

April 1, 2008

214 Atterberry Drive
Sebring, FL 33870

Judicial Conference
Committee on Judicial Conduct and Disability
Attn: Office of General Counsel
Administrative Office of the United States Courts
One Columbus Circle, NE 39
Washington, D.C. 20544 40

Re: Complaint of Misconduct, U.S. Dist. Judge Donald L. Graham

Dear Sir/Madam:

In order to more easily investigate this matter and keep costs down, this letter has been posted to the Internet at: URL, <http://mmason.freeshell.org/JudicialConference.doc> or <http://mmason.freeshell.org/JudicialConference.htm> . I am more than willing to supply documentation to prove any allegation raised here. Please feel free to contact me for any assistance in this matter. These are serious charges that if true, casts a pall over the integrity of the Federal Judiciary. Moreover, it is unfair to other judges to have Judge Graham get away with misconduct, while judges like Judge Manuel L. Real are sanctioned. Chief Justice John G. Roberts Jr., in his 2007 Year-End Report on the Federal Judiciary has stated that "[t]he Judiciary cannot tolerate misconduct. The public rightly expects the Judiciary to be fair but firm in policing its own."

I have submitted multiple complaints of misconduct against Judge Donald L. Graham, S.D. Fla. to the Judicial Council of the Eleventh Circuit and to the Chief Judge, primarily Judge J.L. Edmondson. These complaints have been dismissed wholesale without any investigation at all. It would appear that Judge Edmondson has defined judicial misconduct out of existence. Each complaint filed against Judge Graham can found at: <http://mmason.freeshell.org/372c/> . The following complaints were submitted to the Judicial Council: 01-0054, 01-0068, 02-0052. As the statute changed from 28 U.S.C. §372(c) to §351, new complaints were filed 2005. [05-0008,05-0011,05-0012,05-0013,05-0020,05-0021]. These complaints may also be reached by clicking on their number at the homepage, <http://mmason.freeshell.org>.

Judge Graham's misconduct has managed to escape appellate review, both by way of mandamus and direct appeal. The Eleventh Circuit, without denying the allegations of misconduct has simply ignored the issues. It is inconceivable that a Court of Appeal would ignore a jurisdictional issue like whether the Judge should have disqualified or not, however the Eleventh Circuit has done just that. Among

other places, this fact is documented at : <http://mcneilmason.wordpress.com> , See post entitled [Are Allegations of Misconduct Reviewable on Appeal?](#) .

I have setup a web portal, <http://mmason.freeshell.org/methods.htm> , which takes the allegations of misconduct and shows the reader how they were disposed of either by lying or simply ignoring the issues. This page has a flowchart with clickable links. It traces the allegations of misconduct through the appellate process and through Section 351 complaints as well. This page was created so the reader could see the overall picture and the level of dishonesty involved.

Given this matter is extraordinary, I would appreciate it if you would you use your authority to conduct an additional investigation or more accurately conduct an initial investigation since the Judicial Council has never conducted an investigation in the first place. In the alternative, I would appreciate if you would return the matter to the judicial council with directions to undertake an investigation. In an opinion publicly available on the Internet, you have stated:

[A] judge's pattern and practice of arbitrarily and deliberately disregarding prevailing legal standards and thereby causing expense and delay to litigants may be misconduct. However, the characterization of such behavior as misconduct is fraught with dangers to judicial independence. Therefore, a cognizable misconduct complaint based on allegations of a judge not following prevailing law or the directions of a court of appeals in particular cases must identify clear and convincing evidence of willfulness, that is, clear and convincing evidence of a judge's arbitrary and intentional departure from prevailing law based on his or her disagreement with, or willful indifference to, that law.

<http://www.uscourts.gov/library/judicialmisconduct/jcdopinions108.pdf>
:Pg. 8.

The complaints submitted to the Judicial Council and to the Eleventh Circuit include, but is not limited to, included the following:

- Lying and intentionally misrepresenting the law. [See Documented Lie](#). Judge Graham told Marcellus Mason that he could not state a claim against a state actor, Highlands County Board of County Commissioners, under 42 U.S.C. §1981 while he was simultaneously allowing a represented Plaintiff in another case to state a claim under 42 U.S.C. §1981 against the very same state actor, Highlands County Board of County Commissioners.
- Involved in possible criminal behavior by issuing a void [sua sponte](#) pre-filing injunction which ultimately formed the basis of a criminal contempt complaint and conviction. [See Framing An Innocent Person](#). Sua Sponte means on the Judges own motion and without notice and opportunity to respond prior to the issuance of the injunction. The law and Constitution requires such notice. In [Weaver v. Sch. Bd.](#), 2006 U.S. App. LEXIS 8128 (unpublished) (11th Cir. 2006), the Court held that a litigant was entitled to "notice and an opportunity to be

heard” before a restriction was imposed on the litigant’s ability to challenge an injunction. *“Generally, a judgment is void under Rule 60 (b) (4) “if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if acted in a manner inconsistent with due process of law. (emphasis added)”* E.g., *Burke v. Smith*, 252 F.3d 1260 (11th Cir. 2001). A void judgment is from its inception a legal nullity. *U.S. v. Boch Oldsmobile* 909 F.2d 657, 661 (1st Cir. 1990). It is incredible that the Eleventh Circuit has managed to avoid reviewing this sua sponte issued pre-filing injunction by all kinds of dishonest tricks. See <http://mmason.freeshell.org/SuaSponte.htm#AppellateHistory>.

- Judge Graham refused to rule on a motion for a preliminary injunction that had been pending for about 19 months. A motion for preliminary injunction was submitted on November 24, 1999, and Judge Graham **never** ruled on the motion despite repeated requests. See [Docket and Entry #39](#). The case was closed on June 20, 2001. Even more incredible, the Eleventh Circuit, after 17 months stated that I didn’t have a right to have my motion decided. See <http://mmason.freeshell.org/junklaw/NoRightToHaveMotionDecided.html> or <http://mcneilmason.wordpress.com/> , click on [You Don’t have A Right to Have Your Motions Decided](#).
- Judge Graham used the contempt process and AUSA Robert Waters to force Marcellus Mason to drop an embarrassing lawsuit against Judge Graham. Marcellus Mason has offered to take a polygraph test under penalty of perjury and challenges Judge Graham to do the same. This offer to take a polygraph test has been sent by both letters and email to the U.S. Department of Justice and the FBI. Additionally, Federal Public Defender, Leon Watts was a witness to the conversation. Incidentally, Mason declined to drop the lawsuit. Either Mason has committed a crime or Judge Graham has committed a crime! Both Mason and Judge Graham should be offered polygraph tests!
- Judge Graham used a void sua sponte issued pre-filing injunction to award attorney's fees of \$200,000 against an indigent Plaintiff whom Judge Graham knew was unemployed. See [Docket Entry No. 882](#) and [891](#). Judge Graham eschewed and rejected the law and the U.S. Supreme Court which states that attorney's fees may only be awarded against a Plaintiff if the lawsuit is found to be totally without merit. Judge Graham made no such finding because he could not due to the fact that he failed to evaluate pending summary judgment motions which set forth substantial facts supporting the lawsuit. *Christiansburg Garment Co. v. EEOC* ,434 U.S. 412, 422 (1978)(*“a plaintiff should not be assessed his opponent's attorney's fees unless a court finds that his claim was frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so.”*).
- Judge Graham falsely completed a Civil Justice Reform Act, CJRA, report in order to conceal the fact that he had failed to rule on the preliminary injunction motion mentioned above. See [False CJRA Report](#). Motions pending for more than six months must be included in the CJRA report. When told of this fact in a Judicial Misconduct and Disability Act complaint, Judge J.L. Edmondson, Eleventh Circuit, U.S. Court of Appeals, simply attacked Marcellus Mason. See [Section 351 Complaint No. 05-008](#).
- Usurping legal authority by allowing a Federal Magistrate Judge, Frank Lynch Jr., to render an injunction in clear violation of law and **28 U.S.C. § 636 (b)(1)(A)** which clearly states: *Notwithstanding any provision of law to the*

contrary-(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court except a motion for injunction relief,..." Judge Graham has repeatedly refusing to cite legal authority for such an order. On direct appeal, Case No. 01-13664-A, the Eleventh simply refused to review this injunction for validity while it was quite willing to discuss the Plaintiff's violation of the same. See <http://mmason/01-13664/OrderAffirmingTrialCourt/Opinion-OCR.htm#opinion> .

- Usurping legal authority by allowing a Federal Magistrate Judge, Frank Lynch Jr., to render an injunction to prohibit lawful and protected out of court communication between a citizen and his government. See [Docket Entry No. 201](#). On direct appeal, Case No. 01-13664-A, the Eleventh simply refused to review this injunction for validity while it was quite willing to discuss the Plaintiff's violation of the same. See <http://mmason/01-13664/OrderAffirmingTrialCourt/Opinion-OCR.htm#opinion> .
- Usurping legal authority by allowing a Federal Magistrate Judge, Frank Lynch Jr., to render an injunction placing restrictions on how public records are accessed under the Florida Public Records Act that the Florida Supreme Court has stated is not lawful. See [Docket Entry No. 246](#). Judge Graham has refused to state where a federal judge gets the legal authority to administer public records under the Florida Public Records Act. On direct appeal, Case No. 01-13664-A, the Eleventh simply refused to review this injunction for validity while it was quite willing to discuss the Plaintiff's violation of the same. See <http://mmason/01-13664/OrderAffirmingTrialCourt/Opinion-OCR.htm#opinion> .
- Allowing scores of significant pre-trial motions to go undecided for months without taking any action. See [Languishing Motions](#). This page list more than 30 filings, including summary judgment motions, that Judge Graham refused to act on.
- Judge Graham denied *in forma pauperis* petitions or petition to waive filing fees on at least ten separate for no reason. See [History of Arbitrary IFP Denials](#). In spite of the statutes and the U.S. Supreme Court's edict that an *in forma pauperis* application can only be denied if the allegation of poverty is untrue or the action is frivolous. See [Denton v. Hernandez](#), 504 U.S. 25 (1992).

This matter is not untimely because you have stated:

Moreover, there cannot be public confidence in a self-regulatory misconduct procedure that, after the discovery of new evidence or a failure to investigate properly or completely serious allegations of misconduct, allows misconduct to go unremedied in the name of preserving the "finality" of an earlier, perhaps misfired, proceeding. Pgs.8,9.

The Eleventh Circuit has affirmed Judge Donald L. Graham on appeal using unpublished opinions while reversing and excoriating other federal judges at the Southern District of Florida and in the Circuit for the exact same set of facts. The links provided here and below will demonstrate that **U.S. District Judge Ursula Ungaro-Benages**, S.D. Fla., mmason.freeshell.org/WorldThrust.htm , **U.S. District Judge John Antoon II**, M.D. Fla., <http://mmason.freeshell.org/collins.htm>, **U.S. District Judge Daniel T. K. Hurley**, mmason.freeshell.org/martinez.htm ,S.D. Fla., **U.S. District Judge Marvin H. Shoob**, N. D. of Georgia,

mmason.freeshell.org/pleming.htm, all were reversed and excoriated on appeal while Judge Graham was affirmed for the exact same set of facts.

Judge Graham's record has been widely distributed via email campaigns and a mailing list that was composed of over 150,000 recipients on a least two occasions. Selected people have received information about Judge Graham on a daily basis. I have multiple websites which depicts Judge Graham's record. Hundreds of letters and faxes have been sent out to attorneys and judges at all levels. All of my websites have been indexed by all the major Internet Search Engines like Google, Yahoo, MSN, ask.com, and others. Try searching by using "Judge Donald L. Graham." It is going to be impossible to discipline other judges given Judge Graham's record. This will build resentment in the judiciary because it shows favoritism and that Judge Graham is above the law.

Judge Graham has never been asked to deny any of the above listed allegations. You need only ask Judge Graham to deny these allegations.

Sincerely,

Marcellus M. Mason, Jr.