

Kent E Hovind
06452-017
Federal Prison Camp
PO Box 9000
Berlin, NH 03570

5/22/2013

COMPLAINT OF MISCONDUCT

1. I, Kent E Hovind, hereby swear to the statements herein, under penalty of perjury and pursuant to 28 USC 1746.
2. Judge M. Casey Rodgers presided over my prosecution and conviction in case number 3:06-cr-83/MCR, where I was charged with various tax offenses against the United States.
3. In the course of my prosecution and conviction, there were various violations of my rights under federal law and the US Constitution, as well as acts of misconduct which Judge Rodgers committed against me and which she allowed to be committed against me .
4. Koon v. U.S., 135 L.Ed 2d 392 (S. Ct 1996) held it is never within the prosecutor, grand jury, or the court to make determinations premised on incorrect legal standards. Judge Rodgers allowed the case to go forward against me in the absence of IRS Forms 4340 and 2866, which are necessary to establish there is a tax due and owing. Before I could have been found guilty of a violation of 7202, there must be a tax violation proven by an official tax assessment record in the form of a Form 4340. The IRS is precluded from administratively collecting a presumed tax liability in the absence of a valid assessment. District Courts have consistently held that a Form 23C or Form RACS 006 documenting the assessment can be submitted on a Form 4340, and that these certificates on a Form 4340 " are presumptive proof of a valid assessment" if certified by a Certificate or Official Record on Form 2866.
5. Judge Rodgers, in contravention to the law and in abdication of her solemn duty to ensure justice was done in my case, allowed the Grand Jury to issue an indictment against me which was missing the proper factual and legal elements required to charge and convict me with violating 7202. Without Form 23C, Form RACS 006, and Form 4340 there is no evidence of even a civil tax liability due and owing according to Federal Appeals Court ruling Johnson v. U.S., 990 F.2d 41(2nd Cir Ct of App 1993).
6. Judge Rogers violated her oath and responsibilities by failing to properly challenge and strike down these charges.
7. The petitioner was also charged under 31 USC 5324(a)(3) and 5324(d). These statutes have three essential elements, which are ;1) the duty of an individual to inform the bank or IRS that he is engaging in multiple but related transactions to avoid the CTR filing requirement ;2) that there were multiple but related transactions ;3) that the multiple or related transactions were not filed with the bank or the IRS by the individual. The petitioner was not charged with elements 1 and 3 in the indictment, thus causing Judge Rodgers

- to have lacked jurisdiction in prosecuting under those statutes.
8. Judge Rodgers changed the jury instructions at the end of the trial, changing "more" than \$10,000.00 to "less" than \$10,000.00, which misstated the law, violated The Fed Rules Of Crim Proc., and essentially assured the conviction of the petitioner.
 9. At the end of the trial, Judge Rodgers declared that the petitioner's crime was worse than rape, something attested to by many trial observers who have sworn out affidavits in support, and which is memorialized in the petitioner's son comments at Mrs Hovind's sentencing and is reflected in the attached transcript from that hearing. However, this comment has been mysteriously and illegally deleted from the petitioner's transcripts from his sentencing hearing. This was clearly illegal and improper and the petitioner asks that the audio portion of the end of his sentencing hearing be produced and reviewed for inspection in reference to this illegal action.
 10. Judge Rodgers, even after hearing IRS Agent Schneider testify on 10/30/07 on Doc 258 at 202 that there had been no tax assessment in this case to properly find that there was a tax due and owing, against her ethical and legal duty allowed this prosecution to proceed, running afoul of the petitioner's due process and federal law.
 11. The restitution imposed in this case was imposed in violation of 5E1.1(a)(1), which provides for restitution to only be imposed if such order is authorized under U.S.C. 1593,2248,2259,2264,2327,3663,3663A, or 21 U.S.C. 853(q); because the petitioner was not convicted under any of those sections, Judge Rodgers imposed restitution in violation of federal law and again violated the petitioner's rights under the United States Constitution.
 12. Judge Rodgers ordered restitution on the basis of the IRS being a "victim", while its well settled that the IRS has no capacity to sue or be sued, and that the real party in this proceeding is the United States. see Scott v. IRS, 622 F.Supp.537 (6th Cir 1985). Judge Rodgers ordering of restitution was legal error as the IRS cannot be a party and cannot obtain a judgement in its name.
 13. The petitioner was treated unfairly by Judge Rodgers, with unusual contempt and hostility. Based on the current IRS scandal where conservative religious groups were demonstrably targeted by IRS agents, the petitioner feels that his prosecution was based on improper bias based on his religious beliefs and that Judge Rodgers allowed and participated in this malicious and unfair violation of many of the petitioner's rights under federal law and the US Constitution.
 14. Judge Rodgers actions in this case violated her ethical duty under The Code of Conduct For United States Judges ,Canon 2(a) where judges are at all times to act in a manner which promotes confidence in the impartiality of the judiciary; Judge Rodgers courtroom most times in this proceeding was effectively an echo chamber for the government, never allowing the petitioner claims and defenses a ground to be properly heard under.

