

IN THE SUPERIOR COURT OF PENNSYLVANIA OF THE
UNITED STATES OF AMERICA

JOE MYERS,) Case No.: 1892 WDA 2019
)
) CIVIL DIVISION
APPELLANT,)
)
vs.)
) Type of Pleading:
TIMOTHY F. McCUNE, JOSEPH H. CHIVERS, JACK)
) RESPONSE TO RULE 1925(a)
W. MURTAGH JR., GRAYDON BREWER, CARL V.) FRAUDULENT/ILLEGAL ORDER TIME/DATE STAMPED
) 2-4-20
NANNI, JACK LEWIS, JIM GALLAGHER, HANK)
)
LEYLAND, GREG LOVERICK, EDWARD TASSEY, AK)
)
STEEL et al, UAW (formerly Butler Armco) FILED BY:
)
) Joe Myers, pro se
Independent Union) et al, ANGELO PAPA,) 12137 Emerald Green Court
) Jacksonville, FL 32246
WILLIAM CUNNINGHAM, MICHAEL LETTRICH,)
)
MARIA MILIE JONES, DENNIS ROMAN, NICHOLAS)
)
KOCH, ADAM HOBAUGH

APPELLEES

Response to Rule 1925(a) Fraudulent/Illegal Order

All the evidence provided in this court filing can be downloaded at www.1776ToTyranny.com on the "Timeline of CORRUPTION" page. Plaintiff/Appellant Myers has stated the website in every court filing to ALL Defendants/Appellees. Plaintiff stated this as Senator Rubio and Congressman Rutherford have started a congressional inquiry with the U.S. Department of Justice and the FBI do to the corruption Plaintiff/Appellant has endured at the local, state and federal level.

Appellant Myers gives notice to the Superior Court that because of the following reasons this case must be transferred back to the Supreme Court of Pennsylvania do to Appellee Cunningham's **continued Abuse of Power, Obstruction of Justice, Conflict of Interest** and **continued VIOLATION of Appellant Myers Constitutional Rights** for a full investigation!

42 Pa.C.S. Section 722 point 3 states **"Matters where the qualifications, tenure or right to serve, or the manner of service, of any member of the judiciary is drawn in question."**

Appellant Myers has stated repeatedly Appellant was drawing into question the **"manner of service"** of Appellee Cunningham and his illegal ruling and 42 Pa.C.S. Section 722 point 3 clearly references **"ANY MEMBER OF THE JUDICIARY"** and WHY Appellant Myers case that was appealed to the Supreme Court should NEVER have been transferred to the Superior Court.

Facts

First of all on 1-21-20 Appellant Myers very close friend, Ronald "Jeff" Stoner, passed away in Butler, PA so Appellant flew from Florida to Pennsylvania on 1-24-20 to attend the funeral on 1-25-20. Then on 1-29-20 Appellant's aunt, Ellen Jean Myers, passed away so Appellant had an approximate 2 hour drive one way to Reynoldsville, PA to take Appellant's 85 year old parents to the funeral on 2-4-20. Appellant has provided the information of the deceased so the court can check the obituary's to validate Appellant's explanation.

Prior to driving to Reynoldsville Appellant Myers went to the Butler County Courthouse to file the **Concise Statement** that was time/date stamped 2-4-20 at 9:01 AM which is part of this court filing and that Appellant has already mailed to ALL Appellees.

Appellee Cunningham's **Rule 1925(a) Fraudulent/Illegal Order** was filed on 2-4-20 and not time/date stamped until 9:36 AM after Appellant Myers filed the **Concise Statement**. Appellant never received Cunningham's **Rule 1925(a) Fraudulent/Illegal Order** in the mail until 2-11-20 which was 7 days after the filing.

Appellant Myers filed a **Docketing Statement Error dated 2-10-20** and mailed the court filing to Butler County Court and the Superior Court of Pennsylvania as well as ALL Appellees the same day of 2-10-20 because Appellant called the Superior Court Prothonotary to inform the court once again that all mailings to Appellee Cunningham were being returned.

Upon checking the Superior Court Prothonotary office staff informed Appellant Myers that the **Docketing Statement** had the wrong address for Appellee Cunningham and provided the correct address. Appellant Myers called the Erie County Courthouse to confirm in fact that was the correct address for Cunningham and Appellant was informed Cunningham does receive mail at the courthouse but was informed Cunningham is **RETIRED** so why is Cunningham presiding over Appellant Myers case at all?

Appellant Myers did put the returned **Concise Statement** and other returned mail in another envelope and sent the mailing to the correct Erie County Courthouse address for Appellee Cunningham.

Issues with Rule 1925(a) Fraudulent/Illegal Order

1. Defendant/Appellee Cunningham stated that because Plaintiff/Appellant Myers did not file the **Concise Statement** on or before 1-27-20 that Plaintiff/Appellant failed to preserve any issues for appellate review.

2. Defendant/Appellee Cunningham is well aware that **Rule 1925(a)** is JUST THAT a **RULE** and not **LAW** so Cunningham has committed **FRAUD** in stating that in writing. Cunningham's statement flies in the face of Plaintiff/Appellant Myers Constitutional RIGHTS and specifically **DUE PROCESS** and **EQUAL PROTECTION OF THE LAWS**.

Bill of Rights, Amendment 9 - Construction of Constitution. Ratified 12/15/1791: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. (Emphasis added)

Bill of Rights, Amendment 10 - Powers of the States and People.
Ratified 12/15/1791: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Emphasis added)

Bill of Rights, Amendment 14 - Citizenship Rights. Ratified 7/9/1868:
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;

nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Emphasis added)

3. Appellee Cunningham also referenced his **Fraudulent OPINION** of November 21, 2019. Cunningham at the very least **KNEW** it was a **Conflict of Interest** but **IN FACT** Cunningham **KNEW** it was **ILLEGAL** for Cunningham to even remain on the case when he **KNEW** Plaintiff/Appellant Myers filed the following court filings against ALL Defendant/Appellees as referenced by Cunningham in the **Rule 1925(a) Fraudulent/Illegal Order**.

Reference Butler County Prothonotary's Office Civil Case Print that is part of Plaintiff/Appellant Myers Notice of Appeal to the Supreme Court of Pennsylvania:

Notice of Judicial Misconduct and Notice of Attorney Misconduct docketed on 10-16-19, **Legal Notice and Violation Warnings of Denial of Plaintiff's Rights Under Color of Law of the United States of America** docketed on 10-18-19, **Amended Legal Notice and Violation Warnings of Denial of Plaintiff's Rights Under Color of Law of the United States of America** docketed 10-21-19 AND **Amended Court Filing Adding Defendants and For Continued Violation of Plaintiff's Constitutional Rights of the United States of America** docketed 10-29-19.

4. When Plaintiff/Appellant Myers named Defendant/Appellee Cunningham as a Defendant in the court filing docketed on 10-29-19 Cunningham was **bound by LAW** to recuse himself from the case.

5. Defendant/Appellee Cunningham continues his **Abuse of Power** when Cunningham states that "**The Plaintiff has repeatedly ignored this directive because he does not believe he is bound by any procedural rule.**" Cunningham KNOWS Plaintiff/Appellant Myers is NOT BOUND by **procedural rule** when the **procedural rule** flies in the face of ALL the Constitutional RIGHTS of Plaintiff/Appellant Myers and specifically **DUE PROCESS** and **EQUAL PROTECTION OF THE LAWS**.
6. Where Defendant/Appellee Cunningham made Cunningham's fatal flaw of **Abuse of Power** is by trying to ILLEGALLY hold Plaintiff/Appellant Myers to follow the Rules of Civil Procedure when IN FACT the **Butler County Prothonotary's Office Civil Case Print** PROVES Cunningham **DID NOT** require that same of Defendants/Appellees.
- Docketed on 6-19-19 Defendant/Appellees AK Steel and Tassej filed **Preliminary Objection and Brief** but Defendant/Appellee Koch filed a **Praecipe for Appearance** on 6-21-19 AFTER the Preliminary Objection and Brief were filed YET Cunningham DID NOT require Koch to follow procedure.
 - On 5-29-19 Plaintiff/Appellant Myers filed the initial Complaint YET it was not until 9-24-19 that Defendant/Appellee Hobaugh filed a Preacipe for Appearance to represent a host of Defendants/Appellees. This was almost 4 AFTER Plaintiff/Appellant Myers filed the initial Complaint YET Cunningham DID NOT require Hobaugh to follow procedure.
7. Defendant/Appellee Cunningham also committed **Obstruction of Justice** by trying to use procedure when Cunningham IN FACT knew that Plaintiff/Appellant Myers filed a **Civil Case** on **SUBSTANTIVE LAW**.

When Plaintiff/Appellant Myers demanded a **JURY TRIAL** that is GUARANTEED by the **BILL OF RIGHTS** of the Constitution of the United States of America.

8. The Preamble to the **Bill of Rights** is VERY CLEAR on WHY the colonists added the **Bill of Rights** and ratified the Amendments. "*The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.*"

The colonists were very concerned about government overreach after they had **rescued We The People from the tyranny of King George**. That is WHY the **Bill of Rights** was added to further restrain the Government (**Defendant/Appellee Cunningham**) and why Plaintiff/Appellant Myers has a **RIGHT** to be heard before a JURY and WHY there is **NO statute of limitations on the Constitutional Rights of Plaintiff/Appellant Myers or ANYONE**.

9. Defendant/Appellee Cunningham also stated in the **Rule 1925(a) Fraudulent/Illegal Order** that "the Plaintiff was advised that he cannot simply add a person as a defendant at his whim" Plaintiff/Appellant Myers **DID NOT add a defendant at a whim** but **IN FACT** added the Defendants/Appellees after Plaintiff/Appellant Myers warned Cunningham and other Defendants/Appellees in the numerous aforementioned court filings that they were violating Plaintiff/Appellant Myers Constitutional RIGHTS and the law.

10. The **Concise Statement** details the fraud, crimes and illegal activity perpetrated against Plaintiff/Appellant Myers by ALL Defendants/Appellees and **ALL have Conspired Against Plaintiff's Rights U.S.C. 18 Section 241.**

11. Defendant/Appellee Cunningham and ALL Defendants/Appellees with a law license violated **42 Pennsylvania Consolidated Statutes Section 2522 - Oath of office:**

"Before entering upon the duties of his office, each attorney at law shall take and subscribe the following oath or affirmation before a person authorized to administer oaths.

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity, as well to the court as to the client, that will use no falsehood, nor delay the cause of any person for lucre or malice."

Any person refusing to take the oath or affirmation shall forfeit his office."

12. This statement in the **Preamble to the Bill of Rights** was very clear that our Representatives were very concerned of government usurpations which Defendant/Appellee Cunningham has clearly demonstrated when he stated in the illegal Oral Argument hearing on 10-22-19 **"Your right to a trial by jury is not absolute."**!

Bill of Rights, Amendment 7 - Trial by Jury in Civil Cases. Ratified 12/15/1791: In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law. (Emphasis added)

13. The **Concise Statement** provides ALL of the evidence and criminal activity against Plaintiff/Appellant Myers and WHY this case must be transferred back the Supreme Court of Pennsylvania for a full investigation of ALL Defendants/Appellees.

As well as violating Plaintiff/Appellant Myers RIGHTS under the Constitution the following were perpetrated against Plaintiff/Appellant Myers by ALL Defendants/Appellees.

1. **U.S. Code: Title 18 Section 241 / Conspiracy Against Rights**

This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same). It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured.

2. **Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law**

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, Judges, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

3. U.S. Code: Title 18 Section 245 / Federally protected activities (1) (b):

This statute prohibits willful injury, intimidation, or interference, or attempt to do so, by force or threat of force of any person or class of persons because of their activity as:

b) a participant in any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

4. **U.S. Code: Title 18 Section 3559/Sentencing classification of offenses (2) (C)**

(2) Definitions.-For purposes of this subsection-

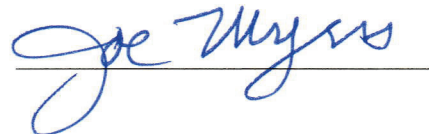
(C) the term "extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

CONCLUSION:

- Plaintiff/Appellant Myers case MUST be transferred back to the Superior Court of Pennsylvania for a full investigation and prosecutions.
- EVERY PART of the **Concise Statement** and ALL court filings by Plaintiff/Appellant Myers are to be part of ALL remedies for the Plaintiff/Appellant Myers.
- Plaintiff/Appellant Myers demands that ALL of Plaintiff/Appellant Myers RIGHTS of the Constitution be restored and specifically the RIGHT to a JURY TRIAL.
- Plaintiff/Appellant Myers demands \$100 million for punitive and compensatory damages from Defendant/Appellee AK Steel and \$10 million from each of the other Defendants/Appellees for punitive and compensatory damages for their involvement of the conspiracy.

- This court must also notify Cleveland-Cliffs organization that is in the process of purchasing Defendant/Appellee AK Steel so Cleveland-Cliffs is aware of the legal issue they will be part of since Defendant Koch did not notify the court as to this transaction.
- ALL Defendants/Appellees must be prosecuted to the FULLEST EXTENT OF THE LAW for conspiring against Plaintiff/Appellant Myers.

Dated this 13th day of February,
2020

A handwritten signature in blue ink that reads "Joe Myers". The signature is written in a cursive style and is positioned above a horizontal line.

Joe Myers pro se
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Jacksonville, FL 32246
Phone: 904-254-6472
Email: joemyers7@icloud.com

CERTIFICATE OF SERVICE

I, the undersigned, certify that the foregoing RESPONSE TO RULE 1925(a) FRAUDULENT-ILLEGAL ORDER was served on the following via U.S. Mail, First-Class, this 13th day of February, 2020.

**Erie County Courthouse
Att: William Cunningham
140 West 6th Street
Erie, PA 16501**

**Frost Brown Todd LLC
Union Trust Building / Att: Nicholas J. Koch
501 Grant Street, Suite 800
Pittsburgh, PA 15219**

**JonesPassodelis PLLC
Gulf Tower /Att: Marie Millie Jones & Michael Letterich
707 Grant Street, Suite 3410
Pittsburgh, PA 15219**

**Angelo Papa
318 Highland Ave
New Castle, PA 16101**

**Graydon Brewer
48 Crystal Drive
Oakmont, PA 15139-1051**

**Murtagh, Hobaugh & Cech
Att: Adam Hobaugh
110 Swinderman Road
Wexford, PA 15090**

**Marshall Dennehey Warner Coleman & Goggin
Union Trust Building / Att: Dennis Roman
501 Grant Street, Suite 700
Pittsburgh, PA 15219**



Joe Myers