

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

JOHN B. THOMPSON,

Plaintiff,

v.

Case No. 07-21256 (Judge Adalberto Jordan)

THE FLORIDA BAR and
DAVA J. TUNIS,

Defendants.

**PLAINTIFF'S MOTION FOR CLARIFICATION
OF THE COURT'S OCTOBER 3, 2007, ORDER,
AND NOTICE TO COURT**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and hereby moves for a clarification of the court's order of today and provides notice to the court as well, as follows:

MOTION FOR CLARIFICATION

The court has entered an order today that informs Thompson that there is to be a hearing on October 9 regarding the court's show cause order giving Thompson until October 5 to show cause why Thompson should not be referred to the Ad Hoc Committee. The court violated its own order and referred this matter to the Ad Hoc Committee on October 2, three days early.

Query seeking clarification: How and why is the court convening a hearing on something it has already done?

NOTICE TO THE COURT

The First Amendment, contrary to the Board of Governors of The Florida Bar, is a wonderful thing. Because of news coverage regarding my criticism of The Florida Bar

for failing to timely proceed against Florida's Assistant U.S. Attorney Atchison who traveled from the Panhandle to Michigan allegedly to have sex with a five year old girl, a Florida attorney has contacted the undersigned.

Now, in light of the disregard to date by this court of the plaintiff and its conjuring up things out of whole cloth that he has not done, plaintiff requests that this court consider the following, if it never fairly considers another thing Thompson offers this court:

This Florida Bar-licensed attorney informs me that in retaliation for his criticism of certain judges, The Bar demanded that he have a psychological evaluation by the Florida Lawyers Assistance Program. He passed with flying colors. Because he passed with flying colors, The Bar then threatened this attorney with a court order if he did not have another mental exam, this time by The Bar's psychiatrist. He passed with flying colors.

This same lawyer, with no prompting from the undersigned, then related the unethical antics of Barry Richard, who told the court that this attorney had available to him certain remedies whereby he could, for example, appear before the Board of Governors to argue his First Amendment defenses to an ethics complaint. Mr. Richard cited these remedies as the reason why the court should abstain from giving this lawyer a judicial remedy. This was a lie by Mr. Richard, as the Board of Governors would not allow that procedural remedy for this lawyer.

Mr. Richard told this court the same lie when he and his associate, Ms. Sharpe, cited the *Mason v. Florida Bar* case to this court in this case, asserting that it should abstain because Thompson has certain remedies, including the right to appear before the

Board of Governors to argue, as *Mason* points out he has a right to do, because Mr. Richard told the court in *Mason* that Florida Bar grievance respondents have that right.

Thompson has asked for three years for his alleged “right” to use Mr. Richard’s term to appear before the Bar Governors. He asked again to appear before them this week for that very purpose, as these Bar Governors are meeting at the Ritz Carlton in Coconut Grove, not four miles from where Thompson sits this moment. The Governors refuse.

So, this court needs to understand, that per this lawyer’s call, Barry Richard lied to the *Mason* court about that remedy. He lied to that man’s court about that remedy. And Mr. Richard, Thompson can assure this court, again, lied to this court in citing the *Mason* as authority for this court to abstain from even considering relief for Thompson because Thompson, according to President Bush’s former lawyer, Mr. Richard, has that remedy before the Board of Governors.

Thompson has been denied that remedy for three years. He was denied it again this week. If he has that remedy—the “right” to appear before the Board of Bar Governors to argue, before trial, his constitutional defenses, then why, pray tell, will the Governors not allow him to exercise that right?

The incontrovertible truth, with which this court must and will deal, is that The Florida Bar’s own record counsel has serially misrepresented “remedies” that The Bar on one hand says he has, in order to falsely invoke “abstention,” claiming an “adequate state remedy” while on the other hand Mr. Richard and The Bar refuse him the remedies they say are there for the taking.

If this is not “bad faith” and in fact layer after layer of bad faith, not engulfing Greenberg Traurig as well, then there is no such thing.

Thompson is meeting this week with this lawyer who called him out of the blue, Thompson having represented his father (what a coincidence) nearly thirty years ago. Small world.

What The Bar has done to Thompson is shameful. What it apparently has done to this other lawyer, a Bible-believing Jew, is shameful. What The Bar has done to both is not just shameful, *it is a pattern*, and this spells very big trouble indeed for The Florida Bar and frankly for this court, which has bent over backwards, as has The Bar, to harm Thompson, to smear him in the public sector, and to engage the very same types of “shoot the messenger” tactics developed by The Bar for lawyers who engage in pure First Amendment speech The Bar finds inconvenient.

Thompson does not want to hear again from this court the falsehood that what Thompson wants this court to do is deal with *all the moral issues of the day*. Having gone through the last week, that is the last thing Thompson would want. He never wanted that. What he wants is for this court to do its job and determine the only issue in this case: whether The Florida Bar is violating the United States Constitution in its efforts to harass Thompson in retaliation for *his* social agenda.

In case this court missed it, there is a huge difference between telling someone they must agree with him and conversely telling somebody to stop persecuting him for his opinions. Thompson wants The Bar to leave him and his faith alone. That is so far from this court’s fabrication of what Thompson knows this case to be about that it is fair and proper to wonder how in the world this court can be fair. Of course, it cannot, as its

Ad Hoc Committee stunt has proven, as has its gross misrepresentation of a holding in an Alaska case.

Finally, and this is important. Thompson is absolutely certain the court will not consider it important, but it is. This same lawyer who called Thompson out of the blue has informed Thompson of a document he did not know even existed. It is commonly called the “McKay Report.” It is the ABA’s recommendations, issued in 1992, for what the state bars must do to be fair and effective in lawyer regulation, especially discipline.

There are countless recommendations in this ABA Report that The Florida Bar has chosen to ignore, particularly the strong recommendations that certain measures must be implemented in order to protect Bar respondents in disciplinary matters! Thompson finds, in reading the report, that the ABA in 1992, and before that with its 1970 “Clark Report” the American Bar Association has been beating upon state bars to clean up their acts or risk turning their disciplinary functions over to state legislatures.

If this court, with any modicum of fairness, reads the 1992 ABA Report, it will recognize the many of the recommendations, which The Florida Bar has ignored, have resulted in many of the very denials of due process of which Thompson complains in this case!

Who’s crazy now? Is it Thompson, or is it the recalcitrant Bar which refuses to acknowledge that Thompson and the ABA before him, are on to something. Thompson’s legal positions in this case are wholly vindicated, then, by the American Bar Association’s take on the failings of state bars like The Florida Bar.

But wait, this gets better, and not for The Bar. Guess who was on the Commission which came up with the ABA McKay why none other than Mr. John T.

Berry. He's the same knucklehead superintended the effort to pathologize Thompson's Christian activism during the same period of time that he was sitting on this Commission which warned state bars to avoid the very traps and unfair procedures that his own Florida Bar was simultaneously inflicting upon not just Thompson but others.

Mr. Berry then journeyed to, of all places, to be the Executive Director of the Michigan Bar. While Executive Director, Mr. Berry led that Bar's disciplinary assault upon one Jeffrey Fieger, who dared criticize certain judges in Michigan. Does this court remember receiving a copy of *Fieger v. Supreme Court of Michigan* by which the federal court for the Eastern District of Michigan told Mr. Berry and his Michigan Bar thought police that they were attempting to punish First Amendment speech?

Oh, and guess where Mr. Fieger's thought policeman went after Michigan? Mr. Berry returned to The Florida Bar in August 2006 to head up The Bar's Lawyer Regulation, where, refreshed by the Michigan winters, he decided to try his Fieger thought control nonsense which struck out in Michigan, which struck out in Florida in 1992, and which he then inflicted upon Thompson anew upon his return to Florida. Now Mr. Berry is the Director of Lawyer Regulation's boss.

Are these people nuts? Who knows and who cares? What they are is a bunch of thugs, with Mr. John T. Berry being the Thug in Chief, who can't quite seem to figure out, first in Florida, then in Michigan, and now again in Florida that the American Bar Association Committee on which this dangerous hypocrite sat got it right, that Thompson has it right, and he doesn't have a freaking clue.

Either this court, with a new judge, is going to give Thompson the injunction that the ABA's own findings cry out for, or Thompson will bring this Bar down.

The First Amendment is a wonderful thing, and this court and this Bar had better figure that out right quick. This thing isn't quite working out the way The Bar had hoped. The great lawyer, Barry Richard, has been caught with his pants down. Don't worry. The plaintiff won't send pictures.

I HEREBY CERTIFY that this has been served upon record counsel this 3rd day of October, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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