

FILED

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

JUN 12 2007

v
SC/DJS

CIV NO 97 0266

Lieutenant General Kenneth A. Mitchell, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ. P. 60(b) (4)

REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT
FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE
CHIEF JUDGE MARTHA VAZQUEZ

1 Mitchell writes

Defendant National Security Agency¹ opposes Plaintiffs'²
Motion to Void Judgment for Lack of Jurisdiction Directed
To District Of New Mexico, Santa Fe Chief Judge Martha
Vázquez, hereinafter referred to as "Plaintiffs' Motion."³

Defendant National Security Agency to oppose a motion to void judgment
must show that deceased judge Santiago followed rules of the Court and
US Constitution.

Campos violated the US Constitution by giving defendant NSA summary
judgment in a jury trial lawsuit.

128 The limitations inherent in the requirements of due
process of law extend to judicial, as well as political,
branches of the government,⁸ so that a judgment may not be
rendered in violation of those constitutional limitations
and guaranties.⁹

Right of jury trial is guaranteed inviolate by 7th Amendment to US
Constitution and 28 USC Rule 38.

2 Mitchell writes

Plaintiff contends that the Summary Judgment entered in this case is void for lack of jurisdiction because he paid the filing fee and demanded a trial by jury. Plaintiff previously raised this same issue and it was denied by Judge Santiago Campos in his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] and his Memorandum Opinion and Order dated December 23, 1999 [Doc. No. 77] and, as such, constitutes law of the case. Plaintiffs' Motion should be denied.

At issue is not whether Campos' Opinion and Order and Order constitutes "law of case." but rather to void Campos' rulings for failure of

(3) the court or tribunal must have the power of authority to render the particular judgment.

3 Mitchell writes

Plaintiffs' Motion should be denied.

Plaintiffs' motion CANNOT BE DENIED if evidence in writing exists that Campos' judgments violated 7th Amendment to US Constitution and 28 USC Rule 38 which Campos' judgments did by denying us right to trial by jury guaranteed inviolate.

Further Plaintiffs' motion to void cannot be denied because,

6 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary. ⁴

4 Michell writes

STATEMENT OF THE CASE

This lawsuit was filed on February 28, 1997 under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, relating to a request for documents which William H. Payne made upon the National Security Agency.

Mitchell's statement does not give the true picture of the situation.

Below paragraphs tell what happened and why.

Paragraph 1

Nojeh Coup

In July 1980, Zbigniew Brzezinski of the United States met Jordan's King Hussein in Amman to discuss detailed plans for Saddam Hussein to sponsor a coup in Iran against Khomeini. King Hussein was Saddam's closest confidant in the Arab world, and served as an intermediary during the planning. The Iraqi invasion of Iran would be launched under the pretext of a call for aid from Iranian loyalist officers plotting their own uprising on July 9, 1980 (codenamed Nojeh, after Shahrokhi/Nojeh air base in Hamedan). The Iranian officers were organized by Shapour Bakhtiar, who had fled to France when Khomeini seized power, but was operating from Baghdad and Sulimaniyah at the time of Brzezinski's meeting with Hussein. However, Khomeini learned of the Nojeh Coup plan from Soviet agents in France and Latin America. Shortly after Brzezinski's meeting with Hussein, the President of Iran, Abolhassan Bani-Sadr quietly rounded up 600 of the loyalist plotters within Iran, putting an effective end to the Nojeh Coup.[5] Saddam decided to invade without the Iranian officers' assistance, beginning the Iran-Iraq war on 22 September 1980.

Paragraph recently removed from Wikipedia

Paragraph 2

In 1980, the US and Britain engineered Saddam Hussein's invasion of Iran in an attempt to crush its new revolutionary Islamic government. That war inflicted nearly one million casualties on Iran. President Ahmadinejad led volunteers in the war.

Canadian journalist Eric Margolis

Paragraph 3

Next, this leak was compounded by the U.S. demonstration that it was also reading secret Iranian communications. As reported in Switzerland's Neue Zürcher Zeitung, the U.S. provided the contents of encrypted Iranian messages to France to assist in the conviction of Ali Vakili Rad and Massoud Hendi for the stabbing death in the Paris suburb of Suresnes of the former Iranian prime minister Shahpour Bakhtiar and his personal secretary Katibeh Fallouch. [2]

J Orlin Grabbe

Paragraph 4

What information was provided to Saddam Hussein exactly? Answers to this question are currently being sought in a lawsuit against NSA in New Mexico, which has asked to see "all Iranian messages and translations between January 1, 1980 and June 10, 1996". [7]

J Orlin Grabbe

5 Mitchells writes

1. Plaintiffs filed their first motion for summary judgment on June 4, 1997 [Doc. No. 11] to which Defendant responded on June 19, 1997 [Doc. No. 17] and Plaintiffs replied on July 8, 1997 [Doc. No. 20].
2. Defendant filed its motion for partial dismissal and for summary judgment on October 3, 1997 [Doc. No. 23], to which Plaintiffs responded on October 31, 1997 [Doc. No. 30]. Defendant filed its reply on November 14, 1997 [Doc. No. 32] and Plaintiffs filed an answer (surreply) on November 28, 1997 [Doc. No. 33].
3. Plaintiffs filed their second motion for summary judgment on December 22, 1997 [Doc. No. 34], to which Defendant responded on January 5, 1998 [Doc. No. 35] and Plaintiffs replied on January 20, 1998 [Doc. No. 36].
4. On April 30, 1998, Judge Campos entered a Memorandum Opinion and Order denying as moot Plaintiffs' motion for summary judgment, denying Defendant's motion for partial dismissal and staying Defendant's motion for summary judgment pending an in camera review of a declaration to be provided to the Court⁴, and denying without prejudice Plaintiffs' motion for summary judgment [Doc. No. 42].

5. Plaintiffs filed a motion to amend the memorandum opinion and order [Doc. No. 43], which was denied by the Court on May 21, 1998 [Doc. No. 44.] On May 28, 1998, Plaintiff Payne filed another motion to amend the Memorandum Opinion and Order which was denied on February 17, 1999 [Doc. No. 57.]

6. Plaintiffs filed a Notice of Interlocutory Appeal on June 9, 1998 [Doc. Nos 46, 47]. The appeal was dismissed by the United States Court of Appeals for the Tenth Circuit for lack of jurisdiction on December 17, 1998 [Doc. No. 52].

7. On October 27, 1999, Judge Campos entered a Memorandum Opinion and Order granting Defendant's motion for summary judgment, dismissing the case, [Doc. No. 72], and entered Summary Judgment [Doc. No. 73].

8. On November 9, 1999, Plaintiff filed a motion to alter and amend the Memorandum Opinion and Order [Doc. No. 74], to which Defendant filed a response [Doc. No. 75], and Plaintiff filed a reply [Doc. No. 76].

9. On December 23, 1999, Judge Campos entered a Memorandum Opinion and Order denying the motion to alter and amend [Doc. No. 77].

10. Plaintiff filed a Notice of Appeal with the United States Court of Appeals for the Tenth Circuit on January 3, 2000. [Doc. No. 78]. The Court of Appeals affirmed the decision of the District Court on December 13, 2000 [Doc. No. 80].

⁴ The FOIA specifically authorizes in camera examination of documents. 5 U.S.C. § 552(a)(4)(B) (2000); S. Conf. Rep. No. 93-1200 at 9 (1974).

All Mitchell writes in above 1-10 is irrelevant for the reason that judge Campos did not schedule DEMANDED trial by jury and let the jury, not Campos, reach a verdict.

6 Mitchell writes

ARGUMENT

Plaintiff William H. Payne asserts that because he paid a filing fee of \$150 on February 28, 1997 and requested a jury trial, Judge Santiago Campos lacked jurisdiction to grant Defendant's motion for summary judgment.

This is correct. Right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38.

7 Michell writes

First, there is no right to a jury trial under the Freedom of Information Act.

Had the authors of the US Constitution intended that there be exceptions to

Amendment VII

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.

then they would have written

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, except in some special cases, 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.

In all lawsuits where the value in controversy shall exceed twenty dollars, the right to trial by jury is inviolate not matter what the subject.

Which points to a mistake in the docket of 97-cv-00266-SEC-DJS

Demand: \$0

Complaint states

C award plaintiffs its costs and reasonable fees incurred in this action; and

Settlement fees are \$1,000 per docket entry. After taxes, of course.

8 Michell writes

Second, the granting of summary judgment was entirely appropriate in this case.

Above statement is false for the reason that 97-cv-00266 is a jury trial lawsuit which can only be decided by jury verdict.

9 Michell writes

Third, Plaintiff has previously made this same assertion in this Court, i.e., that he has a right to a jury trial under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 [Doc. Nos. 44, 45, 76]. This argument was specifically addressed and rejected by this Court [Doc. No. 57]. Plaintiff argued the right to a jury trial again in his reply [Doc. No. 76] which the Court again rejected in its Memorandum Opinion and Order entered on December 23, 1999 [Doc. No. 77]. Under the law of the case, this issue should not be relitigated.

The court should have helped pro se plaintiffs and pointed out, sua sponte, that its ruling was void in 1999.

Plaintiffs only learned in about 2006 that void judgment was the proper venue for relief of Campos disregard for Right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38. Plaintiff learned this from The Family Guardian.

Only in 2007 have plaintiffs learn of the mechanics to void a judgment from Moore's Forms [Bender], tocongress.com, voidjudgments.net, VOID JUDGMENTS, Twenty-two reasons to vacate void judgment, Authorities on Void Judgments, and others. So plaintiffs' delay in filing to vacate judgmentS [we have many to void] is easily understood.

And we are not "religating," we are voiding judgments for

(3) the court or tribunal must have the power of authority to render the particular judgment.

which Campos did not.

And, of course, from our MANDATORY JUDICIAL NOTICE AND AUTHORITIES TO VOID JUDGMENT

5 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient. ⁵

9 Michell writes

I. No Right To Jury Trial In FOIA Action

Plaintiff contends that because he paid a filing fee of \$150 and demanded a jury trial in this lawsuit, Judge Campos lacked jurisdiction to dismiss the lawsuit. Plaintiff has previously raised a similar, if not identical argument in this case. On May 21, 1998, Plaintiff Payne filed a motion to amend the Memorandum Opinion and Order entered April 30, 1998 [Doc. No. 45]. In his motion, Plaintiff asserted that he had a right to a jury trial

under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 and alleged that the Court violated Plaintiff's rights to a jury trial. In his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] at page 5, Judge Campos addressed this issue.

As Judge Campos succinctly stated:

There is no right to a jury trial in a statutory cause of action against the federal government unless the relevant statute explicitly and unambiguously provides such a right. See *Lehman v. Nakshian*, 453 U.S. 156, 16-62, 168 (1981); see also *Johnson v. Hospital of Med. College of Pa.*, 826 F. Supp. 942, 942, 945 (E.D. Pa. 1993). Congress did not explicitly provide for right to jury trial in FOIA. See 5 U.S.C. § 552.

Campos, instead of guiding a DEMANDED jury trial, is issued a vacuous Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57].

Lehman v. Nakshian is a voidable ruling because Right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38. Court did not have

(3) the court or tribunal must have the power of authority to render the particular judgment.

Johnson v. Hospital of Med. College of Pa. is also a voidable ruling if a trial by jury was DEMANDED but not obtained.

Voidable ruling should be used to try to support claim that Campos' ruling is not voidable.

Any judgment which says that a party does not have right to trial by jury when jury DEMAND was made is, of course, voidable.

10 Michell writes

While summary judgment is the procedural vehicle by which nearly all FOIA cases are resolved, in the event of a trial on a contested issue of fact, it will be decided by a judge alone because the FOIA does not provide for a jury trial. Office of Information and Privacy, U. S. Department of Justice, Freedom of Information Act & Privacy Act Overview, 804 (May 2004 ed.). Thus, Plaintiff was not entitled to a jury trial in this action.

Mitchell's above statement implies that FOIA overrules the 7th Amendment to US Constitution and 28 USC Rule 38.

Not only is Michell's above statement false, it is unintelligent, incompetent and with malicious intent to misrepresent the US Constitution for personal gain.

A jury trial is a jury trial. All that is required is that the amount in question be over \$20.

11 Michell writes

II. Summary Judgment Was Appropriate

As Judge Campos held, there is no Seventh Amendment jury trial right where no genuine issue of material fact exists because the court may, without violating Seventh Amendment rights, grant summary judgment pursuant to Fed. R. Civ. P. 56.

Two issues of material facts are 1] do we get the requested documents from NSA

"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

This Court must take into consideration possible consequences if the matter of the spy sting on Iran perpetrated by NSA is not peacefully settled.

First step to peaceful settlement is to obtain the documents through settlement or jury trial decision followed by court order.

12 Michell writes

Memorandum Opinion and Order at 6, [Doc. No. 57], citing Shore v. Parklane Hosiery Co., Inc., 565 F.2d 815, 819 (2d Cir. 1977) (citation omitted), aff'd, Parklane Hosiery Co. Inc. v. Shore, 439 U. S. 322 (1979). See Murphy v. Derwinski, 990 F.2d 540, 544 (10th Cir. 1993) (citing Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U. S. 317, 322-23 (1986)). It is beyond question that a district court may grant summary judgment where the material facts concerning a claim cannot reasonably be disputed. Even though this technically prevents the parties from having a jury rule upon those facts, there is no need to go forward with a jury trial, (assuming a jury trial is even permitted under the appropriate statute, which, as stated supra, is not permitted under FOIA), when the pertinent facts are obvious and indisputable from the record; the only remaining truly debatable matters are legal questions that

a court is competent to address. Garvie v. City of Fort Walton Beach, Florida, 366 F.3d 1186 (11th Cir. 2004).

Further, a Seventh Amendment right to trial is not violated because no such right exists if a party fails to make a Rule 56-required demonstration that some dispute of material fact exists which a trial could resolve. Conboy v. Edward D. Jones Co., 2005 WL 1515479 (5th Cir. 2005). Without a genuine issue for trial, there can be no demand for a jury trial. See Anderson v. Liberty Lobby, Inc., 477 U. S. 242, 250 (1986) (summary judgment inquiry is threshold determination "whether there is the need for a trial."); DeYoung v. Lorentz, No. 95-3153, 69 F.3d 547, 1995 WL 662087 at *2 n.5 (10th Cir. Nov. 9, 1995) (unpublished disposition) ("[A] properly applied summary judgment procedure does not violate the Seventh Amendment.") Plaintiff in this case did not establish that a dispute of material fact existed nor was there a genuine issue for trial.

If a jury trial was DEMANDED and not received in any of Mitchell's above citations, then that lawsuit is voidable because the right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38.

Mitchell's statement, "Plaintiff in this case did not establish that a dispute of material fact existed nor was there a genuine issue for trial." is repeated again. So we will repeat the response with an underline.

Two issues of material facts are 1] do we get the requested documents from NSA

"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

This Court must take into consideration possible consequences if the matter of the spy sting on Iran perpetrated by NSA is not peacefully settled. More important the malicious intent to violate the rules and purpose of the US Constitution is egregious attempt to undermine, not only the power of the US Citizen, but jeopardize our national health and survival.

First step to peaceful settlement is to obtain the documents through settlement or jury trial decision followed by court order.

13 Mitchell writes

Finally, as Judge Campos noted, and the record clearly reflects, "Plaintiff cannot complain about the possible resolution of this case on Defendant's motion for summary judgment when [Plaintiff] himself has filed two motions for

summary judgment in this case." Memorandum Opinion and Order, at 7 [Doc. No. 57]. Judge Campos' holding in 1999 that the Seventh Amendment and Fed. R. Civ. P. 38 do not apply to Plaintiff's lawsuit and Plaintiff has no right to a jury trial is an appropriate finding and should not be set aside. Based upon the findings of this Court, the granting of summary judgment was entirely appropriate.

Plaintiffs can move for summary judgment because they brought the lawsuit AND defendant DID NOT DEMAND trial by jury.

Defendants cannot legally move to summary judgment when a jury DEMAND has been filed by plaintiffs.

A judge who dismisses a jury trial DEMAND lawsuit is subject to a void judgment motion as is happening here.

Plaintiffs can also move to dismiss lawsuit, as they will do if 1] we get the requested documents from NSA

"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

14 Michell writes

III. Law Of The Case

"[T]he law of the case doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." McIlravy v. Kerr-McGee Coal Corp., 204 F.3d 1031, 1034 (10th Cir. 2000) (quoting United States v. Monsisvais, 946 F.2d 114, 115 (10th Cir. 1991)). "Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit." Kennedy v. Lubar, 273 F.3d 1293, 1298 (10th Cir. 2001) (quoting 18 Wright, Miller & Cooper, Federal Practice & Procedure: Jurisdiction § 4478, at 788 (1981)).

Although Plaintiff has requested that the judgment in Civ. No. 97-266 SC/DJS be voided as opposed to reconsidered, law of the case would still apply. Because this Court has already issued decisions determining that the Seventh Amendment and Fed. R. Civ. P. 38 did not apply to Plaintiff's lawsuit and that Plaintiff had no right to a jury trial, [Doc. Nos. 57, 77], the doctrine of law of the case governs. The Tenth Circuit has "routinely recognized that the law of the case doctrine is 'discretionary, not mandatory,' and that the rule 'merely expresses the practice of courts generally to refuse to reopen what has been decided, not a limit on their power.'" Stifel,

Nicolaus & co., v. Woolsey & Co., 81 F.3d 1540, 1544 (10th Cir. 1996) (quoting Messenger v. Anderson, 225 U.S. 436, 444 (1912)).

However, even though the doctrine of law of the case is discretionary in nature and not absolute, there are limitations on when a Court should depart from the doctrine. The Tenth Circuit has determined that there are "three exceptionally narrow circumstances" when it will depart from the law of the case doctrine which are: "(1) when the evidence in a subsequent trial is substantially different; (2) when controlling authority has subsequently made a contrary decision of the law applicable to such issues; or (3) when the decision was clearly erroneous and would work a manifest injustice." United States v. Alvarez, 142 F.3d 1243, 1247 (10th Cir. 1998), cert. denied, 525 U.S. 905 (1998). In this case, none of the three narrow exceptions apply. As to the first exception, there has not been a trial on this matter wherein new evidence would alter the Court's decision. The second exception is equally inapplicable in that there has not been any new case law on the matter. Regarding the third exception, there is absolutely no indication that the Court's decision was "clearly erroneous and would work a manifest injustice" nor that the Court lacked jurisdiction in the first place.

"[T]here is a natural and healthy reluctance not to reconsider the decision (or, in this case, void the decision) unless powerful reasons are given for doing so. Otherwise parties would have an incentive constantly to pester judges with requests for reconsideration." Johnson v. Burken, 930 F.2d 1202, 1207 (7th Cir. 1991). The fact that Plaintiff is not happy with the results of this case nearly seven years after the United States Court of Appeals for the Tenth Circuit affirmed the District Court's decision does not constitute "manifest injustice," does not establish that this Court lacked jurisdiction to render a decision and certainly does not warrant reopening this case. Thus, this Court's holding pertaining to Plaintiff's right to a jury trial must stand and Plaintiff's motion to void the judgment entered herein must fail.

Michell apparently failed to read or understand the Mandatory Judicial Notice filed with the Motion to void judgment so main points are shown below

1 (3) the court or tribunal must have the power of authority to render the particular judgment.

2 Any judgment rendered by a court which lacks jurisdiction, either of the subject matter of the parties, or lacks inherent power to enter the particular judgment, or entered an Order which violated due process or was procured through extrinsic or collateral fraud, is null and void, and can be attacked at any time, in any court, either directly or collaterally, provided that the party is

properly before the court.

3 Such a judgment is void from its inception, incapable of confirmation or ratification, and can never have any legal effect.

4 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient.

5 The passage of time, however great, does not affect the validity of a judgment ⁶ and cannot render a void judgment valid

6 The limitations inherent in the requirements of due process of law extend to judicial, as well as political, branches of the government, so that a judgment may not be rendered in violation of those constitutional limitations and guaranties.

7 A court may not render a judgment which transcends the limits of its authority, and a judgment is void if it is beyond the powers granted to the court by the law of its organization, even where the court has jurisdiction over the parties and the subject matter.

and finally for the benefit of the Court

8 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary.

So Mitchell's arguments must be rejected, our proposed ORDER signed, and then we

A Settle

B have jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38. with the conditions that

1 No oral argument is necessary

2 Only the original complaint

3 The docket

4 MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

5 MANDATORY JUDICIAL NOTICE and authorities for void judgment

6 ORDER VACATING Judge Santiago Campos'

10/27/99 MEMORANDUM, OPINION, AND ORDER

7 RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

8 REPLY TO RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF
JURISDICTION DIRECTED TO DISTRICT OF NEW
MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ
[http://www.prosefights.org/nmlegal/nsalawsuit/n
salawsuit.htm#voidjudgment](http://www.prosefights.org/nmlegal/nsalawsuit/n
salawsuit.htm#voidjudgment)

is given to the jury to render its verdict.

Jury members should be required to sign a verified
statement that they have read 1-5.

14 Michell writes

CONCLUSION

This Court had jurisdiction over the above-captioned case
and summary judgment was appropriately entered. For the
reasons stated above, Plaintiffs' Motion should be denied.

For reasons given by Plaintiffs, the MOTION TO VOID JUDGMENT FOR LACK
OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF
JUDGE MARTHA VAZQUEZ must be granted because "relief is mandatory and
is not discretionary."

15 Since this matter is properly before this court, we feel that we
should try to peacefully settle these unfortunate matters before they
get worse.

Paragraph 1 of this reply, the Nojeh Coup, appears to indicate that
Zibigniew Brzezinski incited Saddam Hussein to attack Iran. This
appears to be a violation of 18 USC § 1091(c).

Rule 3 of the Federal Rules of Criminal Procedure, entitled the
Complaint provides:

The complaint is a written statement of the essential facts
constituting the offense charged. It shall be made upon
oath before a magistrate.

As you may be aware,

An individual may "make a written complaint on
oath before an examining and committing
magistrate, and obtain a warrant of arrest."
This is in conformity with the Federal
Constitution, and "consonant with the
principles of natural justice and personal
liberty found in the common law."

[United States v Kilpatrick (1883, DC NC) 16G
765, 769]

You may also be aware,

A complaint though quite general in terms is valid if it sufficiently apprises the defendant of the nature of the offense with which he is charged.

[United States v Wood (1927, DC Tex) 26F2d 908, 910, affd (CA5 Tex) 26 F2d 912.

And for your edification,

The commission of a crime must be shown by facts positively stated. The oath or affirmation required is of facts and not opinions or conclusion.

[United States ex rel. King v Gokey (1929, DC NY) 32 F2d 793, 794] The complaint must be accompanied by an oath. [Re Rules of Court (1877, CC Ga) 3 Woods 502, F Cas No 12126]

A complaint must be sworn to before a commissioner or other officer empowered to commit persons charged with offenses against the United States.

[United States v Bierley (1971, WD Pa) 331 F Supp 1182]

Such office is now called a magistrate.

A complaint is ordinarily made by an investigating officer or agent, and where private citizens seek warrants of arrest, the practice recommended by the Judicial Conference of the United States is to refer the complaint to the United States Attorney. However, further reference to him is rendered futile where a mandamus proceeding is brought to compel him to prosecute and he opposes the proceeding.

[Pugach v Klein (1961, SD NY) 193 F Supp 630, citing Manual for United States Commissioners 5 (1948)]

We are citizens of the United States and you are the assigned magistrate.

In order to satisfy the requirement of the

Constitution and Rules 3 and 4, a written and sworn complaint should set forth the essential facts constituting the offense charged and also facts showing that the offense was committed and that the defendant committed it.

And,

As to the requirement that the complaint be made on personal knowledge of the complainant, it is enough for the issuance of a warrant that a complainant shows it to be on the knowledge of the complainant.

[Giordenello v United States (1958) 357 US 480, 2 L Ed. 2d 1503, 78 S Ct 1245, revg (Ca5 Tx) 241 F2d 575, 579 in accord Rice v Ames (1901) 180 US 371, 45 L Ed 577, 21 S ct 406, and United States v Walker, (1952, CA2 NY) 197 F 2d 287, 289, cert den 344 US 877, 97 L Ed 679, 73 S Ct 172]

We charge Zibigniew Brzezinski with inciting Saddam Hussein to invade Iran in 1980.

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

6/6/07

Arthur R Morales

Arthur R Morales

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

6/6/07

William H Payne

W H Payne

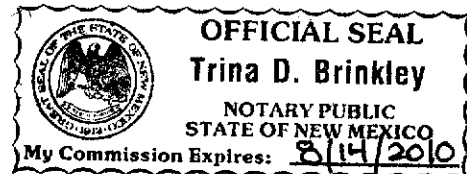
Verification

Under penalty of perjury as provided by law, the undersigned certifies pursuant to 28 USC section 1746 that material factual statements set forth in this pleading are true and correct, except as to any matters therein stated to be information and belief of such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Notary Public

[Signature]

Plaintiffs ask that you return a copy of the Brzezinski summons to us within 60 days.



Respectfully submitted,

W H Payne
William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: 6/6/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was ^{electronically} mailed to LTG Keith B. Alexander, Director, National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email.

W H Payne
6/6/07
Date