

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF STATE OF FLORIDA
PENSACOLA DIVISION

Kent E. Hovind
Paul John Hansen, as Trustee for CSEM Ministry
Creation Science Evangelism Ministry et al
Plaintiff's

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Cause #

3:20cv5708-RV/HTC

v.

Judge Hope Thai Cannon
Defendant

**SUITE TO REMOVE JUDGE HOPE THAI CANNON FOR VIOLATION OF
HER CONSTITUTIONALLY REQUIRED OATH OF OFFICE AND MOTION
FOR TEMPORARY INJUNCTION AND PERMANENT RESTRAINING ORDER**

Comes now Kent E. Hovind, Paul John Hansen and Creation Science Evangelism Ministry et.al, herein after known as Plaintiff's and complains of Judge Hope Thai Cannon hereinafter known as Defendant and for the following good and sufficient reasons would show the Honorable Court that the following SUIT TO REMOVE JUDGE HOPE THAI CANNON FOR VIOLATION OF HER CONSTITUTIONALY REQUIRED OATH OF OFFICE AND MOTION FOR TEMPORARY INJUNCTION AND PERMANENT RESTRAINING ORDER should be granted:

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1.

Jurisdiction

Jurisdiction is based upon the Defendant being Federal Employee and the suit being in the manner and form of 42UCS1983 and seeking related damages therein.

2.

Summary

To Witt; In an order issued on 23-July-2020 regarding cause #3:20cv5484-TK W-HTC by Judge Hope Thai Cannon, Reference Exhibit A attached, Judge Cannon makes multiple statements and orders that clearly and in no uncertain terms violate her Constitutional Oath of Office rendering her Constitutional Oath of Office null and invalid by her own hand and thereby removing her capacity exercise the authority, rights privileges and amenities of the office of Judge. To Witt;

3.

General Background

The preamble to the Constitution for the United States of America states that “We the people.....establish this Constitution for the United States of America. Abraham Lincoln not far from the words of our founding fathers furthermore reiterates/states in his address at Gettysburg on November 19-1863 the words “**and that government of the people, by the people, for the people,**”thus indicating that the people are the highest position of authority in the government of the United States of America. This would also indicate that starting with the Office of the President of the United States of America that

any and all of the individuals that would hold an office of any type or kind would be a public servant and therefore work for the people.

4.

Judicial Background

When the ability of the people to address and redress the civil or criminal concerns of the day are removed by policy and rules that constitute deviation from the intent of the process of justice to an abnormal desire for adherence to a form of local rule, then one is compelled to question the validity or value of the rule. If this condition deprives the individual of justice because the rules referenced incapacitate the pleadings from fully conveying or addressing the issues of the matter for consideration and being weighed, then further contemplation is now required. And if Justice no longer has the capacity to be served in the matter because of this forced incapacity then one is compelled to ponder statute 18USC242 (deprivation of civil rights under color of law or rule) and evaluate the potential criminal nature of the act (s) so constituting this incapacity and its subsequent preemptive subversion of justice. Furthermore, one must also contemplate whether an act like this could have been intentional or an act of ignorance in an overzealous attempt to properly serve the people of the United States of America with the unintentional act of subverting justice.

5.

Judicial and Prosecutorial Fiduciary Responsibilities

From time-to-time we find Judges and Prosecutors running for office and making election campaign statements like “....I have this many convictions!” or “....my conviction rate is better than a certain percentage!” rather than hearing better statements like “I have seen justice served in over 90% of my cases!”. The branch of the Judiciary of the United States of America clearly exists to serve the people because as it is afore-stated that “the people” are the government. Therefore, the Judiciary would automatically have a fiduciary responsibility to the people (their employer) to carry out justice. A prosecutor also has the same fiduciary responsibility to the people. Justice in the courtroom is not a competition or a challenge between individuals or Plaintiff’s vs. Defendant’s or Petitioner’s vs. Respondent’s. or Prosecutor vs. Defendant. The challenge is between justice and injustice, between right and wrong. Everyone fights together on the same side. The Judiciary and the Prosecutors are to be respected and applauded for successfully seeing justice in a case. Not for “winning”. To-that-end if the Prosecutor or the Judge in a case is aware of a defect in the case or pleadings that could result in a failure of justice, in fulfillment of their fiduciary responsibility it is both of their responsibilities to alert the parties present and the people that they serve and correct the defect immediately that justice may be served. And it is a clear violation of that fiduciary responsibility if either of the Judge or the Prosecutor chooses to overlook notifying the parties present of the defect.

6.

The Public Trust in the offices of the Judiciary and Prosecutor

The public's trust in the office of the Prosecutor and the office of the Court is the single most important part of an individual's service to either the Prosecutor's office or the office of the Judiciary in service to the people. And if the character or the trust in either of those offices should become tarnished or damaged, it is logical to consider that when that trust is lost and an individual can no longer hope that the service of justice is in the foremost consideration of either the Jurist or Prosecutor or that justice has become the "whim of the office" then a most serious condition now can exist. This would be most specific in cases where high monetarily penalties, long terms of detention or capital punishment could apply. If both offices are in "good-standing" in the mind's eye of the charged, then accepting the related penalty is usually acceptable to most individuals. However, if either the office of the Prosecutor or the Judiciary has been tarnished and this critical trust has been lost, now in a worst case scenario history has shown us that many individuals would attempt to terminate what they might consider a potential threat to their liberty or life's blood rather than face a potential injustice believing that if justice is already lost anyway so taking the life of either the Prosecutor or the Judiciary is now "for-free" in their own mind as it were. So, protecting the reputation and the public trust of both the Judiciary and the Prosecutor's offices are of critically prime importance and must be foremost in our minds. And to-that-end, there is no room for unkindness, malice, disrespect, corruption, prejudice, favoritism, exceeding one's authority, allowance for

unlawful activity, tampering with witnesses, tampering with Jurors, or failure to seek justice honestly or a host of other similar issues. In-fact, all of these acts are prohibited by Article III, Section 1 of the Constitution for the United State of America and as such any of the aforementioned activities are grounds for immediate removal from office. To-witt; “The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour,” meaning that a failure of “good behaviour” is grounds for immediate removal from office. And when removal from office is slow the tarnish of the office grows very quickly while the public trust fades very quickly.

7.

The Constitutionally required “Oath-of-Office”

Just as a candidate for President of the United States if required to swear an “oath-of-office” before he may serve as President as described in Article I, Section 2 of the Constitution for the United States of America, so all “Senators, Representatives, the Members of the State Legislatures and all Executive and Judicial Officers of both the United State and the several States shall be bound by oath or affirmation to support the Constitution” before they may hold office. This is described in Article 6, Paragraph 3 of the Constitution for the United States. Therefore, if this oath has been violated whether the individual has been impeached or not, they are no longer able to exercise the authority, rights, privileges, or amenities of office any longer. Article II Section 4 of the Constitution for the United States specifically states: “The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for,

and conviction of, treason, bribery, or other high crimes and misdemeanors.” The aforementioned statement indicates that a criminal trial may/can precede any impeachment proceeding.

8.
Judge Hope Thai Cannon’s/Defendant’s Acts

A) Reference Exhibit “A” On page 1 of 4, paragraph 1 of Defendant’s ORDER dated 23-July-2020 and received on 31 July-2020 that the pleadings are flawed and must be “re-filed” because the pleadings are 56 pages and not the prescribed 25 by local rules. In the best interest of justice, a pleading, unless uselessly redundant, is whatever it must be to successfully complain of the issue whether civil or criminal. To impose a limit such as this would require Plaintiff’s to leave critical information out of the pleading thereby rendering it defective before it is even filed. A receiving Jurist rarely if ever has any previous knowledge of the facts or evidence pertaining to a complaint. If the individual complaining is not a glib-word-sleuth, does this mean that he or she is now deprived of justice before a case can be commenced. Only the minimum amount of information necessary to convey the complaint has already been included in the pleading. Plaintiff’s object to this demand by Defendant to remove accounting of acts committed against them of which they are complaining from their pleadings. This is clearly a deprivation of Plaintiff’s civil rights under color of local rules.

B) Reference Exhibit “A” On page 2 of 4, paragraph 1 of Defendant’s ORDER dated 23-July-2020 and received on 31 July-2020 Defendant asserts that a member of the

Judiciary and the Federal Prosecutor complained of by Plaintiffs are exempt from prosecution for decisions made while execution the duties of office. And to the extent that the Judiciary's "oath-of-office" remains in-tact and they are "acting in good behavior" the Judiciary and Prosecutors both have such immunity. However, if either their "good-behaviour" or "oath of office" are not intact then this immunity no longer applies. *Paraphrased; any judgment or act committed while coloring-between-the-lines is protected. But, any judgment or act committed while coloring outside the lines is not protected and is illegal and must be prosecuted accordingly.* Defendant's intent is clearly to have Plaintiff's remove the complaint against these three individuals, District Judge Rodgers, Federal Prosecutor John Atchison, and Federal Prosecutor Michelle Heldmyer from Plaintiff's pleadings

C) Reference Exhibit "A" On page 2 of 4, paragraph 1 and 2 of Defendant's ORDER dated 23-July-2020 and received on 31 July-2020 Three of the parties to the suit 3:20cv5484-TK W-HTC in which Defendant refers to having immunity have disparaged both the office of the Prosecutor and the office of the Federal Judiciary. Judge Cannon states in her order, to-witt; "Moreover, judicial immunity "applies even when the Judge is accused of acting maliciously and corruptly." Defendant quotes cites for the statement. Defendant further states, to-witt; "This immunity applies even when the Judge's acts are in error, malicious, or were in excess of his or her jurisdiction". And to-witt; "similarly, prosecutorial immunity applies even if the Prosecutors knowingly allowed false testimony." Defendant quotes cites to support this statement. Defendant does not suggest

but forcefully states with emphasis added that a member of the Judiciary or Prosecutors office can violate the highest law of the land and an individual's Constitutional rights without consequence or recourse all in controversy to the Constitution for the United States of America. Defendant further threatens to summarily dismiss Plaintiff's complaint/case if these allegations the Defendant refers to as "defects" are not removed from the pleadings. Plaintiff's strenuously object.

D) Reference Exhibit "A" On page 3 of 4, paragraph 2 of Defendant's ORDER dated 23-July-2020 and received on 31 July-2020 Defendant claims that Plaintiff's cause of action is invalid due to expiration of a Florida Statute of Limitations. However, the Florida Statute in which the Defendant wrongfully refers to in Her cite of *Chappell v. Rich*, 340 F.3d 1279, 1283 is "Title VIII Ch 95.11 (3)o" in which if Defendant was correct has a Four (4) years statute of limitation. However, Plaintiff's in case 3:20-CV-05484-TKW-HTC are bringing this cause of action under Title VIII, Ch 95.11.(1) which has a twenty (20) years statute of limitation.

E) Reference Exhibit "A" On page 4 of 4, paragraph 1 of Defendant's ORDER dated 23-July-2020 and received on 31 July-2020 Defendant orders that the "second amended petition be returned within 14-days from the date of this order and this communication is only received 6-days before the amendment is due in unconscionable.

F) Judge Cannon further points out what she states to be defects in the pleading amounting to an incapacity of liability on the part of three of the defendants. It is assumed that a Jurist of Judge Cannon's stature and position would have fully read the

pleadings before making comments, let-alone an order. Therefore, Judge Cannon would have been fully aware of the grave nature of the allegations pleaded therein. And to-that-end, Judge Cannon would have also been aware that the very nature of those allegations would have automatically constituted a breach/violation of each of the individuals “oath-of-office” without which they cannot exercise the authority, responsibilities and amenities of office. The alleged acts in question that would be very clear to Judge Cannon also of these individuals would also constitute an immediate loose of the immunities that a Jurist or a prosecutor would enjoy when their duties are carried out when they “hold their offices during good behaviour,” (Section 1, Article 3 of the Constitution for the United States of America) and their “oath-of-office” is still “in-tact” as-it-were. Furthermore, it can be shown with very little further investigation that this pattern of behavior complained in the allegations by Plaintiff’s is not and has not been unique and new. It has been characteristic, and all three individuals have a history of such behavior. Therefore after careful examination one finds that none of the individuals “oath-of-office” was “in-tact” at the time of the behavior being complained of by Plaintiff’s and thus all three were disqualified from service in the offices and capacities in which they acted and any contributions to the case in question were “null-and-void” before they commenced the case. Judge Cannon would have now been fully aware of this having read Plaintiff’s pleadings.

9.

Summation

All of these pleadings are a matter of public record. When it comes to the attention of the public the assertions that Judge Cannon makes in this order, the disparagement of the public's trust in the both the office of the Federal Judiciary and the office of the Federal Prosecutor and the related reputations will be severely damaged, possibly beyond recovery. This is especially true if Judge Cannon is allowed to remain in office.

10.

Jury Demand

Wherefore; Plaintiff's respectfully request trial by jury.

11.

Class Action Suit

Plaintiff's bring the cause of action under F.R.Cv.P. Rule 23 and so state that the class is so numerous that joinder of all members is impracticable; and that the questions of law or fact common to the class; and furthermore that the claims or defenses of the representative parties are typical of the claims of the class; and furthermore that the representative parties will fairly and adequately protect the interests of the class.

Plaintiff's request the Honorable Court to rule in favor of classification as "class".

12.

Prayer

Wherefore; Premises considered Plaintiff's pray that the Honorable Court would enjoin Defendant from any further exercise of the authority, rights, privileges or amenities of the office of Magistrate or Judge due to both the obvious disparagement of the Office of the Judiciary and any further attempted injury to Plaintiff's.

Furthermore; Plaintiff's pray that the Honorable Court would order a Grand-Jury hearing be convened to consider the Defendant's aforementioned acts in deprivation of Plaintiff's civil rights as defined under 18USC242 and 18USC241.

Furthermore; Plaintiff's pray that the Honorable Court would order an impeachment hearing to consider the Defendant's violation of Her Constitutional "Oath-of-Office" and the stripping of Defendants accrued tenure and title of Office.

Furthermore; Plaintiff's request the Honorable Court to rule in favor of classification as "class".

Furthermore; Plaintiff's request that Plaintiff's be awarded costs of court and suit, and for all further relief, both general and special, at law and in equity, to which Plaintiff's are entitled.

Furthermore; Plaintiff's pray that the Honorable Court would order Plaintiff's cause # 3:20-CV-05484-TKW-HTC be reassigned to another Judge and allowed sufficient time to respond and submit Plaintiff's second amended complaint. Plaintiff's respectfully request twenty (20) days.

Respectfully submitted



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Certificate of Service

I certify that on the 26th day of April, 2018, a true and correct copy of the foregoing instrument has been forwarded via Facsimile and by certified mail, return receipt requested to:

Judge Hope Thai Cannon
U.S. Courthouse
One North Palafox St.
Pensacola, FL 32502
Facsimile # (850) 470



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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

KENT E. HOVIND,
PAUL JOHN HANSEN,
Trustee for Creation Science Evangelism,

Plaintiffs,

v.

Case No. 3:20cv5484-TKW-HTC

UNITED STATES OF AMERICA, et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiffs' amended complaint, filed *pro se* pursuant to 42 U.S.C. § 1983. ECF Doc. 7. Including attachments, the amended complaint is fifty-six (56) pages long, which more than doubles the 25-page limit set out in the local rules. *See* N.D. Fla. Loc. R. 5.7(B) ("A . . . complaint, together with any memorandum, must not exceed 25 pages, unless the Court authorizes it"). Therefore, Plaintiffs must file a second amended complaint that complies with this requirement.

Additionally, based on a cursory review of the amended complaint, the Court has identified at least three (3) issues, which may result in a dismissal of Plaintiff's

suit.¹ Therefore, Plaintiffs should carefully review this Order and consider whether they need to fix these potential deficiencies in their second amended complaint.

First, Plaintiffs have named defendants who are immune from liability. Specifically, District Judge Rodgers, the estate of a former federal prosecutor John Atchison, and federal prosecutor Michelle Heldmyer are immune from liability for actions taken (or not taken) as part of their duties in Hovind's prior criminal litigation. *See Mireles v. Waco*, 502 U.S. 9, 11 (1991) ("judicial immunity is an immunity from suit, not just from ultimate assessment of damages") (citing *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)); *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976) ("in initiating a prosecution and in presenting the State's case, the prosecutor is immune from a civil suit for damages under § 1983").

Moreover, judicial immunity "applies even when the judge is accused of acting maliciously and corruptly." *Pierson v. Ray*, 386 U.S. 547, 554 (1967); *Holt v. Crist*, 233 F. App'x 900, 903 (11th Cir. 2007) ("This immunity applies even when the judge's acts are in error, malicious, or were in excess of his or her jurisdiction"). Similarly, prosecutorial immunity applies even if the prosecutors knowingly allowed false testimony. *Holt*, 233 F. App'x at 903 ("Immunity extends to charging a

¹ Plaintiffs should not read this order, however, as intending to provide a listing of all deficiencies or potential deficiencies with Plaintiffs' complaint. No such merit-based analysis has yet been conducted by the Court.

defendant without probable cause and to the knowing proffer of perjured testimony and fabricated exhibits at trial”).

Second, to the extent Plaintiffs take issue with Hovind’s 2006 conviction, their claims may be barred by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). Specifically, Plaintiff asks this Court for his “conviction and sentence [to] be vacated in the interests of justice.” *Id.* at 45. However, under *Heck*, if a judgment in favor of a plaintiff on a § 1983 claim “would necessarily imply the invalidity of his conviction or sentence[,] . . . the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.”²

Third, Plaintiffs’ claims appear to stem from events that transpired more than ten (10) years ago. ECF Doc. 7 at 7. A claim under 42 U.S.C. § 1983, however, must be brought within four (4) years of when the action accrued. *See Chappell v. Rich*, 340 F.3d 1279, 1283 (11th Cir. 2003) (“Florida’s four-year statute of limitations applies to such claims of deprivation of rights under 42 U.S.C. §§ 1983 and 1985”).

² The *Heck* bar has been found applicable to former inmates as well as current prisoners. *See Vickers v. Donahue*, 137 F. App’x 285, 289-90 (11th Cir. 2005) (implying that *Heck* bar applied “despite the unavailability of habeas relief”); *Lloyd v. Leeper*, 2020 WL 1529767, at *8 (M.D. Fla. Mar. 31, 2020) (applying *Heck* bar to former inmate’s suit); *Williams v. Donald*, 2007 WL 2345254, at *3 (M.D. Ga. Aug. 14, 2007) (unreported) (same); *Raines v. State of Fla.*, 983 F. Supp. 1362, 1376 (N.D. Fla. 1997) (same).

Accordingly, it is ORDERED:

1. Within **fourteen (14) days** of the date of this order, Plaintiffs shall file one (1) copy of a complete second amended complaint. Pursuant to the Local Rules, Plaintiffs should utilize this Court's approved forms for filing their second amended complaint. Since the Court previously sent these forms to the Plaintiffs, to the extent additional copies are needed, Plaintiffs should consult the Court's website at www.flnd.uscourts.gov.
2. Upon receipt of the complete second amended complaint, the clerk shall refer the second amended complaint to the undersigned chambers to determine compliance with this order.
3. Plaintiffs' failure to timely comply with this order may result in a recommendation that this case be dismissed for failure to prosecute and comply with an order of the Court.

DONE AND ORDERED this 23rd day of July, 2020.

1/s/ Hope Thai Cannon

HOPE THAI CANNON
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF STATE OF FLORIDA
PENSACOLA DIVISION**

Kent E. Hovind
Paul John Hansen
Creation Science Evangelism Ministry et al
Plaintiff's

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Cause #

v.

Judge Hope Thai Cannon
Defendant

ORDER

On this day the Court having considered the Petitioners motion for Suite to remove JUDGE HOPE THAI CANNON for violation of her constitutionally required OATH OF OFFICE and MOTION FOR TEMPORARY INJUNCTION AND PERMANENT RESTRAINING ORDER. Having read and analyzed the motion and response (s) and replies, if any, the Court finds that the motion should be granted.

Therefore; it is ORDERED, ADJUDGED and DECREED that Defendant Judge Hope Thai Cannon be fully enjoined from executing or exercising any authority, rights, privileges or amenities of office of Judge.

It is furthermore ORDERED, ADJUDGED and DECREED that a Grand-Jury shall be convened to investigate and determine if the afore-stated acts identified by Petitioners as evidenced in Defendants order dating 23-July-2020 were in fact a deprivation of both Plaintiff's civil rights under color-of-law as defined in 18USC242 and 18USC241.

It is furthermore ORDERED, ADJUDGED and DECREED that an impeachment hearing be convened for the aforementioned acts related to this petition to also make determination as to violations Judge Hope Thai Cannon's Constitutionally required "oath-of-office" and subsequent impeachment proceedings and the stripping of Her tenure.

It is furthermore ORDERED, ADJUDGED and DECREED that Plaintiff's cause #3:20CV5484-TKW-HTC shall be referred to another Judge for continuance of suit.

DONE AND ORDERED this _____ day of _____, 2020

Judge _____
