH JUDICIAL DISCIPLINE.

The upper courts are well informed of the criminal activities going on in the lowers courts and state courts, but seem to be impotent to establish law and order. A clear indication is the zeal with which the clerks of the upper courts refuse to correct records on appeal, to accept the original lawsuits and actions as evidence of the "fabricated" decisions, to order the reconstruction of disappeared files and documentary evidence. They wanted to accept ONLY what the judge wanted to say about such documents. No prima face evidence. It is not "all quiet on the western front". It is silenced, suffocated, covered-up, and reaching explosive dimensions fully protected by the FIRST AMENDMENT TO THE U.S. CONSTITUTION.

Let's start with complaints under Title 28 U.S.C. #372(c).

All complaints are dismissed no matter the nature or gravity of them. Complaints of tampering with records, fixing the case by ex-parte communications (in one case the telephone numbers in filings were mistaken, and I received the ex-parte communication that was supposed to be addressed to my oponent), destruction of filed evidence...etc, has nothing to do with the "merits of the decision". In fact in this type of complaints the "decision" is not mentioned or described. Never mind, the complaints are dismissed for being <u>related to the decision</u>. Decisions signed by "defendants in their own cases" are dismissed for being <u>related to the decision</u>. Who claims that the decision is wrong ? What it is claimed is that the judge acted in "total absense of jurisdiction", an indictable offense.

Should federal officials act beyond their granted jurisdictions or commit criminal acts it deprives the judicial system of its legitimacy.

Most of the decisions on complaints under Title 28 U.S.C.372(c either fabricate, misrepresent or omit the true allegations of complaints and the attached documentary evidence and judicial records that fully support the charges. It is not coincidental that the ORIGINAL COMPLAINTS are not available for public scrutiny. But only is available to the public the Memoranda describing (??) such complaints.

Petitions for review of complaints-dismissals are systematicall denied. Investigations prove that said petitions had not been submitted to the Members of its respective Judicial Councils.

Orders are signed(District of Columbia) by the Clerk. Has been granted "jurisdiction" to the Clerks to sign judicial orders ?

Exhibits 7 and 8 are reports to the Judicial Conference of United States of this methodology, with a great number of complaints

petitions for review and correspondent memoranda and orders at both levels. Result. No answer.

In the district of Columbia the pattern for complaints of racketeering activities follows the same course : dismissal and cover-up. I direct the Commission to review complaints No. 97-9. 97-11, 97-12, 97-13, 97-15, 97-18,97-19, 97-20, 97-21, 97-22, 97-24, 97-25, 97-26, 97-29.

It is the case that when complainant does not stop reporting subsequent racketeering activities via Title 28 U.S.C. 372(c), the Chief Judge issues an injunction against filing future complaints. The Chief Judge of the Appeals Court is supposed to appoint a "special committee for finding of facts" described in the complaints. Said step is never taken for it will allow the complainant's appeal to the Judicial Conference of the United States . An inconvenience to be avoided. More so when the "facts" are fully documented by the judicial record and not challenged by the complained judge.

To dispel any doubts about the gravity of the charges, complainned judges under 28 U.S.C.372(c) were also sued in district court under the RICO STATUTES. Most certainly the charges do not appear in the Memoranda. Clerks also complained to the circuit executive, or the chief judge of district court or court of appeal, received the same treatment: dismissal of complaint for the charges were "frivolous" . Thus litigant can file ONLY what the clerk allows to be filed despite the overwhelming evidence, that clerk has not the "jurisdiction" to evaluate or rul

How the U.S. Attorney go to prosecute judicial misconduct when the court of appeals dismiss systematically more serious complaint against judges ? The fact is that the federal judiciary expend tremendous efforts in the "secrecy" of judicial criminal behavior. In no case such crimes are permitted to reach the jury. No U.S. Attorney is permitted to prosecute such high class crime.

I saw excellent, honest judges resign unable to remedy this above described situation and refusing to take part on it. The racketeering schemes are well established to be used at convenience with the certainty that nothing will happen to the judges and collaborating clerks.

ROLE OF THE U.S. SUPREME COURT.

Exhibit 12 is a letter addressed to Chief Justice Rehnquist reporting the activities of the U.S. Supreme Court Clerk's Office, the many complaints originated by the lack of filing or lack of submissions of petitions to the COURT, or the submission of fraudulent summaries of such petitions that caused wrongful decisions by the COURT. The said summaries had been requested under petitions for extraordinary writ of mandamus and FOIA Actions. Request for Recantation of December 2, 1996 opinion-orde by curiam was included.

This letter was sent to each member of the House and Senate Committee on the Judiciary for it reflects the situation in the very U.S. Supreme Court. I urge this commission to critically and scrupulously read this letter, Exhibit 12.

According to the contents of December 2, 1996 decision and because such decision (petitions referred on the decision are microfiched or shall be microfiched in Law Libreries and available to Law Schools) :

1) Clerks can tamper with complaints, alter captions, nature of the suit, claims of jurisdiction, request of damages, add professional titles to litigants in the captions, change the statutes under which actions were filed and decide the filing date of such actions.
That is : lawsuits are censured by clerks and authored by them, by law.
2) Defendants-judges, either of the lower court or circuit judges, can issue court orders and injunctions in their own cases, actions in district court, and decisions (if circuit judge) at the appellate level
3) Clerks are allowed to submit lawsuits, actions or appeals to the judges

who are defendants appellees or respondents instead to submit these papers to the Court of proper jurisdiction.

4) Clerks of the appellate court can dismiss appeals "for lack of prosecution", even if appellants' briefs were timely filed and appellees defaulted the action.

5) U.S. Attorney, attorney representing federal officials, cannot object when his clients defendants-judges issue and sign court orders.

6) U.S. Attorney can use the U.S. Attorney as his own legal representation in court, in cases in which he is sued in his "individual capacities" for offenses under Title 18 U.S.C. A privilege not allowed to the President.

7) Clerks of district court can deny filing of Motions under Rule 60 for Fraud upon the Court, Motions for New Trial, or Amendments as of Right,

8) Motions for Findings of Facts, or Subpoena to compel discovery, also can be suppressed, denied or not entered on the record.

9) Clerk can destroy filed evidence, filed actions, and close cases while Motions for Reconsideration and others are pending.

10) Judges can refuse to give an opinion to substantiate order that has been appealed, and said opinion requested by the U.S. Supreme Court.

11) Judges can refuse or ignore the correction of records tampered with by clerk and defendants.

12) Judges can disregard Motions Requesting to Take Judicial Notice of Pleadings and Filed Evidence.

13) Judges can refuse to cite statutes in which their decisions are based.

14) Judges, who are defendants-appellees on the cases, can disregard Motions Requesting their Recusals or Disqualifications.

15) Judges can order transcribers to alter transcripts at convenience.

16) Circuit judges can dismiss appeals without "record on appeal", or with a false or incomplete record, despite requests by litigants to file or reconstruct record indispensable to appeal.

17) Clerks of the Court of Appeals can alter the captions of cases that appear in certified Court Orders.

18) Clerks can refuse to file actions that had been ordered to be filed by Court Order.

19) Judges can "fabricate" pleadings, facts and judicial records in thei supporting opinions.

20) Clerks can file motion that litigant has not authorize to be filed.

21) And all over the courts, judges-defendants, represented by attorney, are issuing and signing orders in their own cases, and such orders -void in their face-are being enforced at all levels of the courts.

<u>These novel decisions that totally change **law and precedent** had been now established by the U.S. Supreme Court by declaring the petitions bringing these questions to the COURT to be "frivolous" , from 1) to 21).</u>

Exhibit 2 specifies the petitions Nos. 93-9082 , 93-9577, 94-5018 , 94-5070, 94-7636, 93-9618, 94-6620, 94-5743, 93-9444 and 94-5860. Pages 6 to 11.

<u>CONCLUSION. URGENT NEED TO INCREASE THE JUDICIARY.</u>

The present federal judges cannot control or are not willing to control the uncontrolled federal officials that are routinarily defrauding the Court. We need democratization of the court, new judges in great number that summon the courage to discipline the notorious culprits. There are several cases against judges under the RICO STATUTES. We need judges to preside these cases and jurors to trial them. As today are the courts, we can expect only dismissals and growing corruption. An improved judiciary fully supporting jury trials at the price of $5 a day for juror will reduce costs, and need for incessant litigation.

As Justice Burger stated : "When cases multiply without end (perhaps not exact quote) there is something wrong with the system of justice, not with the litigants".

Respectfully submitted,

Maria L. Costell Gaydos

LIST OF EXHIBITS NUMBER
