United States District Court
District of Rhode Island

United States of America
v.
David Staveley

Case No. 20-CR-00074-MSM

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U.S. DISTRICT COURT
DISTRICT OF R.I.

Defendant's Reply to Government's Opposition to Defendant's Motion for Recusal.

The following motion is presented to the honorable Court by the Defendant Pro Sé. The Defendant was denied counsel by the court and he is not an attorney nor does he have any legal experience. The Defendant is submitting this motion without advice of counsel, while incarcerated, without any Court notifications; Court Docket, notices, filings or Court decisions in the last 65 days, with limited resources and during Covid-19 protocols creating limited ability for the Defendant to communicate, garner information or to achieve any level of justice or success in these proceedings.

1. On 11/5/22 Defendant filed a motion for the recusal of Judge McElroy.

2. The Government filed an opposition to the Defendant's motion for recusal which states that the Defendant does not and cannot provide any facts to support the motion.

3. In fact, the motion states a number of facts, which are verified and veritable, which taken together reflect in the Defendant's mind an

3. (cont.) appearance of a lack of impartiality.

4. The motion states a course of conduct by the Court which envinces a prejudice of the Defendant's rights.

5. As to specitic facts, Defendant cites inter alia, without restating the entire motion for purposes of this reply the following:

A. The Court ruled to grant the Government's motion to waive Defendant's attorney-client privilege, PRIOR to receiving Defendant's objection and PRIOR to the period of time within which Defendant was allowed to file an objection under the procedural rules of the Court.

B. Additionally, despite notice that Defendant is incercerated and after denying the Defendant the assistance of counsel, the Court has compounded the Defendant's limited ability to pursue his 2255 by failing to provide Defendant with copies of the Docket and all notices, filings and decisions which have occured in this case since September 15, 2022, a period of over 65 days. The Defendant notes the last filing provided to the Defendant was item #87 on the Docket. The Government's opposition received on 11/22/22 is noted as item #111.

6. The collateral hearing in this matter has, to Defendant's knowledge, yet to be scheduled.

7. As has been his practice throughout this proceeding, AUSA Vilker makes a sweeping general statement in opposition to the facts stated by Defendant without directly addressing those facts, similar to his submission of unverified hearsay he submitted to the Court in opposition to the Defendant's prior motion for contempt and which failed to address the reasons the Government was in contempt of the Court's order for over 8 months.

8. This is not the first time AUSA Vilker has submitted "facts" to the Court which he either knows are false or has failed to verify prior to submission to the Court and yet the Court has failed to sanction such conduct.

9. Taken in totality the Defendant's statement of the facts and circumstances in this case, along with the Court's statements at Defendant's sentencing that she accepted everything AUSA Vilker stated as true, Defendant believes he has more than adequately stated a valid case for recusal based upon, at the very least, an appearance of impartiality based on facts.

Respectfully Submitted

D. Staveley

David Staveley
Pro Se