Thompson v. The Florida Bar Doc. 408

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.

SUPPLEMENT, INCLUDING LEGAL AUTHORITY, TO PLAINTIFF'S RULE 60(d)(3) MOTION FOR RELIEF FROM THIS COURT'S ORDER OF DISMISSAL FOR FRAUD ON THE COURT

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and provides this court this supplement to his Rule 60 (d) (3), Federal Rules of Civil Procedure, motion for relief from its order of dismissal, on the basis of fraud on the court, stating:

Attached hereto is a document just obtained from the Florida Supreme Court pursuant to a public records law request by plaintiff under FS 119.

This document shows how lawyers from one circuit who are subjects of Bar discipline are to be tried before a judge from another circuit in order to avoid bias. Note that the Eleventh Circuit is alone in not avoiding that bias. But that is not the issue raised by this supplement. The issue is very grave indeed, to-wit:

Note that the only words all in caps and in bold font on this Supreme Court document are these:

"OUT OF STATE OFFENSES – ASSIGNED TO SECOND JUDICIAL CIRCUIT"

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The bulk of what The Bar prosecuted the undersigned for, as indicated by the Final Referee's Report, were for actions plaintiff allegedly committed in Alabama. Indeed, what were called the "Alabama Bar Complaints" actually recited Alabama State Bar Rules the undersigned allegedly breached.

By any definition, what the undersigned did there and what he was charged with were **"OUT OF STATE OFFENSES."**

Thus, the Florida Supreme Court had no authority, under its own Rules, to direct the then Chief Judge, Joe Farina, to choose an Eleventh Circuit Judge as Referee in those matters. He lacked the jurisdiction to choose such a Referee. The Referee, of course, then had no jurisdiction to try me for those "out of state offenses," which were fully identified as such by The Bar and by the Referee.

The Florida Supreme Court is presumed to know what its own Rules are, and they do. On the other hand, the undersigned had to drag the Supreme Court kicking and screaming to the point of producing this document. No one outside the Bar disciplinary process has any idea whatsoever that such a Rule as to the appointment of Referees exists. The undersigned did not know nor could he have known.

Here, then, is devastating proof of the "bad faith" and "exceptional circumstances" authored by The Bar and the Supreme Court that defeat the *Younger* abstention upon which this court based its dismissal order. It must be vacated now.

The Farina/Tunis route The Bar and the Supreme Court chose to go constitutes fraud upon this court which has severely prejudiced the undersigned.

Indeed, one can make a compelling further argument that by virtue of this utter lack of jurisdiction of Farina and Tunis over those "OUT OF STATE OFFENSES"—

under which only a Second Judicial Circuit judge could legally exercise authority as a Referee, the findings of Tunis as to the "OUT OF STATE OFFENSES" are void and of no legal effect.

This is just another example, albeit possibly the most stunning one, of the extent to which The Bar and the Supreme Court were willing to violate their own Rules to destroy the undersigned's career.

As Florida Supreme Court Justices Canady and Polston recently wrote: "Is it too much to ask The Florida Bar to obey its own Rules?"

WHEREFORE, this court's order of dismissal, then, must be vacated. This Court is asked to schedule, *post haste*, a hearing at which oral argument may be had on this and the other proofs of fraud in this case. Further delay by this court in doing just that further prejudices and harms the undersigned.

I HEREBY CERTIFY that this has been served upon record counsel this September 16, 2009, by the court's electronic system.

/s/ JOHN B. THOMPSON, Plaintiff
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