

July 1, 2017

From: James D. Benish  
(complainant)

[REDACTED]  
[REDACTED]  
[REDACTED]

619-591-8801

**To: United States Courts for the 9<sup>th</sup> Circuit**

Chief Judge Sidney Thomas

C/O Judicial Misconduct

PO Box 193939

San Francisco CA 94119

**RE: Judicial Misconduct Complaint against United States District Court, District of Hawaii**

Honorable **Chief Judge John Michael Seabright**

Honorable Sidney Thomas,

I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the underlying case.

Pursuant to 28 U.S. Code Chapter 16 Complaints Against Judges. The Judicial Conduct and Disability Act 28 U.S.C. 351-364, and the United States Courts for the 9<sup>th</sup> Circuit rule 18 1b. There is no pending or current civil actions relating to this complaint. I submit the following:

**COMPLAINT OF JUDICIAL MISCONDUCT**

It is here by alleged that between December 10<sup>th</sup> 2015 and April 20<sup>th</sup> 2017 John Michael Seabright, in his capacity as Chief Judge of the United States District Court, District of Hawaii therein did conspire and commit violations of the Code of Conduct for United States Judges. The Federal Judicial code of conduct applies to United States Circuit Judges and District Judges

**SPECIFIC ALLEGATIONS**

**Cannon I.** A judge should uphold the integrity and independence of the judiciary.

"An independent and honorable judiciary is indispensable to justice in our society. A judge should maintain and enforce high standards of conduct and should personally observe those standards so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

**Allegation:** Judge Seabright's head clerk Lian Abernathy is listed as a the Federal US Attorney contact in the Honolulu Pacific Federal Executive Board Membership Directory dated December 2015. This may be a violation of the "Separation of Powers" doctrine and reflects on the courts independence.

**Cannon III.** A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently.

**b.(1)** Administrative responsibilities. A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court personnel.

In reference to Court the Court Clerks Code of Conduct.

**Cannon I.** A Judicial Employee should uphold the integrity and independence of the Judiciary and of the Judicial Employees office.

**Cannon II.** A judicial Employee should avoid impropriety and the appearance of impropriety in all activities.

**Allegation:** In December of 2015 a citizen's Affidavit for a Federal Grand Jury Investigation was sent to Judge Seabright's court. This affidavit was sent via "paper" in compliance with District of Hawaii rules. On 29 December of 2015 Judge Seabright's clerk, Lian Abernathy sent a letter to the aforementioned Affiant stating; **"The clerk's office is unable to process your Motion to Convene Federal Grand Jury. Please refer to the United States Attorney's Office for assistance. We will hold your copies of said documents for 30 days thereafter, if we do not receive instructions from you your documents will be destroyed."** This letter was sent on behalf of the court and had multiple implications. There were over 60 defendants listed in the affidavit. Some of them were local Judges, local police departments and specifically the Hawaii Attorney General's office. The crimes were serious Federal Crimes and included but were not limited to Murder, RICO and concealing and or destroying official documents. Given the fact that Ms. Abernathy has a professional connection with the US Attorneys office, Abernathy's actions on behalf of Seabright's court reflect on both Cannon I and Cannon III. In addition Rule 6 **Title III of the Federal Rules of Criminal Procedure state:** (1) In General, When the public interest so requires, the court must order that one or more grand juries be summoned.

Additionally, had Abernathy actually destroyed these documents this action is a violation of:

Title 18, U.S. Code 2071, Concealment, removal, or mutilation generally.


**"Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys or attempts to do so or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed, or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned for not more than three years or both."**

A phone call to Seabright's court questioned as to what authority the rejection of the request for a grand jury was based on. The court clerk could not provide an authority other than "Its general opinion." An email was sent directly to Judge Seabright. The email outlined the situation and requested a response. In January of 2016 I received a phone message from Lian Abernathy. She stated that the Affidavit request for a Grand Jury was to be processed and given to the Jury.

In May of 2016 there was a request from an additional victim that her complaint be added to the Grand Jury Investigation. On June 21<sup>st</sup> 2016 I contacted the court and inquired as to who I should refer this victim to. It was my understanding that the Grand Jury was going about the business of investigating the allegations in the Affidavit. In an email from Seabright's clerk Abernathy referred me to the US Attorney's office. I telephoned the US Attorney in Hawaii who told me that they knew nothing about a Grand Jury investigation initiated by my affidavit. They suggested that I contact the FBI. Again I received the same response from the FBI however an additional FBI agent, Jessica Schwalb contacted me in response to a communication I sent via the FBI WEB site. She apparently could not locate the file either using victims or affiants names and asked me for the courts Case number or identification number.

There were several previous independent news media phone calls to Seabright's court to verify a Grand Jury investigation existed. The court verified that the Grand Jury was in fact working on the case. I contacted Abernathy again and requested a Court File identification number in several emails and finally on April 20<sup>th</sup> 2017 Abernathy admitted that she did not process the affidavit for a Grand Jury Investigation as required by afore mentioned Supreme Court Rules.

Therefore I am requesting that the 9<sup>th</sup> Circuit Court look into this matter.

I  declare under penalty of perjury under the laws of the United States  
James D Benish that the forgoing is true and correct.  
July 1, 2017.

## **EVIDENCE;**

### **Affidavit:**

<http://codeforeblog.com/wp-content/uploads/2017/04/Affidavit-12-10-15.pdf>

### **Letter of rejection from the court.**

<http://codeforeblog.com/wp-content/uploads/2017/06/Seabright-denial-of-documents.jpg>

### **Phone call to the court:**

<http://codeforeblog.com/wp-content/uploads/2016/06/Allison-Hawiaii-Fed-Courts.1-8-2016-to-judge-1.mp3>

### **Email to Judge Seabright**

<http://codeforeblog.com/wp-content/uploads/2016/06/Email-to-Judge-Seabright-w-email-header.pdf>

### **Phone from court acceptance of affidavit**

<http://codeforeblog.com/wp-content/uploads/2016/06/Lisa-Abernathy-Hawaii-MP3-Format-Sound-1.mp3-1.mp3>

### **Phone to Seabright court to verify Grand Jury investigation**

<http://codeforeblog.com/wp-content/uploads/2016/06/Phone-to-Seabright-Annon-1.mp3>

### **Seabright clerk referral to US Attorney office to provide additional victim information**

<http://codeforeblog.com/wp-content/uploads/2016/03/Lisa-A-email-.jpg>

### **Agent Schwalb request for case number**

<http://codeforeblog.com/wp-content/uploads/2017/07/Jessica-schwalb-asks-for-case-number.jpg>

### **Request to Court for copy of letter of the grant to Grand Jury.**

<http://codeforeblog.com/wp-content/uploads/2017/07/Email-to-Abernathy-7-27-2016-request-for-order-of-grand.jpg>

### **Additional request to court for proof of processing**

<http://codeforeblog.com/wp-content/uploads/2017/07/Email-to-Abernathy-4-18-2017-request-for-proof-of-prcessing.jpg>

### **Court Clerk Abernathy says there was no processing of the Affidavit**

<http://codeforeblog.com/wp-content/uploads/2017/07/Email-from-Abernathy-Fed-court-4-18-17-admits-no-processing.jpg>