



## A Just Cause

3578 Hartsel Drive, Suite 362  
Colorado Springs, CO 80920  
(855) 529-4252

Office of the Circuit Executive

United States Courts for the 10th Circuit

1823 Stout Street

Denver, Colorado 80257

Re: A Just Cause v. Judge Christine M. Arguello (Judicial Complaint no. 10-17-90034)

Dear Ms. Fathallah:

A Just Cause recently received the official sentencing hearing transcript from sealed habeas proceedings related to the subject case in the judicial complaint (09-cr-00266-CMA-3). AJC would like to submit the attached sentencing hearing transcript as Defendant Gary Walker's closing arguments from trial (Doc. 618). We have provided a brief discussion below about these exhibits and their relevance to our complaint.

During trial, Judge Arguello enhanced pro se defendant Gary L. Walker, the President/CEO of two companies alleged by the government to have participated in a mail and wire fraud scheme, with a 4-level aggravating role enhancement as a leader/organizer the alleged conspiracy. However during strange post-conviction plea colloquy at the 2255 hearing, Judge Arguello dropped Walker's leadership role based on what she characterized as a "conflict of interest" by Walker's co-counsel Gwendolyn Lawson based on an "allegiance" to his mother-in-law, Pastor Rose Banks of the Colorado Springs Fellowship Church. Although Lawson did not file a single motion during sentencing or make arguments on behalf of Walker, Judge Arguello claims that this so-called allegiance to Pastor Banks prohibited Lawson "from presenting argument and evidence that would have affected this Court's determination about whether to assess a 4-level aggravating role enhancement against Mr. Walker" because Walker's codefendant David Banks is also the son of Pastor Banks and the brother of Walker's wife, Yolanda. Judge Arguello's conclusion is bizarre because the lead attorney for sentencing was Joshua Lowther (not Lawson) who wrote and filed the sentencing memorandum as well as argued Walker's sentencing issues before Judge Arguello. Judge Arguello admits that codefendant David Banks is separately represented by his own independent attorney (Denver Attorney Charles Torres). If Pastor Banks was so controlling and looking for allegiance from attorneys as Judge Arguello contends, why would Pastor Banks help pay for Lowther as lead counsel when he had no allegiance to her and she couldn't control him?

Lawson is a long-time friend and fellow parishioner of Walker and his wife Yolanda, David Banks and the other 4 codefendants (Demetrius Harper, Clinton Stewart, David Zirpolo and Kendrick Barnes) where they all have attended church under Pastor Banks' leadership for decades together. It's an absurd notion by Judge Arguello that an allegiance to Walker's mother-in-law would somehow present Lawson with a conflict of interest in defending Walker, who is married

to Pastor Banks' oldest daughter. If anything, an allegiance to Pastor Banks would make Lawson more committed to defending Walker, as she did when filing a brief with the U.S. Supreme Court, which was actually docketed by the high court.

There is not a single fact or shred of evidence from trial or sentencing or any arguable legal basis whatsoever to support Judge Arguello's conclusions about Lawson's conflict of interest or dropping of Walker's leadership role. To say Judge Arguello's conclusions are wholly unsupported by the record and are nothing more than wild, baseless conjecture would be an understatement.

Given that Walker never expressed to Lawson, Lowther, the government or the district court before or after trial about being under duress from being psychologically controlled by Pastor Banks during the commission of the alleged crime or the firing of his attorney trial, how could Judge Arguello say Lawson had a conflict of interest based on her allegiance to Pastor Banks. Furthermore, Lawson or any attorney would be irresponsible to pursue Walker's new post-conviction claims of religious duress during sentencing when such claims are completely unsupported by 10th Circuit law and other circuits as discussed in the judicial complaint. Judge Arguello's claims at Walker's resentencing hearing that she reviewed evidence from trial transcripts to support her conclusion that Walker was under religious duress of Pastor Banks cannot be considered a truthful statement.

In Walker's closing arguments at trial (Doc. 618, D.C. no. 09-cr-00266-CMA) he confidently affirms that he is indeed the leader of IRP and Leading Team, and in great detail, forcefully refutes the government's allegations and defends he and his codefendants business activities. Walker actually used the possessive term "we" 38 times to describe the actions of him and his codefendants. Here is an excerpt from Walker's closing argument:

"By now you know that I am Gary Walker. I am the person that Ms. Hazra just spoke about as the head of all of this. And you saw evidence throughout the case that I am the President of IRP Solutions and the President of Leading Team, Inc...You saw instances where I sent emails, where I say I was the president. Absolutely true, President of IRP Solutions...We were friends working together, coming together to work long and hard to achieve a goal...You just heard accusations of false assurances...What the government asserts as false assurances, we assert as belief in your company. Belief in your product which was affirmed by statements from many people outside of our companies...You saw evidence of skin in the game by myself and my codefendants in the form of personal guarantees and promissory notes."

Walker's statements in closing arguments were not new. He made them in 4 online videos long before trial where he and his codefendants defended their innocence and legitimate business activities. (See online at <https://vimeo.com/11935525> - <http://bit.ly/2sdCTVA> - <http://2ubWLKc> - <http://bit.ly/2szeGIH>)

Judge Arguello obviously forgot to consider Walker's own words during closing arguments and instead based her decision to vacate Walker's sentence on personal family letters from his wife Yolanda and his mother-in-law that she found distasteful. Understandably, Yolanda and her mother, terribly upset by Walker's new claims after 9 years that he was not the President, that Pastor Banks was running the company, Yolanda was keeping the books, and that he was under the psychological control and duress of his mother-in-law, would naturally prompt a sharp response of displeasure from them against Walker. The resentencing hearing records shows Judge Arguello actually taking issue with Pastor Banks calling Walker, the "king of traitors," resulting in Arguello publically attacking Pastor Banks' Christianity. These personal letters from Walker's wife and his mother-in-law, and Judge Arguello's hostility and religious animus towards Pastor Banks had no place in Walker's habeas proceeding or in the consideration of vacating Walker's sentence.

In is clear from the resentencing hearing record that Judge Arguello replaced Walker with Pastor Banks as the leader/organizer of the alleged criminal conspiracy and used new claims of duress by Walker and gossip from disgruntled former church members as her sole basis for dropping Walker's leadership role. Judge Arguello also used that gossip as her basis for concluding, Walker's codefendants, Walker's wife and son, and all other church members are brainwashed, religious followers of Pastor Banks that mindlessly took direction from her in matters related to the trial and their relationships with Walker. Finally, Judge Arguello irrationally asserted that attorney Gwendolyn Lawson had some cult-like allegiance to Pastor Banks which resulted in ineffective assistance of her son-in-law during sentencing. That's just doesn't make sense.

Judge Arguello also says that the government "concedes that additional evidence now a part of the record as a result of Mr. Walker's 2255 petition, demonstrates that at the time [Walker] participated in the fraudulent scheme for which he was convicted, he faced a unique combination of pressures that, when combined with his history and characteristics, reduces his culpability for that fraud." That too doesn't make sense and cannot withstand scrutiny legal scrutiny.

A reduction in sentence based on new post-conviction claims of duress or Judge Arguello's post-conviction findings that Walker suffered "unique combination of pressures" is impermissible as new evidence under 28 U.S.C. 2255. See United States v. Stanley (1985, ND Ill.) 616 F.Supp 1567. When claiming post-conviction 2255 sentencing relief the "petitioner must show that due diligence on the defendant's part could not have revealed the [duress evidence] prior to trial." id at 1569.

Defending innocence against federal criminal charges is both emotionally and financially challenging for defendants, families and friends. Judge Arguello and the government exploited these emotional and financial difficulties by improperly using Walker's feigning of guilt on post-conviction claims of duress and church member gossip about Pastor Banks to improperly release Walker. What makes Judge Arguello or the government think the family could afford six attorneys when the defendants decided would pursue the same strong issues on appeal? The defendants obviously fired court appointed and proceeded pro se because they didn't trust them.

This was a "kangaroo court" proceeding where the principles of law, justice, facts and objective evidence were disregarded and perverted by Judge Arguello to grant a single defendant in a conspiracy favorable resentencing on impermissible grounds to cover the court and government's misconduct. This was judicial misconduct and unfair to the other five defendants with the exact same history and characteristics. A Just Cause demands that the other five defendants (David Banks, Demetrius Harper, Clinton Stewart, David Zirpolo and Kendrick Barnes) be treated fairly and equitably under the law and be immediately released. The five defendants maintain their claims of innocence which are supported by the record and Walker for 9 years, and are unwilling to feign guilt or compromise their integrity by lying on their family and friends.

Based on the, I submit resentencing hearing transcript and defendant Walker's closing argument transcript (Doc. 618).

Sincerely,

Lamont Banks

A Just Cause