

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Randall-Keith:Beane)

)

v.)

Case No. 3:21-CV-375

)

Case No. 3:17-CR-082

UNITED STATES OF AMERICA)

)

Response to Government’s Response to Movant’s Emergent Motion to Vacate and Set Aside the Conviction and Sentence and Restoration of Property

DEMAND FOR HEARING ON MOVANT’S MOTION TO DISQUALIFY JUDGE AND MAGISTRATE - 28 U.S. Code § 455

And

MOTION FOR SUMMARY JUDGMENT – RULE 56(e)

CONTENTS

I) 28 U.S. Code § 2255.....2

II) Movant’s Grounds.....8

III) Summary of Cynthia Davidson’s Response.....22

IV) Conclusion.....27

“... Federal jurisdiction cannot be assumed, but must be clearly shown.”
– Brooks v. Yawkey, 200 F. 2d 633

“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. 528

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” (Miranda v. Arizona, 384 U.S.

“Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside”, Jaffe and Asher v. Van Brunt, S.D.N.Y.1994. 158 F.R.D. 278

March 4, 2022 Movant filed a Motion for Summary Judgment for the government’s failure to address Movant’s 28 U.S. Code § 2255 Emergent Motion to Vacate and Set Aside the Conviction and

45

Sentence filed November 4, 2021. After more than 120 days the US Attorney finally decided to respond by dissing the Constitution and relegating it to the trivial failure to state a claim upon which relief may be granted argument as if she's responding to a frivolous negligence claim rather than serious constitutional violations, criminal conduct, and the false imprisonment of an innocent living man and woman. No doubt her response is a co-conspirator collaboration for the purpose of allowing cover for the administrative judge to then say Movant has "failed to state a claim upon which relief can be granted" and dismiss on his/her own motion Movant's Emergent Motion to Vacate and Set Aside the Conviction and Sentence. This is the co-conspirators new strategy to keep Movant false imprisoned.

An educated and trained government attorney-at-law with all the government resources available to her and this is her response after 120 days to the constitutional violations, lack of subject matter and personal jurisdiction, adjudicating a criminal case in an Article III court which was NOT established by an Act of Congress, and a criminal conspiracy. It is a reflection of her disdain for the Constitution and the true law that governs this nation. It is hard to imagine anyone who believes in the rule of law would read Cynthia Davidson's response with a straight face. If there was any doubt that Cynthia Davidson knowingly and intentionally violated the Constitution and law to false imprison Randall-Keith:Beane and Heather-Ann:Tucci:Jarraf she put that doubt to rest in her response and made it crystal clear she and her co-conspirators knowingly violated the Constitution, law and the U.S. code.

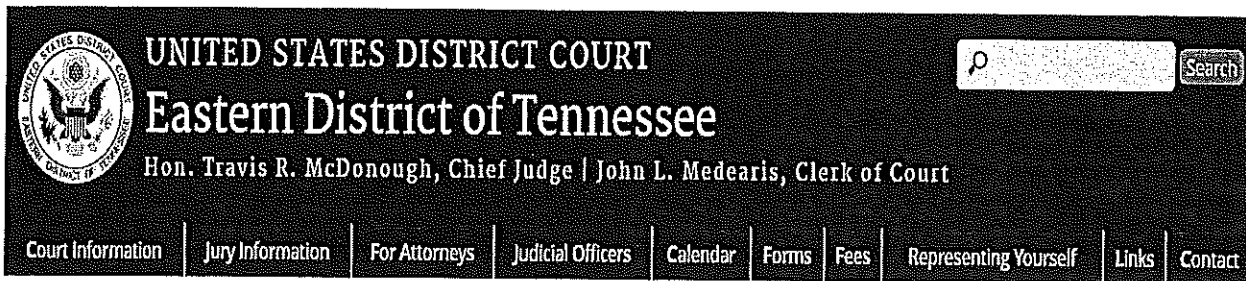
I) 28 U.S. CODE § 2255

Let's look at 28 U.S. Code § 2255 in three parts:

"A prisoner in custody under sentence of (A) a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed (B) in violation of the Constitution or laws of the United States, or that (C) the court was without jurisdiction to impose such sentence...may move the court which imposed the sentence to vacate, set aside..."

(A) “...a court established by Act of Congress...”

An Article III court is NOT established by an Act of Congress. It is established by the Constitution. The Court website says the judges of their court are Article III judges which means Thomas A. Varlan was without jurisdiction to hear, decide, or sentence. District courts are courts of record common law natural law courts which proceed without statutes.



District Judges	Home
Travis R. McDonough, Chief United States District Judge	Judicial Officers
Thomas A. Varlan, United States District Judge	The district judges of our court are Article III judges, that is, they are appointed by the President of the United States, with approval of the Senate, under authority of Article III of the United States Constitution. They are appointed to lifetime terms.

Article I, Section 8, Clause 9 of the Constitution gave congress the power to constitute tribunals inferior to the Supreme Court meaning courts of record common law natural law district courts. Congress has been given power to create only Article III courts of record. Political judges are not permitted in district court courts of record.

The Constitution provides for courts of equity and courts of law (Article III, Section 2). Administrative courts are statutory equity courts that proceed according to statutes – not common law. These courts do not have the power to fine or incarcerate. People are not obligated to participate in these nisi prius courts unless they agree first.

(B) “...the sentence was imposed in violation of the Constitution or laws of the United States...”

Cynthia Davidson failed to state where in the Constitution an Article III judge may impose a sentence based on the U.S. Code. It seems simple enough for her to point to that authority in the

Constitution but she didn't. She just went on and on about how Congress gave them authority to do this and that with no proof Congress had the authority to give them this mythical power. Cynthia Davidson did not point to one of the 17 tasks listed in Article I which governs Congress. In fact, she did not point to any part of the Constitution to support her tyrannical claim of jurisdiction. Judges have a duty by oath to support the Constitution and guarantee a republican form of government (Article IV Section 4) and any judge acting upon seditious legislative acts joins the conspiracy of subversion.

Movant made it clear the perpetrators and co-conspirators violated Constitutional Amendments IV, V, VI and XIV, the Equal Protection Clause and Due Process Clause, Article I and Article III.

Thomas A. Varlan did not operate an Article III court and it was not an Article III court of record common law natural law court. He deceived the jury and the court about his jurisdiction. If he was operating anything other than an Article III court he violated the Constitution by not following the requirements of Article III given he is an Article III judge.

Cynthia Davidson says Congress authorized a magistrate judge to hear and determine any pretrial matter.” (Response page 10, paragraph B) The Court says: “Magistrate judges...do not have authority to try criminal cases, except misdemeanors.”

UNITED STATES DISTRICT COURT
Eastern District of Tennessee
Hon. Travis R. McDonough, Chief Judge | LeAnna R. Wilson, Clerk of Court

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Travis R. McDonough, Chief
United States District Judge

Thomas A. Varlan, United
States District Judge

United States Magistrate Judges

United States Magistrate Judges are appointed by the district judges and serve eight-year terms. Their duties are much like those of the district judges, except they do not have authority to try criminal cases, except misdemeanors. They can try civil cases by consent of the parties and do try a number of civil cases each year.

48

Cynthia Davidson failed to make a serious argument by claiming a magistrate can conduct felony case hearings, but can only try misdemeanors. Pretrial hearings also determine if there will be a trial. According to Cynthia Davidson a magistrate has the power to determine if there will be a felony trial but not the authority to try a felony case. This argument is only plausible in a world of corruption and contempt for the real law. It's not a constitutional argument.

Below is a complete list of Congress' statute, code and regulation making authority. Where in this list does Cynthia Davidson see Congress' authority to designate C. Clifford Shirley, a magistrate judge of an Article III court, to hear and determine any pretrial matter such as subject matter and personal jurisdiction? She doesn't see it. She made it up.

- 1) The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;
- 2) To borrow Money on the credit of the United States;
- 3) To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
- 4) To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;
- 5) To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
- 6) To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
- 7) To establish Post Offices and post Roads;
- 8) To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

- 9) To constitute Tribunals inferior to the supreme Court;
- 10) To define and punish Piracies and **Felonies committed on the high Seas**, and Offences against the Law of Nations;
- 11) To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;
- 12) To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
- 13) To provide and maintain a Navy;
- 14) To make Rules for the Government and Regulation of the land and naval Forces;
- 15) To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
- 16) To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;
- 17) To exercise exclusive Legislation in all Cases whatsoever, **over such District (not exceeding ten Miles square)** as may, by Cession of particular States, and the Acceptance of Congress, become **the Seat of the Government of the United States**, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

(C) “...**the court was without jurisdiction to impose such sentence...**”

Amendment VI makes it clear judges cannot hear, decide, or sentence criminal cases – “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, **by an impartial**

jury of the State and district wherein the crime shall have been committed.” You see absolutely nothing about a federal judge having a role to play or jurisdiction.

According to Cynthia Davidson all you need is an Article III magistrate, who cannot try felony cases, to rule you have jurisdiction. But in real law “the test of jurisdiction is whether a tribunal has power to enter upon inquiry, not whether its conclusion in course of it is right or wrong.” (State vs. Phelps, 193 P.2d 921, 67 Ariz. 215 (1948) Thomas Varlan and C. Clifford Shirley did not have subject matter or personal jurisdiction for many other reasons:

- a) Thomas Varlan and C. Clifford Shirley are Article III judges. The plaintiff did not have Article III standing.
- b) The U.S. Code is not an Act of Congress as proven by the absence of enacting clauses. It was written and published by the Office of Law Revision Counsel with input from the Speaker of the House and the judiciary committee.
- c) The U.S. Code is evidence of law not law. 1 USC § 204 and 1 U.S. Code § 112
- d) There was no sworn complaint or sworn affidavit from an accuser against Movant or Heather-Ann:Tucci:Jarraf.
- e) The US Attorneys knowingly used fake district court arrest warrants signed by a fictitious deputy clerk in violation of 18a U.S. Code Rule 9. Deputy clerk A. Brush does not exist.
- f) There was no FBI jurisdiction to arrest Movant on or about July 11, 2017 - 18 U.S. Code § 3052.Powers of Federal Bureau of Investigation - serve warrants...issued under the authority of the United States – not South Carolina
- g) There was no U.S. Attorney jurisdiction. 28 U.S. Code § 516.Conduct of litigation reserved to Department of Justice and 28 U.S. Code § 547(2) (Duties) - prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned.

Prosecute or defend means sue or defend a suit. For the Government means not a corporate plaintiff. All civil actions means not criminal. Which the United States is concerned means a violation of constitutional laws not the US code and not a private business transaction. It's also not in Cynthia Davidson's job description to criminally prosecute. She has civil action duties.

- h) All district courts are Court of Record (28 U.S. Code § 132(a) – COMMON LAW COURTS – NATURAL LAW COURTS
- i) Movant was not charged with a felony in the charging documents and the indictment was padded and is fraudulent and likely was not agreed to by the grand jury given the fake warrants.
- j) The South Carolina misdemeanor traffic related warrant used to arrest Movant on or about July 11, 2017 was disposed of in 2015 and outside the territorial jurisdiction of Tennessee.

II) MOVANT'S GROUNDS

MOVANT'S GROUND ONE: As of March 2013 the District Court does not exist – Uniform Commercial Code

In paragraph 2 of page 9 of Cynthia Davidson's response she states: "This Court has already considered and rejected that argument as legally baseless." (referring to the UCC filings)

The UCC filings were rejected by C. Clifford Shirley, an unauthorized and unqualified magistrate. C. Clifford Shirley is not a Uniform Commercial Code expert. But regardless of C. Clifford Shirley's UCC knowledge, he was obligated to follow UCC § 1-206 which requires the trier of fact, C. Clifford Shirley, to presume Heather-Ann:Tucci:Jarraf's UCC filings and perfected judgment foreclosing the US corporate government were true because he had no proof they were not true. No evidence was introduced. UCC § 1-206 requires "the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence."

Cynthia Davidson failed to respond to the substance of ground one allegations and she does not proffer any evidence contrary to Movant's claims. **Ground one remains uncontested.**

MOVANT'S GROUND TWO: No valid law cited in the indictment

Cynthia Davidson does not deny no valid laws were cited in the indictment. On page 10, paragraph D, Cynthia Davidson states: “Congress legitimately enacted the criminal statutes under which Beane was charged and convicted.”

Cynthia Davidson cited the U.S. code in the indictment – not law. Where are the enacting clauses showing Congress “legitimately” enacted the US code into law? Again, she proffered no evidence to show the indictment has valid laws.

Cynthia Davidson failed to respond to the substance of ground two allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground two remains uncontested.**

MOVANT’S GROUND THREE: 1) Arrest warrant on an indictment must be signed by the clerk. 2) The laws cited are evidence of the law.

On page 13, paragraph 2, of Cynthia Davidson’s response she states: “Beane also complains that his federal arrest warrant was signed by a fictitious deputy clerk...But every court to have considered this issue has found that a federal arrest warrant is valid where it was signed by a deputy clerk. (E.g. Witchard v. United States)

Cynthia Davidson does not deny the deputy clerk on the district court arrest warrant is fictitious and not a real person. In addition to the fact that it is not Constitutional, a deputy clerk has no authority to sign an arrest warrant based on 18a U.S. Code Rule 9 alone.

In Minnesota, the State Supreme Court held that a statute permitting clerks and deputy clerks of the County Municipal Court to receive complaints and issue warrants in prosecutions under municipal ordinances is unconstitutional. The court said: “The United States Supreme Court has considered and disposed of a related problem in Camara v. Municipal Court, 387 U.S. 523 , 541. The majority in Camara nevertheless stressed the need for “individualized review” by a “**neutral magistrate**” to avoid the issuance of “**rubber stamp**” warrants. (State v. Paulick, 277 Minn. 140, 151 N.W. 2d 591, 596 (1967). Also Cox v. Perkins, 107 S.E. 863, 865 (Ga. 1921)

On page 11, bottom paragraph, Cynthia Davidson states “Indeed, the United States Constitution does not require that federal laws contain an enacting clause.” On page 12, paragraph E Cynthia Davidson states “Contrary to Beane’s claim that the indictment contained only “evidence of the law”

and not citations to “actual law,” the citations to validly enacted criminal statutes satisfied the government’s burden...”

The Constitution does not specifically prescribe an enacting clause but Congress said there must be an enacting clause at 1 U.S. Code § 101 – “The enacting clause of all Acts of Congress shall be in the following form: “**Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.**” To be a law this clause must precede each law. 18 U.S.C. § 1343- Wire Fraud, § 1344- Bank Fraud, § 1956 - Conspiracy to Commit Money Laundering, § 1957 – Engaging In Money Transactions in Property Derived from Specified Unlawful Activity, and § 3231 - original jurisdiction...of all offenses against the laws of the United States are individual “laws” or “acts.” If they are acts of Congress they must say so on their face. There need not be a constitutional provision for an enacting clause to make its usage mandatory.

Ferrill v. Keel (151 S.W. 269, 272, 105 Ark. 380 (1912)) said: A Federal law requires an enacting clause to make it a law coming from the authorized source – Congress. An enacting clause must show that the act comes from a Constitutional source of power.

Cynthia Davidson ignores 1 USC § 204 which tell us Codes are evidence of the laws of United States and 1 U.S. Code § 112 tells us “The United States Statutes at Large shall be legal evidence of laws...” Evidence of a thing is still not the thing itself. She’s required to cite actual law not citations that supposedly lead you to a law but instead lead you to codes because there is no law.

Cynthia Davidson failed to respond to the substance of ground three allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground three remains uncontested.**

MOVANT’S GROUND FOUR: No Jurisdiction

The bottom paragraph of page nine of Cynthia Davidson’s response says - “And the Court’s jurisdiction is not dependent upon proof that the United States sustained an “injury in fact” from Beane’s conduct. That threshold standing requirement faced by civil litigants seeking federal judicial review is inapplicable here, “the injury to [the United States] sovereignty arising from violation of its laws...suffices to support a criminal lawsuit by the Government.” (United States v. Pryor, 842 F.3d 441, 448) Here’s what the Supreme Court has to say about Standing:

Standing

Overview

Standing, or *locus standi*, is capacity of a party to bring suit in court.

Standing in State Court

A state's statutes will determine what constitutes standing in that particular state's courts. These typically revolve around the requirement that plaintiffs have sustained or will sustain direct injury or harm and that this harm is redressable.

Standing in Federal Court

At the federal level, legal actions cannot be brought simply on the ground that an individual or group is displeased with a government action or law. Federal courts only have constitutional authority to resolve actual disputes (see Case or Controversy).

In Lujan v. Defenders of Wildlife (90-1424), 504 U.S. 555 (1992), the Supreme Court created a three-part test to determine whether a party has standing to sue:

1. The plaintiff must have suffered an "injury in fact," meaning that the injury is of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent
2. There must be a causal connection between the injury and the conduct brought before the court
3. It must be likely, rather than speculative, that a favorable decision by the court will redress the injury

As you read it says "**Federal courts only have constitutional authority to resolve actual disputes**" (in Law=common law without codes/statutes presided over by jury and equity under codes and statutes presided by judge) – not injuries to the United States sovereignty from alleged violation of fake laws. There was no dispute. The plaintiff was the UNITED STATES OF AMERICA and no one stepped forward to represent that corporation. Cynthia Davidson appeared for the plaintiff – not the government. Cynthia Davidson's civil duties are outlined in 28 U.S. Code § 547(2) – (1) "prosecute for all offenses against the United States (another corporation)." An offense has the same meaning as "TORT." (Black's Law Dictionary, 4th, p. 1232) A TORT is "A private injury or wrong..." (p. 1660) When Cynthia Davidson says "offense" she's really saying a non-indictable civil "tort." (2) prosecute or defend, for the Government, all civil action suits or proceedings in which the United States is concerned..." There is nothing in her "duties" about bringing "criminal" lawsuits.

Cynthia Davidson failed to respond to the substance of ground four allegations and she does not proffer any evidence contrary to Movant's claims. **Ground four remains uncontested.**

MOVANT'S GROUND FIVE: 1) The South Carolina warrant was disposed of in 2015 and it is outside the territorial jurisdiction of Tennessee. 2) The Tennessee district court arrest warrants were signed by a fictitious deputy clerk (A. Brush) who does not exist.

On page 14, paragraph G, Cynthia Davidson states : "...the Constitution provides that an individual found in another state after having been charged with a **felony offense** may be "delivered up" and removed to "the state having Jurisdiction of the Crime." Now let's read what Article IV Section 2 really says:

"A Person (1) **charged** in any State with Treason, (2) **Felony**, or other Crime, (3) **who shall flee** from Justice, (4) **and be found in another State**, shall on Demand of the (5) **executive Authority of the State from which he fled**, be delivered up to be removed to the State having jurisdiction of the Crime."

- (1) **Charged** – the charge must come before the arrest. There was no charge.
- (2) **Felony** – the South Carolina traffic related warrant was for a MISDEMEANOR and it had already been disposed of two years earlier in 2015. The Tennessee district court had not made any charge against Movant when he was arrested July 11, 2017. The Tennessee grand jury did not hear the case until July 18, 2017.
- (3) **Flee** – Movant was conducting a private business transaction in his hometown at Buddy Gregg RVs & Motor Homes in Knoxville Tennessee when eight or nine unidentified mostly men sent by Cynthia Davidson and Ann-Marie Svolto, called themselves FBI agents, and interfered with a lawful private commercial transaction and physically assaulted Movant.
- (4) **Found in another state** – Movant lived in Knoxville, Tennessee and he was conducting his private business transaction in Knoxville, Tennessee at the time he was physically assaulted by the FBI and Knoxville Sheriff.
- (5) **Executive authority from the state from which he fled** – Cynthia Davidson and Anne-Marie Svolto did not have executive authority from South Carolina because South Carolina disposed of the MISDEMEANOR traffic case two years prior. They did not have executive authority from Tennessee because Movant lived in Tennessee.

The South Carolina case is a MISDEMEANOR traffic case (not a felony as Cynthia Davidson tried to deceive) and South Carolina was not looking for Movant. South Carolina disposed of the case two years earlier because the solicitor knew it was bogus. Cynthia Davidson used the old and closed South Carolina misdemeanor traffic case to arrest and false imprison Movant. Her role was to arrest and prosecute him by whatever means necessary. Cynthia Davidson is truth challenged.

Cynthia Davidson failed to respond to the substance of ground five allegations and she does not proffer any evidence contrary to Movant's claims. **Ground five remains uncontested.**

MOVANT'S GROUND SIX: No due process, no probable cause hearing, no detention/bail hearing, and no formal sworn affidavit

Page 15, Paragraph H and page 16, top paragraph, Cynthia Davidson states: "Beane did not request a detention hearing at the time, nor he even alleged that any subsequent request for a detention hearing was denied."

There's no doubt Movant requested and was entitled to due process, a probable cause hearing, a detention/bail hearing and a copy of the formal sworn affidavit of the accuser. But regardless of Movant's requests, Cynthia Davidson, Anne-Marie Svolto, Thomas Varlan and C. Clifford Shirley knew they did not have legal or lawful justification for detaining Movant. 18 U.S. Code § 3142 says:

(a) Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, **pending trial**, the person be—

(1) **released on personal recognizance** or upon execution of an unsecured appearance bond, under subsection (b) of this section; (2) **released on a condition** or combination of conditions under subsection (c) of this section. Either way they were obligated to release Movant and they intentionally and knowingly did not. Cynthia Davidson, Ann-Marie Svolto, C. Clifford Shirley, and Thomas Varlan made sure Movant was not released under any condition. They did not want him free to discover their conspiracy plot and scheme.

Cynthia Davidson failed to respond to the substance of ground six allegations and she does not proffer any evidence contrary to Movant's claims. **Ground six remains uncontested.**

MOVANT'S GROUND SEVEN: No subject matter and personal jurisdiction

On page 10, paragraph B Cynthia Davidson states: “But Congress specifically authorized district courts to designate a magistrate judge to hear and determine any pretrial matter.

Where in the Constitution did Cynthia Davidson read Congress has this authority to authorize this power? She doesn't say because she made it up.

On page 12, paragraph 3 Cynthia Davidson states: “But the cited language from Section 2 of the U.S. Constitution requires at least one representative per state and no more than one representative for every 30,000 people; it did not mandate one representative for every 30,000 people.”

Article 1 Section 2 says: “The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative...”

Shall not exceed means there needs to be at least one per 30,000, but not more than one, and every state must have at least one representative even if the population is below 30,000.

Cynthia Davidson failed to respond to the substance of ground seven allegations and she does not proffer any evidence contrary to Movant's claims. **Ground seven remains uncontested.**

MOVANT'S GROUND EIGHT: Thomas A. Varlan's Good Faith Jury Instruction

On page 17, Paragraph K, Cynthia Davidson tries to explain away the “good faith” instruction. The fact is she says she charged Movant with a felony crime so she was required to prove the elements of a crime: (1) Actus Reus, (2) Mens rea, and (3) proximate cause. Good faith (UCC § 1-304) is a commercial code standard and she knows it.

Cynthia Davidson failed to respond to the substance of ground eight allegations and she does not proffer any evidence contrary to Movant's claims. **Ground eight remains uncontested.**

MOVANT'S GROUND NINE: Prejudicial Statements

On page 17, paragraph J, Cynthia Davidson states: “...the Sixth Circuit has, in other contexts, found no error in explicit comparisons between fraud and robbery or theft.” You'll notice Bouvier says robbery is a crime, theft is a crime, but fraud is a contract tort. Cynthia Davidson charged Movant with a civil tort and she pretended it was a crime.

FRAUD, contracts, torts. Any trick or artifice employed by one person to induce another to fall into an error, or to detain him in it, so that he may make an agreement contrary to his interest. The fraud may consist either, first, in the misrepresentation, or, secondly, in the concealment of a material fact. Fraud, force and vexation, are odious in law. Booth, Real Actions, 250. Fraud gives no action, however, without damage; 3 T. R. 56; and in matters of contract it is merely a defence; it cannot in any case constitute a new contract. 7 Vez. 211; 2 Miles' Rep. 229. It is essentially ad hominem. 4 T. R. 337-8.

ROBBERY, crimes. The felonious and forcible taking from the person of another, goods or money to any value, by violence or putting him in fear. 4 Bl. Com. 243 1 Bald. 102.

THEFT, crimes. This word is sometimes used as synonymous with larceny, (q. v.) but it is not so technical. Ayliffe's Pand. 581 2 Swift's Dig. 309.

2. In the Scotch law, this is a proper and technical word, and signifies the secret and felonious abstraction of the property of another for sake of lucre, without his consent. Alison, Princ. Cr. Law of Scotl. 250.

2. To constitute larceny, several ingredients are necessary. 1. The intent of the party must be felonious; he must intend to appropriate the property of another to his own use; if, therefore, the accused have taken the goods under a claim of right, however unfounded, he has not committed a larceny.

Cynthia Davidson failed to respond to the substance of ground nine allegations and she does not proffer any evidence contrary to Movant's claims. **Ground nine remains uncontested.**

MOVANT'S GROUND TEN: No Article III Standing

Page 8, Paragraph A

Cynthia Davidson failed to respond to the substance of ground ten allegations and she does not proffer any evidence contrary to Movant's claims. **Ground ten remains uncontested.**

MOVANT'S GROUND ELEVEN: Treaty Violation

Page 10, Paragraph C, Cynthia Davidson states: "...the Covenant does bind the United States as a matter of international law, the United States ratified the Covenant on the express understanding that it was not self-executing and so did not itself create obligations enforceable in the federal courts."

The International Covenant on Civil and Political Rights Treaty was adopted by all nations. The United States conditioned that the treaty not be self-executing but that doesn't mean what Cynthia Davidson would like for us to believe. As is typical for this US Attorney she is being deceitful and

trying to change the definition of “self-executing” to mean no obligation to comply with a treaty this nation signed into law. Self-executing means the United States would not be forced to teach about the treaty or list it among lawful statutes. However, should you learn about the treaty all governments from local to state to federal must obey it and if they refuse to do so a claim may be filed with the Hague for human rights violations to enforce the treaty if the judges in this court refuse to enforce it.

Cynthia Davidson failed to respond to the substance of ground eleven allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground eleven remains uncontested.**

MOVANT’S GROUND TWELVE: Fraud upon the Court.

Page 13, Paragraph F

Cynthia Davidson failed to respond to the substance of ground twelve allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground twelve remains uncontested.**

MOVANT’S GROUND THIRTEEN: Bona Fide Purchaser

Page 17, Paragraph J and page 3, paragraph 2 Cynthia Davidson states: “The Court entered a money judgment for \$553,749.99 and ordered Beane to repay \$510,589.02 in restitution.”

Cynthia Davidson did not deny she said Movant was a **bona fide purchaser** and that he **acted without fraud** or collusion, and that **he was the actual victim**. She failed to give a substantive response to any of the money ordered to pay including the **\$511,289.02** criminal monetary penalty Thomas Varlan ordered Movant pay to the US District Court for the Eastern District of Tennessee **immediately** and **in a lump sum**. (Judgment, Court Document 228, 07/24/18) Did she receive a cut of the money she’s hiding? If so, who else received a cut and how much - \$40K, \$50K, \$60K, more?

Cynthia Davidson failed to respond to the substance of ground thirteen allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground thirteen remains uncontested.**

MOVANT’S GROUND FOURTEEN: Territorial Jurisdiction

Page 8, Paragraph A and page 9, paragraph 3, Cynthia Davidson states: “Contrary to Bean’s claims, the United States Constitution grants Congress the power to create, define, and punish crimes irrespective of where they are committed, even within state borders.”

GD

Movant listed Congress' 17 constitutional tasks in this response. Congress is constrained by Article 1 Section 8 Clause 17. Cynthia Davidson is once again being deceitful.

Cynthia Davidson failed to respond to the substance of ground fourteen allegations and she does not proffer any evidence contrary to Movant's claims. **Ground fourteen remains uncontested.**

MOVANT'S GROUND FIFTEEN: The FBI and US Attorney Frame Up

On page 18, paragraph L Cynthia Davidson states: "Beane's convictions do not stem from any nefarious conspiracy or "frame up." "The record establishes that Beane was fairly charged, tried, and convicted."

The record shows Cynthia Davidson, Anne-Marie Svolto, Parker Still, Thomas Varlan, C. Clifford Shirley, Debra Poplin and others conspired to frame and kidnap Movant and Heather-Ann:Tucci:Jarraf using a fraudulent indictment, fraudulent arrest warrants, concocted allegations that relied on manipulating definitions, making false claims, lies, intimidation and physical assault.

Cynthia Davidson failed to respond to the substance of ground fifteen allegations and she does not proffer any evidence contrary to Movant's claims. **Ground fifteen remains uncontested.**

MOVANT'S GROUND SIXTEEN: Trespass of the Law

Page 12, Paragraph E and Page 18, Paragraph L

Cynthia Davidson failed to respond to the substance of ground sixteen allegations and she does not proffer any evidence contrary to Movant's claims. **Ground sixteen remains uncontested.**

MOVANT'S GROUND SEVENTEEN: The UNITED STATES OF AMERICA Corporation

In paragraph 13 (F) Cynthia Davidson states: "Beane insists, as he and Tucci-Jarraf did below, that this case was prosecuted by a federal corporation impersonating the government." "That argument – that the United States is a corporation" has been repeatedly rejected as "groundless" and "nonsensical." "**The plaintiff** in this case, as listed on the caption of all court pleadings, **was United States of America** – i.e., the federal government, not a corporation.

Cynthia Davidson saying it ain't so does not make it not so. Saying the plaintiff UNITED STATES OF AMERICA is not a corporation is meaningless and lacks credibility. And saying 'we caption all pleadings this way' is admitting Movant's case is not the only case they defrauded. But

Movant's motion regards this case. Cynthia Davidson said it best, "But merely asserting something does not make it true." (Davidson Response, p. 18, ¶ L) Nearly everything she has asserted is not true.

28 U.S.C. § 3002(15) says: "United States" means – a Federal **corporation**. Is Cynthia Davidson calling the authors of the US code liars? She is disputing what is written in the U.S. Code. If 28 U.S.C. § 3002(15) is not accurate then 18 U.S.C. § 1343 is **not** wire fraud, § 1344 is **not** bank fraud, § 1956 is **not** conspiracy to commit money laundering, § 1957 is **not** engaging in transactions derived from unlawful activity, and 18 U.S.C. § 3231 – does **not** grant original jurisdiction. If one code is inaccurate they're all inaccurate. She can't pick and choose the codes she likes.

The Delaware Division of Corporations tells us the UNITED STATES OF AMERICA is a corporation:

HOME
 About Agency
 Secretary's Letter
 Newsroom
 Frequently Asked Questions
 Related Links
 Contact Us
 Office Location

SERVICES
 Pay Taxes
 File UCCs
 Delaware Laws Online
 Name Reservation
 Entity Search
 Status
 Variable Certificate
 Customer Service Survey

INFORMATION
 Corporate Forms
 Corporate Fees
 UCC Forms and Fees
 Taxes
 Expedited Services
 Service of Process
 Registered Agents
 Out-of-State Status
 Submitting a Request

Entity Details			
THIS IS NOT A STATEMENT OF GOOD STANDING			
File Number:	2193946	Incorporation Date:	4/19/1989
		Formation Date:	(mmddyyyy)
Entity Name:	UNITED STATES OF AMERICA, INC.		
Entity Kind:	Corporation	Entity Type:	Exempt
Residency:	Domestic	State:	DELAWARE
REGISTERED AGENT INFORMATION			
Name:	THE COMPANY CORPORATION		
Address:	251 LITTLE FALLS DRIVE		
City:	WILMINGTON	County:	New Castle
State:	DE	Postal Code:	19808
Phone:	302-638-5440		

Cynthia Davidson failed to respond to the substance of ground seventeen allegations and she does not proffer any evidence contrary to Movant's claims. **Ground seventeen remains uncontested.**

MOVANT'S GROUND EIGHTEEN: No Felonious Conduct

Page 12 paragraph E and page 13, top paragraph, Cynthia Davidson states "...the absence of the word "felony" or "felonious" was not a fatal omission." Here's what Bouvier law dictionary says:

FELONIOUSLY, pleadings. This is a technical word which must be introduced into every indictment for a felony, charging the offence to have been committed feloniously; no other word, nor any circumlocution, will supply its place. Com. Dig. Indictment, G 6; Bac. Ab. Indictment, G 1; 2 Hale, 172, 184; Hawk. B. 2. c. 25, s. 55 Cro. C. C. 37; Bum's Just. Indict. ix.; Williams' Just. Indict. iv.-, Cro. Eliz. 193; 5 Co. 121; 1 Chit. Cr. Law, 242.

Bouvier's Law Dictionary, 1856 Edition

62

“Must be introduced into every indictment for a felony...no other word, nor any circumlocution, will supply its place” means it’s “fatal” without it. She pretended to charge a felony.

Cynthia Davidson failed to respond to the substance of ground eighteen allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground eighteen remains uncontested.**

MOVANT’S GROUND NINETEEN: Denial of Exculpatory Evidence

On page 16, paragraph I, Cynthia Davidson says: “Beane has not established any Brady violations.”

When a prosecutor fails to turn over **all** exculpatory evidence it’s a Brady violation plain and simple. Cynthia Davidson does not deny she waited until the trial was over to turn over some emails.

Cynthia Davidson failed to respond to the substance of ground nineteen allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground nineteen remains uncontested.**

MOVANT’S GROUND TWENTY: Counts 1-5

Page 18 paragraph L

Cynthia Davidson failed to respond to the substance of ground twenty allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground twenty remains uncontested.**

MOVANT’S GROUND TWENTY-ONE: Who was the plaintiff?

Page 13 paragraph F

Cynthia Davidson said the UNITED STATES OF AMERICA was the plaintiff. The plaintiff is a Delaware corporation. The following image of the trial transcript clearly show Cynthia Davidson and Anne-Marie Svolto appeared “for the plaintiff.” It does not say for the government or for the People– it says for the plaintiff. Is Cynthia Davidson calling the court reporter a liar?

William Blackstone’s Commentaries are the bedrock of American jurisprudence. In the following image he says, “...if the plaintiff does not appear, no verdict can be given...”

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RANDALL KEITH BEANE AND
HEATHER ANN TUCCI-JARRAF,

Defendants.

Case No.: 3:17-CR-82

VOLUME I of VIII

JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE THOMAS A. VARLAN

January 23, 2018
9:16 a.m. to 5:00 p.m.

APPEARANCES:

FOR THE PLAINTIFF: CYNTHIA F. DAVIDSON, ESQUIRE
ANNE-MARIE SVOLTO, ESQUIRE
Assistant United States Attorney
United States Department of Justice
Office of the United States Attorney
800 Market Street
Suite 211
Knoxville, Tennessee 37902

When they are all unanimously agreed, the jury return back to the bar; and, before they deliver their verdict, the plaintiff is bound to appear in court, by himself, attorney, or counsel, in order to answer the amendment to which by the old law he is liable, as has been formerly mentioned (q), in case he falls in his suit, as a punishment for his false claim. To be amerced, or a mercie, is to be at the king's mercy with regard to the fine to be imposed; in *miseriordia domini regis pro falso clamore suo*. The amendment is disused, but the form still continues; and if the plaintiff does not appear, no verdict can be given, but the plaintiff is said to be *nonsuit, non sequitur clamorem suum*. Therefore it is usual for a plaintiff, when he or his counsel perceives that he has not given evidence sufficient to maintain his issue, to be voluntarily nonsuited, or withdraw himself: whereupon the crier is ordered to call the plaintiff; and if neither he, nor any body for him, appears, he is nonsuited; the jurors are discharged, the action is at an end, and the defendant shall recover his costs. The reason of this practice is, that a nonsuit is more eligible for the plaintiff, than a verdict against him; for after a nonsuit, which is only a default, he may commence the [*377] same suit again for the same cause of action; but after a verdict had, and judgment consequent thereupon, he is for ever barred from attacking the defendant upon the same ground of complaint. But, in case the plaintiff appears, the jury by their foreman deliver in their verdict (38).

A verdict, *vere dictum*, is either *privy*, or *public*. A *privy* verdict is when the judge hath left or adjourned the court; and the jury, being agreed, in order to be delivered from their confinement, obtain leave to give their ver-

(q) Page 375. See also Book IV. 370.

of a subject's equals in the feudal courts of the king and barons. And so little appears to be ascertained by antiquarians respecting the introduction of the trial in criminal cases by er number; yet there can be no conviction unless the greater number consists at least of twelve. 2 Inst. 30. Kelyng. 64. Moore, 622. Under a commission of lunacy the jury was

Cynthia Davidson failed to respond to the substance of ground twenty-one allegations and she does not proffer any evidence contrary to Movant's claims. **Ground twenty-one remains uncontested.**

MOVANT'S GROUND TWENTY-TWO: Non-constitutional "laws"

Cynthia Davidson response - Page 10 paragraph D – "The enacting clause for all federal criminal statutes appears at the beginning of Title 18 which negates Beane's claim that the statutes he was charged with violating lack an "enacting clause.""

The purpose of an enacting clause is not to enact the title, its's for the enactment of individual laws. Congress has a duty to let the people know of the laws they've passed and the only way to do that is to have an enacting clause. The enacting clause is deeply rooted in precedent and the common law. If it is not used the law in question is not valid and carries no obligation, and for the enacting clause to be of any use it must appear with the law on its face so that everyone knows it came from Congress. The alleged laws in the U.S. Code show no sign of authority on their face. There is no evidence that they came from Congress. They are decrees without authority. When we look at the

64

“laws” in the US Code how do we know that they are public laws passed by Congress? We don’t. For all we know they could be mere resolutions which carry no force and effect as laws. If the codes had enacting clauses on their face all would know the authority for their existence. But they have no enacting clauses and thus are not legitimate publications in law which can be used to charge Americans with a crime. They are only words of some committee and thus are not constitutionally authorized laws. A law exists in the manner in which it was enacted and promulgated or published. A law cannot validly exist in printed form without the required enacting clause. There is no shortage of cases addressing the requirement of an enacting clause appearing on the face of the law. Movant shared many of the enacting clause cases in the documents he filed with this Court.

If there are 10,000 laws there must be 10,000 enacting clauses. If there are 100,000 laws there must be 100,000 enacting clauses. If there are 1,000,000 laws there must be 1,000,000 enacting clauses. Each law must have its very own enacting clause so that the people know with certainty the authority by which it was promulgated. Otherwise, the US code looks like what it is - the creation of the Office of Law Revision Counsel, speaker and judiciary committee. Here are some quotes from cases reviewed - “It is necessary that **every law** should **show on its face** the authority by which it is adopted and promulgated, and that it should clearly appear that it is intended by the legislative power that enacts it that it should take effect as a law.” (People v. Dettenhaler, 77 N.W. 450, 451, 118 Mich. 595 (1898); citing Swan v. Buck, 40 Miss. 268 (1866)

“Thus a publication of an act omitting the enacting clause is not a valid publication of the act. If the required statement of authority is not **on the face** of the law, it is not a law that has any force and effect. Such a published law **cannot be used on indictments or complaints** to charge persons with a crime for its violation. This decision was upheld and affirmed by the Court in 1981, when it said: In re Swartz, Petitioner, 47 Kan. 157, 27 P. 839 (1891), this court found the act in question was invalid because it had been mistakenly published without an enacting clause. We again adhere to the dictates

65

of that opinion. Thus whatever is published without an enacting clause is void, as it lacks the required evidence or statement of authority. Such a law lacks proof that it came from the authorized source spelled out in the constitution, and thus is not a valid publication to which the public is obligated to give any credence.” (State v. Kearns, 623 P.2d 507, 509, 229 Kan. 207 (1981))

Cynthia Davidson failed to respond to the substance of ground twenty-two allegations and she does not proffer any evidence contrary to Movant’s claims. **Ground twenty-two remains uncontested.**

TIMELINESS OF MOTION

On page 6, paragraph 2, Cynthia Davidson states: “Beane asserts—mistakenly, and without any citation to authority—that [t]here is no statute of limitations for constitutional violations.” “In fact, a one-year period of limitation applies to § 2255 motions and usually runs from...”

The Constitution is the authority. Section 2255 is a rule for motions – not law. Where in the Constitution did Cynthia Davidson see a statute of limitations for constitutional violations? She didn’t see it because it’s not there.

III) SUMMARY OF DAVIDSON’S RESPONSE

Cynthia Davidson starts her response by quoting co-conspirator Jeffrey Sutton appellate “opinion” calling the quote fact and history when it is neither fact nor history. It is co-conspirator Jeffrey Sutton’s imagination of how he would like for things to have gone down. It is one crook vouching for another crook in the crime syndicate. Black’s Law Dictionary (p. 1243) defines “opinion” as “the statement by a judge or court of the decision reached in regard to a cause tried or argued before them...” The case was not tried or argued before co-conspirator Jeffrey Sutton. Jeffrey Sutton hired two attorneys to write two briefs and then he wrote his opinion.

On page 1, paragraph 1 Cynthia Davidson quotes the appellate opinion: “he and Tucci-Jarraf defrauded the United States of \$31 million.”

Cynthia Davidson’s witness Sean O’Malley of the NY Federal Reserve Bank testified under oath – “there was no loss to the U.S. government.” (Trial Transcript Volume 4, p.18, Line 12-13)

66

The United States was NOT DEFRAUDED as co-conspirators Jeffrey Sutton, Deborah L. Cook, and Amul Thaper of the US Court of Appeals for the Sixth Circuit knowingly lied and misrepresented in their opinion. Jeffrey Sutton, Deborah L. Cook, and Amul Thaper acted in concert with Cynthia Davidson, Thomas Varlan, and others to ensure the conviction was not overturned.

On page 3, paragraph 3, Cynthia Davidson states: “On appeal, represented by **appointed counsel**, Beane and Tucci-Jarraf argued that the Court “should have forced them to accept counsel in view of their unusual beliefs and saved them from themselves.”

Randall-Keith:Beane and Heather-Ann:Tucci:Jarraf were not represented by counsel in the fake appeal. There is no signed retainer agreement showing Randall-Keith:Beane and Heather-Ann:Tucci:Jarraf authorized Stephen Braga and Denis Terez to represent them.

On page 7, paragraph 2, Cynthia Davidson states: “After having been convicted and sentenced for multiple criminal offenses, Beane was rightly held in custody, and there is no constitutional or statutory right for prisoners to enjoy unrestricted library access.”

This is nothing short of a wicked lie. Only a demon government agent of evil would believe it acceptable to deny a man his right to access a library to prove his innocence. Movant was **denied any library access** BEFORE he was even charged. She uses the word “unrestricted” to deceive. Movant was held from July 11, 2017 to July 18, 2017 without a charge or a valid arrest warrant. The alleged grand jury met July 18, 2017 – seven days after Movant was arrested and unlawfully and illegally detained in violation of the Constitution and 18 U.S. Code § 3142.

On page 8, bottom paragraph, Cynthia Davidson states: “Federal courts have exclusive jurisdiction over offenses against the laws of the United States,” and Beane was charged with and convicted of violating federal law. “

There was no federal law charged. US code section 3231 is not one of the two ways a federal court gains subject matter jurisdiction. According to the US code, Federal question jurisdiction is one of the **two ways for a federal court to gain subject matter jurisdiction over a case**. (28 U.S. Code § 1331) The other way is through diversity jurisdiction. (28 U.S. Code § 1332) Neither is related to criminal actions – both are for **civil actions**.

On page 11, paragraph 2, Cynthia Davidson states: “Moreover, even if Congress had not “approved the specific placement of the underlying legislation into the U.S. Code and thereby enacted it into positive law, that omission would not negate the validity of the statutes.

She is saying even if congress did not make the US code law it is enforceable. She is admitting the US code is not law, and she is saying she and her co-conspirators do not need valid laws to arrest and imprison the people. If it is not a constitutional law passed by congress it is not enforceable law.

On page 12, paragraph 2, Cynthia Davidson states: “Even omission of an element from an indictment or information does not deprive the Court of jurisdiction.”

Failure to include “felony” or “felonious” in her charging documents is not an “omission.” It is an admission that she did not charge a felony because she could not describe felonious conduct.

On page 18, paragraph L, Cynthia Davidson states: “Beane insists that he and Tucci-Jarraf are victims of a Tennessee organized crime syndicate that involved FBI investigators, federal prosecutors, federal judges, sheriff office and others.” “But merely asserting something does not make it true.”

Murderers rarely admit to committing murder. Rapist rarely admit to committing rape. And conspirators of a criminal conspiracy are not likely to admit to their participation in the crime especially when they are supposed to be the pillars of justice.

Here are some of the many things Cynthia Davidson did not deny:

- She did not deny “A United States judge or magistrate judge...orders **shall have no effect...**” beyond determining detention or release. (18 U.S. Code § 3041)
- She did not deny there was no Article III standing in an Article III court.
- She did not deny the trial court was not an Article III **court of record** as required (28 U.S. Code § 132(a)).
- She did not deny Thomas Varlan hid his Article III jurisdiction.
- She did not deny the South Carolina arrest warrant was disposed of in **2015** (two years prior).
- She did not deny the district court arrest warrants were signed by a **non-existent deputy clerk**. There is no deputy clerk named A. Brush.
- She did not deny there was **no sworn complaint or affidavit** from an accuser against Movant or Heather-Ann:Tucci:Jarraf.

- She did not deny Movant was denied due process.
- She did not deny lying to the grand jury and trial jury about Movant altering his social security account number by one digit.
- She did not deny saying Movant was a bonafide purchaser meaning he acted without fraud or collusion. (Grand Jury Transcript, Page 40, Line 11-15)
- She did not deny saying Movant was the victim of theft. (Trial transcript volume II, page 38, lines 4-5 “During the theft from the defendant, Randall Keith Beane...”)
- She did not deny the indictment was padded with two additional counts not presented to the grand jury.
- She did not deny they all operated outside the US code governing their position duties (28 U.S. Code § 547(2) - US Attorney prosecute or defend Civil Actions only), 18 U.S. Code § 3052 FBI power to serve warrants issued under the authority of the United States – not South Carolina, and 18 U.S. Code § 3041, US judge or magistrate...orders shall have no effect...” beyond determining detention or release.
- She did not deny the government exceeded the territorial jurisdiction of the United States as defined in the Constitution Article 1 Section 8 Clause 17 and 18 U.S. Code § 7.
- She did not deny fraud upon the court.
- She did not deny the plaintiff UNITED STATES OF AMERICA (all caps) is a corporation.
- She did not deny the United States is a corporation. 28 U.S.C. § 3002(15)

Cynthia Davidson took this opportunity to defend some of her co-conspirators, but she failed to proffer evidence or law that would exonerate her or any of her co-conspirators from their participation in the criminal conspiracy to false imprison Movant and Heather-Ann:Tucci:Jarraf. She did not exonerate herself or anyone else. Cynthia Davidson’s response shows her zeal for continuing to defame and false imprison a man she knows is innocent because she trampled all over the Constitution to frame him.

The following chart shows the U.S. codes Cynthia Davidson advocates for (the good codes) and the codes she dismisses (the bad codes). Cynthia Davidson continues to suppress evidence by intentionally cherry picking which U.S. Codes she wants to apply to this case to support her position while ignoring the significant number of US codes that contradict her position. The US code is all or nothing!

**The US Code According to Cynthia Davidson's Response to Movant's
Motion to Vacate and Set Aside the Conviction and Sentence
and Restoration of Property**

GOOD US CODE	BAD US CODE
18 U.S.C. § 1343- Wire Fraud	28 U.S.C. § 3002(15) "United States" means -- (A) a <u>Federal corporation</u>
18 U.S.C. § 1344- Bank Fraud	28 U.S. Code § 132(a) - All district courts are <u>Court of Record</u> = Common Law Courts - Common law has an <u>accuser</u> and asks who, what, where, when, why, and how.
18 U.S.C. § 1956 - Conspiracy to Commit Money Laundering	18 U.S. Code § 3041 - Power of courts and magistrates - A <u>United States judge or magistrate judge...orders shall have no effect</u> beyond determining, whether to detain or conditionally release the prisoner prior to trial or to discharge him from arrest.
18 U.S.C. § 1957 -- Engaging In Money Transactions in Property Derived from Specified Unlawful Activity	1 U.S. Code § 101 - "The enacting clause <u>of all Acts of Congress</u> shall be in the following form: " <u>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.</u> "
18 U.S.C. § 3231 - District courts of the United States shall have original jurisdiction...of all <u>offenses against the laws</u> of the United States.	28 U.S. Code § 547(2) United States attorney duties - prosecute or defend, for the Government, <u>all civil actions</u>
	18 U.S. Code § 3142 - (1) released on personal recognizance or (2) released on a condition -- You cannot be detained indefinitely.
	UCC § 1-206. Presumptions - "the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence."
	2 U.S. Code § 285c - Law Revision Counsel 2 U.S. Code § 285b -- Functions -- <u>Office of Law Revision Counsel</u> - To <u>prepare and publish</u> periodically a new edition of the <u>United States Code</u>
	1 U.S. Code § 204 - Codes and Supplements as <u>evidence of the laws</u> of United States
	1 U.S. Code § 112 - Statutes at Large; contents; admissibility in <u>evidence</u>
	18 U.S. Code § 3052. Powers of Federal Bureau of Investigation-- <u>serve warrants...</u> issued <u>under the authority of the United States</u> -- <u>not South Carolina</u>
	28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate judge

IV) CONCLUSION

Movant demands a hearing on his Motion to Disqualify Judge and Magistrate and his Motion for Summary Judgment. The facts, evidence, US code, law and the Constitution are with Movant.

Cynthia Davidson did not deny Movant's claims as required by Rule 8 – "A denial must fairly respond to the substance of the allegation." She tried to justify her and her co-conspirators criminal conduct. She showed a disregard and disrespect for the law. They had no justification for their illegal and unlawful actions. Cynthia Davidson and her co-conspirators used the power of their government office to kidnap and false imprison Randall-Keith:Beane and Heather-Ann:Tucci:Jarraf .

Judges are not above the law; they are creatures of the law and are bound to obey it. If judges break the law, they can be removed for bad behavior, prosecuted and sued for damages. They must obey the law of the land and interpret the Constitution with ordinary understanding to the benefit of the people. If judges fail to defend the Constitution when brought before them they war against it and must be removed and tried for treason.

In citing cases, Cynthia Davidson shared with us the thinking of several judges just as Movant shared the thinking of other judges in the documents he filed with the court. Movant offered many, many, many more favorable judicial opinions than that offered by Cynthia Davidson which cannot be trusted due to her penchant for manipulating and falsifying definitions, facts, truth and the law.

It is important to know what a judge thinks, but if a judge's legal opinion conflicts with the Constitution he/she has exceeded their authority. The thinking of a judge is not the law. **The LAW is The Constitution for the united States of America.** Judges are not the makers of the law. "Case law" is not law. Judges are bound by Article III just as congress is bound by Article I. Article III is the sole basis upon which a judge can formulate a lawful opinion.

God the Creator is the ultimate authority. Almighty God, Creator of Heaven and earth, gave man 10 laws known as the Ten Commandments. The Constitution is based upon these Ten Laws.

Man is subject to the laws of his Creator.

“Any judge who does not comply with his oath to the Constitution for the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. (Article VI, Clause 2) The judge is engaged in acts of treason.” Cooper v. Aaron, 358 U.S. 1, 785. Ct. 1401 (1958)

It is Article III, Section 1 where authority is given to create courts. We the People vested power in only “One Supreme Court” and empowered congress to ordain and establish inferior courts whereas judges hold office only so long as they are in good behavior. Good behavior is defined in Article VI which is obedience to the “Law of the Land” which includes natural law. Any judge not in good behavior would be in bad behavior and forfeits their office through impeachment or extraordinary indictment.

If the government wants to take life, liberty or property they must comply with the Constitution and due process. In this case, the ones hired to enforce the law are, in fact, the brazen law breakers. Cynthia Davidson and Anne-Marie Svolto did not prove actus reus, mens rea, proximate cause, or that an actual crime was committed and Thomas A. Varlan knew it. Cynthia Davidson, Ann-Marie Svolto, Parker Still, Thomas Varlan, C. Clifford Shirley, Debra Poplin, Sheriff Jimmy Jones, and all the other co-conspirators jointly worked to secure a fraudulent indictment and fictitious arrest warrants to kidnap and false imprison Randall-Keith:Beane and Heather-Ann:Tucci:Jarraf.

Respectfully submitted,
Without Prejudice, All Rights Reserved

By: Randall-Keith:Beane, Living Soul Date: March 31, 2022

Randall-Keith:Beane
Reg. #52505-074
FCI Elkton
P.O. Box 10
Lisbon, Ohio (44432)

To:

LeAnna R. Wilson (Original)
Clerk, U.S. District Court
800 Market Street, Suite 130
Knoxville TN 37902
USPS Priority # 9114 9012 3080 3100 8526 85

Travis R. McDonough (Original)
Chief United States District Judge
Chambers Address
900 Georgia Avenue, Room 317
Chattanooga, TN 37402
USPS Priority # 9114 9012 3080 3100 8526 92

Francis M. Hamilton III
Acting United States Attorney
800 Market Street, Suite 211
Knoxville, Tennessee (37902)
USPS Priority # 9114 9012 3080 3100 8527 08

Michael E. Horowitz
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. (20530-0001)
USPS Priority # 9114 9012 3080 3100 8527 15

Christopher Wray
Director of the FBI,
FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, DC (20535-0001)
USPS Priority #9114 9012 3080 3100 8527 22

Randall-Kelth:Beane
Reg. #52505-074
FCI Elkton
P.O. Box 10
Lisbon, Ohio (44432)
USPS Priority # 9114 9012 3080 3100 8527 39

Heather Ann Tucci-Jarraf
Former Reg. #86748-007
FCI Dublin
Address Unknown

Ms. Crawford