

Statement of Facts

For Complaint of Judicial Misconduct regarding Judge Christine M. Arguello

The six Pro se co-defendants who have been in court since September 26th on a trial scheduled for 6 weeks in the matter of US vs Banks, et. al., case # 09CR00266, hereby file a complaint against Judge Christine Arguello for the following improper acts.

- 1) Afternoon of 10/11/2011: Violation of the defendant's right not to testify. During a sidebar the judge told the defendants if they did not have another witness one of them would have to take the stand. In addition, the court failed to advise the defendant of his 5th amendment rights prior to taking the stand neither was he advised of his rights prior to beginning testimony. The defendants have demanded a mistrial due to the extreme prejudice caused by this order, which was heard by all of the defendants. The defendants are now requesting a digital recording of the sidebar in which judge Arguello ordered the defendants to testify.

Originally the government anticipated resting their case between October 17 and October 21. During the first week of trial AUSA provided a new estimated completion date sometime early in the week of October 10. The government actually rested its case on October 6. These changes in schedule forced the defendants to scramble to reschedule witnesses in order to maintain progress of the case.

Judge Arguello stated that she would not grant a continuance even given these changes in schedule and she would rest our case if we didn't have witnesses available to testify. The court is well ahead of schedule on this case and defendants see no reason for the continuance to be denied.

The witnesses who have yet to testify are critical to our case and not granting a continuance allowing these witnesses to appear would be extremely prejudicial to the defendants' case.

- 2) 10/11/2011: Once defendants asserted their right not to testify after completing direct examination of their co-defendant the Government proposed curative measures of either striking Mr. Barnes' testimony from the record and instructing the jury to disregard his testimony or to take the stand for cross examination. The first proposed measure was deemed unacceptable by the defendants since it would deny them the ability to appeal and also exacerbate the prejudice to the defendants. Judge Arguello also stated that the defendants had asserted that they would testify at trial, which is not true. At this point, the judge accused the defendants of orchestrating an attempt to incite a mistrial.

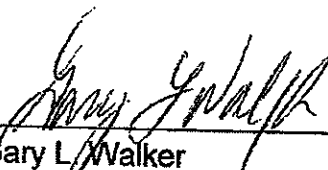
The defendants argued that one defendant being compelled to testify created prejudice to all defendants since they are accused of conspiracy. Judge Arguello dismissed this argument.

- 3) 10/6/2011: The judge has allowed 30 government witnesses to testify to staffing industry practices but denied defendants' motion to admit the testimony of three expert witnesses and allowing only one defendant's expert's testimony. The judge on October 12 also denied the defendants to declare Joe Thurman as an expert to the jury during his testimony.
- 4) 10/12/2011: AUSA Kirsch stated that a defense witness, a retired U.S. Customs agent, had contacted him regarding his intention to appear based on being subpoenaed. The government failed to immediately report this conversation to the defendants and the court. The court didn't question the conversation between Mr. Kirsch and the defendants' witness or why the witness would contact the government. When asked for assistance in the matter judge only asked if we had proof of service.
- 5) 10/11/2011 and 10/12/2011: Judge Arguello ordered the Pro se defendants to verbally advise the court in the presence of the government's attorneys on the status of each witness on the defendants' witness list and the areas to which they would testify.

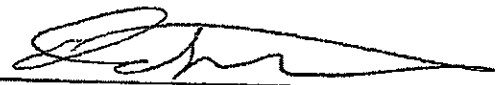
- 6) The defendants moved that Judge Arguello recuse herself from the case based on her bias and favoritism towards the government. Judge Arguello denied this motion.

DATED this 13th day of October, 2011.

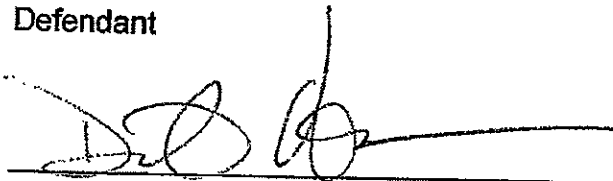
Respectfully submitted,




Gary L. Walker
Defendant




David A. Banks
Defendant



Demetrius K. Harper
Defendant



David A. Zirpolo
Defendant



Clinton A. Stewart
Defendant



Ken Barnes
Defendant

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

RECEIVED
U.S. COURT OF APPEALS
10TH CIRCUIT
11 OCT 25 PM 1:00

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL CONDUCT AND JUDICIAL DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. Do not put the name of any judge on the envelope.

1. Name of Complainant: GARY L. WALKER
Contact Address: F.O. BOX 62489
COLORADO SPRINGS, CO 80962
Daytime telephone: (719) 232-0893

2. Name(s) of Judge(s): CHRISTINE M. ARGUELLO
Court: US DISTRICT COURT for the DISTRICT OF COLORADO

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

Yes [] No

If "yes," give the following information about each lawsuit:

Court: US DISTRICT COURT for the DISTRICT OF COLORADO

Case Number: 09-cr-00266-CMA

Docket number of any appeal to the _____ Circuit: 10

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

Party [] Lawyer [] Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature) Guy L. Wolfe

(Date) 10/13/11

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. Do not put the name of any judge on the envelope.

1. Name of Complainant: DAVID BANKS
Contact Address: 3230 SANDFLOWER DRIVE
COLORADO SPRINGS, COLORADO 80920
Daytime telephone: () _____

2. Name(s) of Judge(s): CHRISTINE M. ARGUELLO
Court: US DISTRICT COURT FOR THE DISTRICT OF COLORADO

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes [] No
If "yes," give the following information about each lawsuit:
Court: US DISTRICT COURT FOR THE DISTRICT OF COLORADO
Case Number: 09-CF-00266-CMA
Docket number of any appeal to the _____ Circuit: _____
Are (were) you a party or lawyer in the lawsuit?
 Party [] Lawyer [] Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes

No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____


Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature)  _____

(Date) 10/13/2011

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: DEMETRIUS HARPER
Contact Address: 13755 FIREFALL COURT
COLORADO SPRINGS, CO 80921
Daytime telephone: () _____
2. Name(s) of Judge(s): CARISTINE M. ARGUELLO
Court: US DISTRICT COURT for the DISTRICT OF COLORADO

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

Yes No

If "yes," give the following information about each lawsuit:

Court: US DISTRICT COURT for the DISTRICT OF COLORADO

Case Number: 09-cr-00266-CMA

Docket number of any appeal to the _____ Circuit: _____

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

Party Lawyer Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____


Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature) 

(Date) Oct 13, 2011

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: CLINTON STEWART
Contact Address: 11925 HANGING VALLEY WAY
COLORADO SPRINGS, CO 80921
Daytime telephone: () _____
2. Name(s) of Judge(s): CHRISTINE M. ARGUELLO
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes No
If "yes," give the following information about each lawsuit:
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
Case Number: 09-CR-00246-CMA
Docket number of any appeal to the _____ Circuit: _____
Are (were) you a party or lawyer in the lawsuit?
 Party Lawyer Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes

No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature) Oliver Stewart (Date) Oct. 13, 2011

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. Do not put the name of any judge on the envelope.

1. Name of Complainant: KENDRICK BARNES
Contact Address: 11925 HANGING VALLEY WAY
COLORADO SPRINGS, CO 80921
Daytime telephone: () _____
2. Name(s) of Judge(s): CHRISTINE M. ARGUELLO
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes [] No
- If "yes," give the following information about each lawsuit:
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
Case Number: 09-CF-00266-CMA
Docket number of any appeal to the _____ Circuit: _____
- Are (were) you a party or lawyer in the lawsuit?
 Party [] Lawyer [] Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature) Kend Bay

(Date) 10/13/2011

Judicial Council of the Tenth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.ca10.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Pursuant to Tenth Circuit Misconduct Rule 6.3, only one original need be filed. Enclose the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. Do not put the name of any judge on the envelope.

1. Name of Complainant: DAVID ZIRPOLO
Contact Address: 12575 FIRENZE HEIGHTS #2221
COLORADO SPRINGS, CO 80921
Daytime telephone: () _____
2. Name(s) of Judge(s): CHRISTINE M. ARGUELLO
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes [] No

If "yes," give the following information about each lawsuit:
Court: US DISTRICT COURT for the DISTRICT OF COLORADO
Case Number: 09-CF-00246-CMA
Docket number of any appeal to the _____ Circuit: _____

Are (were) you a party or lawyer in the lawsuit?
 Party [] Lawyer [] Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____


Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Tenth Circuit Misconduct Rule 6.1; such statement should be limited to five (5) pages.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and

correct to the best of my knowledge.

(Signature)  _____

(Date) 10/13/11