

Docket No. 2:14-CR-00027-NDF

TO:  
U.S. District Court  
2120 Capitol Avenue, 2nd Floor  
Cheyenne 82001  
Wyoming, USA

Subject: APPLICATION FOR DISQUALIFICATIONS: [28 USC 144](#)

Greetings Your Honor:

Comes now Paul Andrew Mitchell, B.A., M.S. ("Mitchell"), to apply for mandatory disqualifications of Nancy D. Freudenthal and possibly also Scott W. Skavdahl and Alan B. Johnson from the instant criminal case, pursuant to [28 USC 144](#), for good causes showing as follows:

#### **AFFIDAVIT OF BIAS AND PREJUDICE**

Notably, at the hearing on 3/21/2014, Ms. Freudenthal clearly attempted to characterize Mitchell's ongoing credential investigation as some sort of pathological obsession (or similar words to that same effect).

Mitchell promptly objected by emphasizing that the credential investigation was being performed on behalf of private clients who paid fair professional fees for that service.

The credential investigation has also been actively assisted by Federal officers in DOJ's Office of Information Policy ("OIP") and the Executive Office for U.S. Attorneys ("EOUSA") in Washington, D.C., with actual knowledge of Deputy U.S. Marshals in San Diego, Spokane and Seattle.

Such official assistance consisted mainly of timely and untimely replies and production of partial documents responsive to Mitchell's numerous Requests, properly submitted under the Freedom of Information Act ("FOIA"), [5 USC 552](#), in addition to in-person meetings with Deputy U.S. Marshals in San Diego and Seattle.

To date, Mitchell has had five (5) in-person meetings with one or more Deputy U.S. Marshals stationed in Seattle, and two (2) in-person [meetings](#) with Deputy U.S. Marshals stationed in San Diego.

Near the conclusion of the 3/21/2014 hearing, Freudenthal actually apologized to Mitchell for her attempt to characterize the credential investigation, and its cumulative results to date, as the obsession of someone suffering from a mental illness of some kind.

Mitchell continues to regard that attempt as defamatory, and defamation violates two (2) Human Rights Treaties -- the [Universal Declaration of Human Rights](#) and the [International Covenant on Civil and Political Rights](#). (See [VCC5](#) *infra*.)

Then, without Mitchell's actual knowledge, Mr. L. Robert Murray dba Assistant U.S. Attorney, commenced to file a "secret motion" -- *ex parte* -- for a second psychological evaluation of Mitchell at FDC/SeaTac. That *ex parte* motion was never timely served upon Mitchell; no notice of any hearing on that *ex parte* motion was ever served upon Mitchell; and, no hearing on that *ex parte* motion was ever conducted at which Mitchell was allowed to appear. (See Code of Conduct, Canon 3(A)(4) *infra*.)

Mitchell has always proceeded *In Propria Persona* i.e. "personally" under [28 USC 1654](#), notwithstanding any and all appearances to the contrary.

In point of fact, Mr. Mark Hardee as initial "standby counsel" failed completely to forward or even to mention said *ex parte* motion to Mitchell; and, Docket records were erroneously modified -- by person(s) unknown -- so as to list Mr. Hardee as Mitchell's formal legal "representative", directly contradicting Mitchell's decision to proceed always [In Propria Persona](#).

Freudenthal summarily "granted" said *ex parte* motion, but Mitchell was not allowed to see any "order" granting that *ex parte* motion until after he arrived at FDC/SeaTac for a second period of detention and more solitary confinement.

In point of fact, Hardee also failed completely to forward or even to mention to Mitchell said "order" granting that *ex parte* motion.

Mitchell has also confirmed a Federal law which prohibits Federal Judges from engaging in the practice of law, and defines that violation as a high misdemeanor. (See [28 USC 454](#).)

All psychological interviews of Mitchell by one Cynthia A. Low, dba Forensic Psychologist, were conducted at FDC/SeaTac at all times withOUT the assistance of Counsel present during those interviews, and over Mitchell's multiple written [objections](#) to the total absence of Counsel, and to all [missing credentials](#) for one Stephan Harris whose name appeared in the conforming stamp displayed on Freudenthal's "order".

Relying upon information provided by the U.S. Supreme Court in [Johnson v. Zerbst](#), 304 U.S. 458, 468 (1938), Mitchell believes the complete absence of counsel during all of Low's interviews resulted in ousting this Court of jurisdiction (cf. "*jurisdictional bar*", "*court no longer has jurisdiction to proceed*").

Mitchell has never competently and never intelligently waived his Fundamental right to meaningful technical assistance of "standby" counsel. Here, Mitchell relies upon [U.S. v. Coupez](#), 603 F.2d 1347 (9th Cir. 1979) (re: "meaningful technical assistance"), and upon similar case law under [28 USC 1654](#). Near the end of the 3/21/2014 hearing, Mitchell expressly reserved his Right to change his mind about formal legal representation, and Freudenthal acknowledged same on the record.

Mitchell has previously filed a DEMAND FOR RECUSAL which expanded substantially upon the several reasons why he believes Freudenthal's bias and prejudice do warrant her immediate disqualification.

Said DEMAND FOR RECUSAL is hereby incorporated by reference, as if set forth fully here.

(See Docket records for the particulars of that DEMAND FOR RECUSAL.)

Chiefly, while being detained unlawfully in Gering, Nebraska, Mitchell submitted a proper FOIA Request to OIP for the four (4) credentials required of [Freudenthal](#), [Skavdahl](#) and [Johnson](#). All three (3) of said Court personnel turned up with missing and/or defective credentials: OIP produced no SENATE CONFIRMATIONS for any of those 3 personnel, and also no APPOINTMENT AFFIDAVITS or OATH OF OFFICE for Johnson. (See [28 U.S.C. 453](#) and [5 USC 2104](#), [2902](#), [2903](#), [3331](#), [3332](#), [3333](#), [5507](#).)

Also, on information Mitchell concluded the APPOINTMENT AFFIDAVITS for Freudenthal and Skavdahl were visibly counterfeit forms; and, the PRESIDENTIAL COMMISSIONS for Freudenthal and Skavdahl were incomplete because of the visibly [counterfeit](#) APPOINTMENT AFFIDAVITS executed by one Eric Holder, Jr., formerly dba U.S. Attorney General. (See [44 USC 3512](#).)

Mitchell has confirmed that the Federal statute at [5 USC 2902\(c\)](#) requires the U.S. Attorney General to countersign all PRESIDENTIAL COMMISSIONS of judicial officers e.g. district judges, also U.S. attorneys and U.S. marshals.

Mitchell has also diligently studied the [Appointments Clause](#) and the [Recess Appointments Clause](#) in the U.S. Constitution. He concluded therefrom that a SENATE CONFIRMATION is absolutely required of Freudenthal, Skavdahl and Johnson: the absence of that key mandatory credential also invalidates any and all other credentials, such as the PRESIDENTIAL COMMISSION, APPOINTMENT AFFIDAVITS and OATH OFFICE, chiefly because the SENATE CONFIRMATION cannot be bypassed or circumvented indefinitely.

Even for recess appointments under Article II, Section 2, Clause 3 in the U.S. Constitution ("[2:2:3](#)"), Mitchell found case law holding that the U.S. Senate's formal advice and consent must follow during the next ensuing Senate session. Here, Mitchell relies upon the decision in [Noel Canning v. NLRB](#), 705 F.3d 490 (D.C. Cir. 2013).

Prior to his FOIA Request for her four (4) credentials, Mitchell did mail to Freudenthal a proper [DEMAND](#) for disclosing a copy of her APPOINTMENT AFFIDAVITS. A copy of that DEMAND should be filed in this Court's Docket records. Freudenthal never answered that DEMAND (see further discussion of "demand" *infra*).

Mitchell also believes Freudenthal suffers from a severe conflict of interest that results from her failure to exercise adequate administrative supervision of Court subordinates such as [Stephan Harris](#), [Zachary Fisher](#) and [Tammy Hilliker](#) dba Clerk and Deputy Clerks of Court, respectively (to name a few).

(See Code of Conduct, Canon 3(B) *infra*.) Here, Mitchell believes probable cause exists for application of the theory of vicarious liability aka "*respondeat superior*" in Latin (let superiors answer for the misconduct of their subordinates).

All three of the latter personnel of this Court have either failed or refused to produce their APPOINTMENT AFFIDAVITS required by [5 USC 3331](#) *et seq.*, and their OATH OF OFFICE required by [28 USC 951](#) (duties), after receiving Mitchell's proper DEMANDS for disclosure of same.

In this context, after finding it Mitchell has been relying upon a statement in 63C [AmJur](#) 2d, to wit: "*The public have a right to demand that public officials perform all of their duties faithfully.*"

Also, by studying the FOIA, Mitchell confirmed the Federal law at [5 USC 551\(1\)\(B\)](#) presently exempts the entire Judicial Branch from the Freedom of Information Act, thus necessitating a DEMAND instead of a proper FOIA Request for disclosure of credentials required of this Court's inferior officers *i.e.* magistrates, clerks and deputy clerks.

Mitchell has now formally charged Stephan Harris with concealing Court records in violation of [18 USC 1519](#) (a Federal felony). (See the Court Docket for that "[VCC](#)" *infra*, and *in pari materia* compare [18 USC 2071](#) where it mentions "custody" of court records.)

The Court is the legal custodian of all APPOINTMENT AFFIDAVITS of all Court officers, designated as such by the Federal law at [5 USC 2906](#) ("*the court to which the office pertains*"), NOT the Administrative Office of the U.S. Courts in Washington, D.C.

Mitchell sincerely believes the instant case can and should be correctly and promptly dismissed as a direct consequence of the well documented failure by Stephan Harris to produce 2 required credentials; without both credentials, neither he nor any of his subordinates can lawfully sign, or seal, any "subpoenas" issued by the Court. See [28 USCS 1691](#) and [28 USCA 1691](#) for extensive case law upon which Mitchell has often relied during the period in question.

Mitchell concluded that delegation of authority by Stephan Harris is legally impossible, as long as he cannot or will not produce proof of all credentials required of all Clerks of Court and all Deputy Clerks of Court by applicable Federal statutes and Constitutional provisions. (See [6:3](#), U.S. Const.)

Mitchell has also concluded that the [Paperwork Reduction Act](#) effectively created a "right to inspect" all U.S. Office of Personnel Management Standard Form 61 APPOINTMENT AFFIDAVITS for the required display of a valid OMB control number at the upper right-hand corner of page one.

Mitchell therefore believes the net effects of all these missing and defective credentials is a clear and painfully obvious violation of FRCrP Rule 2, at a minimum, in addition to many far-reaching violations of criminal statutes dutifully cited in Mitchell's several VERIFIED CRIMINAL COMPLAINTs, ON INFORMATION ("[VCC](#)"),

as now filed in the Court's official Docket records in the instant case.

For the record, Rule 2 currently reads: *"Interpretation. These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay. (As amended April 29, 2002, eff. Dec. 1, 2002.)"*

On information found in the Federal court decision in U.S. v. Gregory, 508 F.Supp. 1218 (USDC/SDAL 1980), Mitchell also relies now upon the following abstract of that decision, to wit: *"Pursuant to Rule 2, party who objects to Court's ruling on motion to recuse should be able to obtain review of that ruling before being put to burden and expense of lengthy trial."*

To date, Mitchell has also lodged four (4) separate "Qui Tam" Complaints under the False Claims Act ("FCA") at [31 USC 3729](#) et seq. Each contained a PROOF OF SERVICE identifying recipients of hard copy originals transmitted by Mitchell via U.S. Mail.

Mitchell has also studied case law under the FCA which properly classifies qui tam relators as "agents of the United States" (see United States ex rel. Madden v. General Dynamics Corp., 4 F.3d 827 (9th Cir. 1993)).

As such, Mitchell believes that he is thereby entitled to all authorized awards and all protections afforded to all FCA "whistleblowers" (see [31 USC 3730\(h\)](#), expressly authorizing relief from retaliation against "agents" for efforts to stop false claims against the Treasury of the United States.)

Mitchell also relies consistently upon the statute at [5 USC 5507](#) (a Federal officer cannot get paid before executing a valid [5 USC 3332](#) affidavit).

On further information and belief, Mitchell has studied the Code of Conduct for United States Judges, and thereby inferred probable and demonstrable violations of Canons 2(A), 3(A)(4), 3(B)(1) and 3(B)(2) from all facts, laws and court decisions mentioned heretofore.

On information found in the decision of the U.S. Supreme Court in the case of U.S. v. Mason, 412 U.S. 391 (1973), Mitchell also relies upon the following text in that decision, to wit: *"If the doctrine of stare decisis has any meaning at all, it requires that people in their everyday affairs be able to rely upon our [U.S. Supreme Court] decisions and not be needlessly penalized for such reliance."*

On information found in the decision of the U.S. Supreme Court in the case of Miranda v. Arizona, 384 U.S. 436 (1966), Mitchell also relies upon the following principle established in that historic decision, to wit: *"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."*

On all information discussed heretofore, Mitchell sincerely believes that sufficient probable cause already exists to justify the conclusion that

Freudenthal lacks even minimal authority to determine the legal sufficiency of this AFFIDAVIT under [28 USC 144](#).

This concludes Mitchell's AFFIDAVIT OF BIAS AND PREJUDICE.

#### **INCORPORATION OF ATTACHMENTS**

Mitchell hereby incorporates by reference two Attachments:  
"[NOTICE TO COUNSELS: USA v. Hill et al.](#) (dated 9/20/2014)" and  
"[NOTICE OF ERRORS by Harris & Harris, P.C.](#) (dated 10/1/2014)"  
as if both were set forth fully here.

#### **VERIFICATION / CERTIFICATE OF GOOD FAITH**

I, Paul Andrew Mitchell, B.A., M.S., *Sui Juris*, hereby verify under penalty of perjury, under the laws of the United States of America, without the "United States" (Federal government), that the instant APPLICATION is made in good faith, and the above statement of facts and laws is true and correct, according to the best of my current information, knowledge and belief, so help me God, pursuant to [28 USC 1746\(1\)](#). See [Supremacy Clause](#) (Constitution, Laws and Treaties of the United States are all the supreme Law of the Land).

Dated: 10/1/2014

Respectfully submitted,

/s/ Paul Andrew Mitchell

Paul Andrew Mitchell, B.A., M.S. (chosen name)\*  
Private Attorney General, Civil RICO: [18 USC 1964](#),  
[Rotella v. Wood](#), 528 U.S. 549 (2000)  
(objectives of Civil RICO);  
Agent of the United States as Qui Tam Relator,  
False Claims Act: [31 USC 3729](#) et seq. (4X)

\* See [Doe v. Dunning](#), 549 P.2d 1  
(Washington State Supreme Court)

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