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Home-Menu

WARS, LIONS, and the GRAND JURY
By Dave Harrison

Through the course of our skirmishes, battles and wars against various government agencies (U.S. Attorney's Office, Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms, Federal Bureau of Investigation, etc.) we have often encountered government agents whose fanaticism had them believing and acting as if they were above the law. Whether their participation was in setting ablaze buildings sheltering women and children (Waco, TX.), sniping a woman armed only with the baby cradled in her arms (Ruby Ridge, ID.), attempted murder upon and the framing of innocent citizens (Los Angeles, CA.), bankrupting obedient tax payers (I.R.S.-101), or prosecuting and incarcerating innocent citizens (standard operating procedure of many Assistant U.S. Attorneys), they all share the common belief of their personal omnipotence. Feelings of being above the law are the ever present miasma drifting above the stagnant pools of the statutes and case law establishing near-absolute immunity from civil liability for their overreaching, oppressive, and oft-criminal actions. As a result of agent fanaticism, many skirmishes have been fought within the civil arenas throughout the nation, but because of the protection immunity affords there have been few wins. Let me show you another way to engage the enemy. First, a little background information is necessary.

In 1988 and 1990, certain federal and State of California law enforcement bodies initiated hostilities against me, resulting in my convictions and terms of incarceration. Being that I was guilty of only a fraction of the federal convictions, and none of the state convictions, I set on a determined course to vindicate myself.

In 1991/92, and in response to Freedom of Information Act requests, various government agencies turned over to me boxes of documents relating to my prosecutions. Each evening in my dimly lit cave-like cell deep within Leavenworth Penitentiary, I would peruse stack after stack of documents from the endless boxes. One evening I discovered two pieces of paper implying that one or more secret tape recordings had been produced in relation to my federal prosecutions. For many years, and through numerous skirmishes in the civil arenas, I tenaciously pursued the paper trail left in the wake of the secret tapes.

Government agents denied, avoided, erected procedural hurdles, concealed evidence, counterattacked and filed declarations. For example, in the midst of a 1993/94 civil skirmish brought against my ex-prosecutor, Larry A. Burns, (then Assistant U.S. Attorney, now-Magistrate Judge in the U.S. District Court for the Southern District of California, at San Diego), and others involved in the tapes matter, Burns filed two declarations under the penalty of perjury stating that a tape had been produced of me. I continued on the offensive. In 1998 Burns was forced to confess that the tape (1) he had produced, (2) deliberately mis-marked as including me (so as to implicate me in a bogus murder plot), (3) then submitted exparte to the judge (defense counsel was never informed as to any of the skullduggery and perfidies going on), and (4) declared under the penalty of perjury to include me, did not, in fact, include me! Later, it was proven that the voices on the tape were those of a government agent and a cooperative. Join me now in a form of engagement that you may use against the enemy; necessary weaponry if you are to enter the Coliseum where the lions play.

The Grand Jury is the government's strongest weapon, for it is the key to locking you away, regardless of whether the criminal conduct alleged is real or fabricated. Nonetheless, that key cares naught for the identity, or real or imagined status of the person whom it may lock away - and no river of immunity can prevent the key from turning against a government agent whose fanaticism drives him to criminal conduct.

On 23 February, 1999, I caused to be filed into the United State District Court, at San Diego, my Application To Have The District Court Convene A Grand Jury So That Applicant May Present Evidence Of Perjury By United States

Magistrate Larry A. Burns (Case No. 99-03l1-JKS). By way of the Application I sought to be "invited" before a Grand Jury so that I could provide evidence of (1) Burns' declarations that I was included on tape and (2) his later confession that the tape did not include me.

That filing was not without its own difficulties. Initially, the Clerk of the Court refused to file the Application, because it was "against a magistrate". Through persistent efforts the Application was eventually filed, but only after some delay and my having to jump through a number of unheard-of hurdles erected by the Clerk. Jurisdiction of the Application was founded upon the Federal Rules of Criminal Procedure, Rule 6(a)(1), and 18 U.S.C. ï¿½ 3331; (I now would omit ï¿½ 3331; it is, at best, a mixed blessing and altogether unnecessary). The application advised the district court that the U.S. Attorney's Office, Attorney General, Ms. Janet Reno, and the F.B.I. had all declined to present the evidence of perjury to the Grand Jury. Because those government bodies had declined, I therefore had the right to do so. See Application of Larry A. Wood. 833 F.2d 113, 116 (8th Cir.1987).

Indeed, the Grand Jury is not solely the toy of the government. Well-established case law holds that a district court has the authority to "invite' any person before the Grand Jury to present evidence of criminal activity. My Application to present such evidence against a sitting magistrate set the court into a lather.

Having gotten by the Clerk, the Chief Judge next utilized a number of tricks to rid herself of the Application. For example, she attempted to conjure civil jurisdiction from the "format" of the pleadings, so that she could dismiss the case under Heck v. Humphry, 129 L.Ed.2d 383 (1994) (barring civil litigation against government agents for constitutional violations of a convicted person's rights in the course of the prosecution/conviction unless the conviction or sentence has first been "called into questions" – i.e., vacated or reversed on appeal or by other tribunal of proper jurisdiction). Going back to 1821, I briefed the Chief Judge that she had "no more right to decline the exercise of jurisdiction given, that to usurp that which is not given. The one or the other would be treason to the constitution" See, Cohen v. Virginia, 5 L.Ed. 257, 291 (1821).

The Chief Judge ceased her treasonous course. However, more lions were about to be let into the Coliseum. The Chief Judge brought in the U.S. Attorneys Office as de facto counsel for the magistrate; even suggesting to the U.S. Attorney how to answer the Application, so as to provide her a means of escape. That ploy did not work. Once sidestepping the sticky issue of its conflict in representing a sitting magistrate before whom its agents present cases on a daily basis; the U.S. Attorneys Office briefed the court that no citizen has the right to compel the U.S. Attorney to present evidence to the Grand Jury.

Quite correct (although seemingly contrary to 18 U.S.C. ï¿½ 3332), nor can a citizen compel the prosecution of any other person. But, I had done my research, and had drafted the Application so that it did not seek to compel anyone to do anything, but specifically stated that the intent was merely to be "invite(d)" before a Grand Jury so that I could present evidence of criminal activity. The law provides the means by which every citizen may apply to the court for an invitation to present evidence to the Grand Jury once other government bodies have declined to do so. My thorough reply to the U.S. Attorney's Office left the Chief Judge stymied. She clearly did not want to grant the Application, thus affording me the opportunity to present irrefutable evidence of criminal perjury against a sitting magistrate, but the U.S. Attorney's Office had failed to be of any assistance to her.

The matter was temporarily stalled when I moved to recuse all judges and magistrates of the courthouse, based on their exhibited prejudices and biases, and their massive efforts to cover-up for and protect magistrate Burns. The Chief judge of the San Diego District Court, hand picked judge James K. Singleton, and reassigned it to the district court for the District of Alaska (approved by rubber-stamp of the Ninth Circuit Court of Appeals). In time, Singleton declined to "invite" me before the Grand Jury. Singleton opined that Burns' declarations were merely "misinformation", and that not all misinformation rises to the level of perjury. Try making that argument when you are being prosecuted.

But, there was more, Singleton also pointed out that Burns had submitted various misinformation in both my federal and state prosecutions, making the matter worthy of further investigation. He then did something quite extraordinary; ordering Burns - a sitting magistrate -, and a cohort, to submit and be deposed by defense lawyers in matters of my state appeals. Those depositions were conducted recently. Although I was not "invite(d)", this time around, to present my evidence of criminal conduct by a government agent, it was clearly established that the process is available to the non-government citizen. Singleton's Order provided me with extensive weaponry to use in my war for vindication. I may have lost the little skirmish, but definitely won the larger battle; the tide of the war had turned.

To use the Grand Jury process you must have evidence from a "reliable source" establishing the criminal conduct of the government agent. It is not sufficient to make allegations without evidentiary support, nor may hearsay testimony be

presented (although the government is allowed to make unsupported allegations and present hearsay testimony). Your Application cannot seek to compel the U.S. Attorney to do anything, nor may you force the prosecution of any person; the intent is to obtain an invitation, so that you may present evidence of criminal activity. The process is not as difficult as it may appear, but is a necessary weapon to be used against government agents whose fanaticism has them believing they are above the law. Do not abandon the civil arenas: just realize that there are other games to be had in the Coliseum.

If you have any questions or comments, or would like to correspond with Dave, please

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Home-Menu