

From: codefore <codefore@aol.com>

To: seabright_orders <seabright_orders@hid.uscourts.gov>; Sue_beitia <Sue_beitia@hid.uscourts.gov>; ag <ag@hid.uscourts.gov>; hawaii_cmeccf <hawaii_cmeccf@hid.uscourts.gov>

Sent: Sat, Jan 9, 2016 2:16 pm

Subject: Affiant: JD Benish- Grand Jury request

TO: Hon. J. Michael Seabright.
Court Clerk Ms. Sue Beitia
Allison (last name not known)

In response to a phone conversation I had with Allison on 01-08-2016. My phone call to the Court was to inquire as to why my request for Grand Jury Action could not be "processed" by the Court Clerks office. During this phone conversation, I asked Allison the question as to why the request for a Grand Jury could not be processed ,who in particular made the decision that the request could not be processed and based on what directive or document or law or statute or court rule authorizes the rejection of my request. Allison could not answer these questions. As to my question, has the Judge seen the request or the documents, there was no definitive answer yes or no. As to my direct question . "Is it the Court Clerk's decision to reject this request?" There was not definitive answer either. Allison asked me what was she to do with the documents , send them back to me or destroy them? I stated to her that I did not want them destroyed until she could at least provide me with the answers to my questions as to why the request was being rejected.

Attached is a copy of the letter of rejection.

Allison and I agreed to communicate via email and she would perform research to support the rejection of my request and I agreed to send the justification for acceptance of my documents and action on the request. It is somewhat unsettling to me that I am arguing this with a District Federal Judges clerical staff because I cannot get a direct answer as to why, what has now become a legal document destroyed or not, the document is not accepted by the court. The assertion that the documents will be destroyed without any processing whatsoever is a risky action to take.

As stated in my affidavit, I am not an attorney and so this document is presented to the court "pro se". Since I am requesting a Federal Grand Jury investigation, this would be a Criminal Matter in the Court, would it not?

I have researched the Federal Court Local Criminal Rules and found no reference to Grand Jury Procedures. I assume then that the rules and procedures set by the United States Supreme Court apply. I did, however find local court rules that apply to Pro se documents.

LR100.2.2 "*Unless otherwise ordered in advance by the assigned district or magistrate judge, the following documents must be filed in the traditional paper format rather than by electronic filing:*

1. Pro Se Party Filings: *without leave of the court, which decision rests in the discretion of the assigned district or magistrate judge.*

2. Criminal Actions:

a. Criminal complaints and accompanying documents

b. Indictments/Information

c. Grand Jury Proceedings

In addition, the Federal Court local rules lead me to believe that regardless of whether or not the documents are paper they will be entered into the electronic file management system.

LR00.1.1 Electronic filing: *Except as prescribed by local rule or order of the assigned district or Magistrate judge, the court has designated all cases to be included in the Case Management/Electronic Case Filing*

(CM/ECF) system, effective January 1, 2006.

And so this is a criminal matter, brought before the court pro se, and is referenced to a Grand Jury. Additionally as required by the above local Federal court rules, the document was presented to the Court in traditional paper format.

Federal Rules of Procedure (authority- United States Supreme Court)

- (a) *The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.*

The United States Supreme Court rules are clear in reference to the activation of a Federal Grand Jury.

TITLE III./ THE GRAND JURY, THE INDICTMENT, AND THE INFORMATION

Rule 6. The Grand Jury.

- (1) *In General. When the public interest so requires the court must order that one or more grand juries be summoned. A grand jury must have 16-23 members, and the court must order that enough legally qualified persons be summoned to meet this requirement.*

In response to the letter from Ms. Beitia wherein she states that I should refer my issues to the Justice Department. The purpose of a Grand Jury is to isolate an investigation from participating criminal investigatory entities except as consultants. As I have said, numerous attempts to get the assistance from these agencies have failed and shed a cloud on the integrity of these agencies, at least on the local level. If I wanted the Justice Department to perform this investigation as a retired police detective, I most certainly would have gone in that direction. In this case I don't have a level of confidence in my mind that would justify, this action. At this point in time my confidence is in the Federal Courts ie: Grand Jury.

I also question the purpose of the District Court Clerks suggestions to send these documents elsewhere. Can I assume that it was Ms. Beitia's decision alone? Are Ms. Beitia and Allison deciding merit and making rules from their desks without judicial participation? Are these things happening with no record?

Judge Seabright, I implore you to initiate a Grand Jury investigation into the very serious matters outlined in my affidavit. I also suggest that there is a dis-connect in your office. I do however know that this particular situation is very rare indeed.

James D. Benish
codefore@aol.com
619-591-8801