

May 29, 1998

FROM: Mr. Ronald Williams, a federal litigant in pro se.
TO: Commission on Structural Alternatives for the Federal Court of Appeals
SUBJECT: The Propriety of Splitting the Ninth Circuit or Retaining Its Current Size

The following letter and enclosed documents, "Sections" "A through "D" are respectfully submitted, to make a case for the splitting of the 9th Circuit. I have just concluded litigation before the district court and the district court of appeals for the Ninth Circuit. That litigation included a cause of action for employment discrimination and an alternative cause of action for declaratory relief. [Section B] Furthermore, as the result of what I perceived to be prejudicial, judicial misconduct, I also filed a Complaint of Judicial Misconduct. [Section C] Also, as the result of what I saw as criminal conduct by the other side during my federal civil litigation, I filed a criminal complaint with the United States Attorneys Office. [Section D]

I have enclosed a letter and documents for you to consider with the task of determining the propriety of splitting the Circuit.

Respectfully submitted



Ronald Williams

May 29, 1998

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The Honorable Byron White
Justice, United States Supreme Court (Ret.)
Chair, Commission of Structural Alternatives, etc.
#1 Columbus Circle, NE
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Dear Justice White,

Please accept this correspondence and materials, as my offering and input to your study of the Ninth Circuit. I am only sorry I did not become aware of it in time to appear before you in person. If I had appeared before you, however, my testimony would essentially be as follows:

I am a fifty-five year Afro-American male. For the past 8 years in pro se, I prosecuted federal causes of action in the district court and on two occasions, before the 9th Circuit Court. My causes of action arose from my being terminated by the City of Los Angeles, from my employment as a police lieutenant. **The first cause of action** was for employment discrimination. Williams vs. City of Los Angeles; Daryl Gates; Connie Castruita; and Robert McNamara. CV-90-1252 AWT; CA-94-56250 (42 U.S.C. 2000e, 1983 and 1985). **The second cause of action** was brought *alternative* to the first, under the Declaratory Judgment Act. Williams v. City of Los Angeles, CV-93-2873, CA-97-55070. (28 U.S.C. 2201, 2202; *Fed.R.Civ.P.* 57)

Justice White, the bias practiced by the federal judiciary against me probably due to my pro se status was so unrelenting, as I attempted to prosecute both of my cases. Recusal motions under 28 U.S.C. 144 and 455 fell on deaf ears. I finally ended up filing a Complaint of Judicial Misconduct under 28 U.S.C. 372©. [see enclosed "petition" for review, dated 9/15/97]

In addition to the just mentioned petition, I have included sufficient materials for you and the Commission to sample a flavor of what I'm talking about. So, I conclude with the following suggestions, all of which result from my personal experience with the district court and the 9th Circuit Court.

If the 9th Circuit's configuration were not to be disturbed and be kept in place, I believe the following should take place.

First. A judge sitting in the same courthouse as the subject judge should not hear cases for recusal. Preferably, a district judge should hear a case for the recusal from an entirely different circuit. But at the very least, by a district judge from another part of the district. In California for example, a judge from the southern district would properly be selected to hear a case from the central district.

Second. Similarly, the Chief Judge of the same Circuit under which subject Judge presides should not hear a Complaint of Judicial Misconduct under 28 U.S.C. 372©. A Chief Judge or even a Senior Judge from an entirely different Circuit should hear such a Complaint. A petition to review of a Chief Judge's Order resolving a misconduct complaint, should similarly not be heard by judges of the same circuit and/or district. The review petition should be steered to the main Judicial Council in Washington D.C. I am trying not to interpose my personal experience here with these suggestions. My personal experience can be gleaned from the documents I forwarded with this letter. However, I must interject something personal here.

(a) I filed my Complaint of Judicial Misconduct against a district judge who was still engaging in the misconduct complained of. That misconduct I contended was steering my lawsuit towards an outcome favoring the other side. It was imperative that the 30 days the statute states the Chief Judge was suppose to respond do so in my case. Never the less, it took this particular Chief Judge over a year to respond. During the interim period, the judge complained of dismissed my cause of action under Rule 12(b)(6) F.R.C.P. By the way, one of my complaints against her was under **Cannon #3** and the fact that her spouse is widely publicized to be the primary advisor to the Mayor of the City I was suing - the City of Los Angeles. [See enclosed "petition" to the judicial council, **p.10, dated 9/15/97**]

Third. The 9th Circuit should be precluded from issuing "unpublished" opinions that end lawsuits without trial but under a rule of procedure - such as 12(b)(6). Because doing so appears to be an abuse of process. Complaints for relief that are dismissed on a defendant's motion, at least in both of my Cases, wind up really be a conversion of issues from the Complaint, to the issues of the defendant's dismissal motion. Courts in the central district, do not appear to be complying with the command of the Rule, restricting a disposition to issues and claims of the Complaint. If a particular federal appeals panel of judges is doing the right thing in a Case, they should not be adverse to publish the opinion for the other courts to scrutinize and rely. Here I go again, being personal.

There are two decisions of the California State Court of Appeal that were pertinent to the issues and claims of my federal causes of action. I have marked and enclosed both of them. Without elaborating I ask you this. Do the findings of fact and law of either opinion completely settle the issues and claims of the federal causes of action? If so, in favor of the City/employer in my cases? I say **no**. I suggest to you also, that the concerned circuit judges did not believe it either. This, in my opinion, is the reason that both of the decisions in my cases ended up being reported by the infamous "unpublished" opinion.

Not to litigate, but I say this. A Title VII case that is dismissed because the accused employer paid the aggrieved employee a pension after the termination that gave rise to the claims of employment discrimination, certainly qualifies for publication. See enclosed Williams v. City of Los Angeles, CA-94-56250 (9th Cir. 1996). The just cited Case takes Title VII, 42 U.S.C. 1983 and 1985, in an entirely new direction. [nullifying Cases such as McDonnell Douglas, etc]

The other federal case (Declaratory Judgment and relief) was dismissed under a State court decision that had taken away a remedy from a wrongful termination, because of a pension paid after the wrongful termination, certainly qualifies for publication. Williams v. City of Los Angeles, CA-97-55070 (9th Cir. 1998) **Because**, it takes the 5th and 14th Amendment's due process clause ("Takings", "Just Compensation") in an entirely new direction¹.

I suggest that an audit be conducted of a sufficient sample of "unpublished" opinions that dispose of pro se Cases. That the audit be conducted to ascertain whether or not the laws of the circuit were followed with the decision disposing of a case in pro se. It may be that the overload the 9th Circuit is experiencing, is being taken out on pro se Complaints, as first in the pecking order to reduce the caseload of the circuit court.

Thank you for allowing my input.

Sincerely yours,


Ronald Williams

¹ Williams v. City of Los Angeles, CA-97-55070 held that the Williams v City of Los Angeles, 229 Cal.App.3d 1627 (May 10, 1991), which is an intermediate state appeals court applying and enforcing section 190.111, a local charter provision, preempts the Supremacy Clause and the action brought under 28 U.S.C. 2201 and 2202 and any the claims for relief under the Constitution and Federal Laws