

Benjamin Cunningham  
(Pro-se) Appellant  
(347) 879-1717  
2429 Southern Blvd #1  
Bronx, New York 10458  
March 11, 2015  
**Disciplinary Committee's  
Docket #2012/2312  
" Petition For Review "**

Ms Margaret Sowah  
Deputy Clerk  
Appellate Division Supreme Court  
First Judicial Department  
27 Madison Avenue  
Manhattan New York 10010

RECEIVED  
MAR 11 2015  
SUP COURT APP. DIV.  
FIRST DEPT.

Dear Ms Margaret Sowah :

Please accept my " Petition For Review " document regarding my attempt to appeal the Appellate Division Supreme Court Disciplinary Committee's Decision/Order dated February 10, 2015 against my forma Federal/State Bar Appellate Attorney Mr Daniel A. Eigerman-Esq.

My forma Appellate Attorney Daniel A. Eigerman-Esq has lied to me by claiming he filed an appellate brief on my behalf inside the 2<sup>nd</sup> Circuit Court OF Appeals in Manhattan New York while he charged me money.

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However, I recently discovered that 2<sup>nd</sup> Circuit Court OF Appeals' Assigned Panel Judges **BLOCKED** the Government's Assigned Appellate Attorney and Mr Daniel A. Eigerman-Esq from filing their appellate briefs.

I discovered that 2<sup>nd</sup> Circuit Court OF Appeals Assigned Panel Judges' Decisions/Orders dated January 13, 2012 and February 2, 2012 have **DISMISSED** my Civil Rights Appeal based upon a **Forma Pauperis Motion** dated September 1, 2011.

I paid money for Mr Daniel A. Eigerman-Esq to perfect my Civil Rights Appeal regarding:

June 21, 2011, (SDNY) Magistrate Judge Kevin N. Fox's 4<sup>th</sup> Amendment Decision/Order declared USMS Agency's Federal Police Officers willfully violated my secured Civil Rights inside my Bronx County Home on November 29, 2005 linked to an **ANONYMOUS** Charlotte North Carolina State's Reliable Confidential Informant.

June 21, 2011, (SDNY) Magistrate Judge Kevin N. Fox's Decision/Order **DENIED** Qualified Immunity to USMS Agency's Federal Police Officers.

August 8, 2011, (SDNY) Judge Deborah A. Batts' illegal Decision/Order **GRANTED** Qualified Immunity to USMS Agency's Federal Police Officers.

The Government **NEVER** provided any **Existence/ Reliability** evidence to anybody regarding an **ANONYMOUS** Charlotte North Carolina State's Reliable Confidential Informant.

## STATEMENT OF TRUE FACTS :

I discovered that 2<sup>nd</sup> Circuit Court OF Appeals Assigned Panel Judges' Decisions/Orders dated January 13, 2012 and February 2, 2012 have **DISMISSED** my Civil Rights Appeal based upon a **Forma Pauperis Motion** dated September 1, 2011.

August 8, 2011, (SDNY) Judge Deborah A. Batts' Decision/Order has **CERTIFIED/DENIED** Forma Pauperis Status to (Pro-se) Plaintiff pursuant to 28 USC section 1915(3):

“ The clerk of court is directed to enter judgment in favor of Defendants and to close the docket in this case. The Court certifies, pursuant to 28 USC section 1915 (3) that any appeal from this Order would not be taken in good faith, and in forma pauperis status is denied for the purpose of an appeal *Coppedge V. United States*, 369 U.S. 438, 444-445 (1962). “

August 17, 2011, I filed my timely **Notice OF Appeals** document inside the Southern District Courthouse regarding my 4<sup>th</sup> Amendment Qualified Immunity legal claims.

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August 24, 2011, the Southern District Court's Assigned Docket Clerk Mr Rocky Marmolejos's letter addressed to (Pro-se) Plaintiff has claim :

“ Please be advised that this office received your notice of appeal on August 17, 2011.  
For the purpose of an appeal, your in forma pauperis status in the above-entitled action shall not be honored by this court (see final judgment/order).  
To proceed with your appeal, you must act on one of the following:

(A) Submit the appeal filing fee through the Pro se Office. The fee is \$455.00 payable to the “Clerk of th Court, USDC, SDNY” by certified check, money order or cash.

(B) Submit a motion directly to the Court of Appeals requesting that fees be waived.

Please note that your notice of appeal will now be docketed “fee due” in the District Court, forwarded to the Appeals clerk and then transmitted to the Court of Appeals. The Court of Appeals will also notify you by mail on how to proceed when fees are due. Should you have any questions about this procedure, you may contact this Office by letter or by telephone during our normal business hours, 8:30am-5:00pm, Monday-Friday (except federal holidays). “

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September 1, 2011, (Pro-se) Plaintiff's Southern District Court **Forma Pauperis Motion** document was timely filed.

Meanwhile, it was the Southern District Court's Docket Clerk Mr Rocky Marmolejos who **REFUSED** to file (Pro-se) Plaintiff's Forma Pauperis Motion dated September 1, 2011 inside the Southern District Courthouse's docket sheet system .

September 2, 2011, it was the Southern District Court's Assigned Docket Clerk Mr R. Marmolejos who **TRANSFERRED** (Pro-se) Plaintiff's Southern District Court Forma Pauperis Motion dated September 1, 2011 to the 2<sup>nd</sup> Circuit Appeals Courthouse's Assigned Case Manager Ms Yadira Vargas (212) 857-8551 **WITHOUT** the (Pro-se) Plaintiff's Knowledge/Consent :

September 2, 2011 NOTICE OF CIVIL APPEAL filed.

September 2, 2011 MOTION to proceed in forma pauperis filed by Benjamin Cunningham.

September 8, 2011 INSTRUCTIONAL FORMS, to PRO SE litigant, SENT.

October 11, 2011 SCHEDULING NOTIFICATION, on behalf of Appellant Benjamin Cunningham informing Court of proposed due date January 30, 2012.

( 2<sup>nd</sup> Circuit Docket Sheet #11-3597 )

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**( 2<sup>nd</sup> Circuit Docket Sheet #11-3597 )**

November 7, 2011 Retained Attorney Agreement Contract was signed.

January 10, 2012 NOTICE OF APPEARANCE AS  
SUBSTITUTE COUNSEL, on behalf  
of Benjamin Cunningham, FILED.

January 11, 2012 ATTORNEY, Daniel A. Eigerman for  
Benjamin Cunningham, in case  
11-3597, ADDED.

January 11, 2012 PAYMENT OF DOCKETING FEE, on  
behalf of Appellant Benjamin Cunningham  
FILED.

January 13, 2012 MOTION ORDER, denying as moot  
motion to proceed in forma pauperis  
filed by Appellant Benjamin Cunningham,  
by RKW, PWH, DC, FILED.

January 13, 2012 APPEAL, pursuant to court order, dated  
1/13/2012, DISMISSED.

January 13, 2012 NEW CASE MANAGER, Ana Greenidge, assigned.

January 27, 2012 MOTION, to reconsider, on behalf of Appellant  
Benjamin Cunningham,  
FILED. Service date 01/27/2012 by CM/ECF

February 2, 2012 MOTION ORDER, denying motion to reconsider  
filed by Appellant Benjamin Cunningham, by  
RKW, PWH, DC, FILED

**2nd Circuit Appeals Court's  
Decisions/Orders Dated  
Jan 13, 2012 & Feb 2, 2012  
DISMISSED (Pro-Se) Plaintiff's  
Timely Civil Rights Appeals Due  
To Southern District Courthouse's  
Assigned Docket Clerk  
Mr R. Marmolejos' SUBMISSION:**

“ Appellant, pro-se at the time of filing his motion, moves for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion is DENIED as moot as he has now paid the filing fee. It is further ORDERED that Appellant’s claims are DISMISSED as frivolous. See *Pillay V. INS*, 45 F3d 14, 17 (2d Cir. 1995) This court has inherent authority to dismiss an appeal or petition for review as frivolous when the appeal or petition presents no arguably meritorious issue for our consideration. “

**MEMORANDUM OF LAW  
*Regarding Pilly V. INS,*  
*45 F 3d 14, 17 (2d Cir. 1995)***

“ Pillay, although unrepresented, has not proceeded in forma pauperis in pursuing his petition for review, having paid the normal filing fee required by our rules. See 2d Cir.R. Sec. 0.17(1). Accordingly, Sec. 1915(d) is not applicable to this appeal, and we may not rely upon it as a basis to dismiss Pillay's appeal. In addition, although Fed. R. App. P. 38 permits the award of damages. ”

## CONCLUDED ARGUEMENTS :

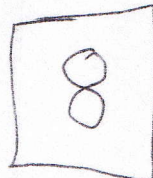
December 29, 2014, Chief Clerk Catherine O'Hagan Wolf's letter addressed to Daniel A. Eigerman-Esq and to me **REJECTED** my (Pro-se) Misconduct Complaint filed against Clerk Staffs because Daniel A. Eigerman-Esq is the attorney on record/file.

February 8, 2015, Daniel A. Eigerman-Esq's letter **REPLY** letter addressed to 2nd Circuit Court OF Appeals' Chief Clerk Catherine O'Hagan Wolf and to me has claim that he is no longer my attorney.

February 2, 2015, 2nd Circuit Court OF Appeals' Chief Clerk Catherine O'Hagan Wolf was interviewed by **Black Star News'** Journist Mr Milton Allimadi and she claim :

" O' Hagan Wolfe claims the judges based their decision on the papers that Cunningham had filed on September 1, 2011, even though it had been an in forma pauperis motion, and not an appeal, and it was in a different jurisdiction, the District Court, and was denied by Judge Batts.

O' Hagan Wolfe acknowledged that Eigerman had never filed a brief but added that after the Second Circuit had dismissed Cunningham's own appeal --which, of course Cunningham had never filed since he had hired the lawyer -- Eigerman, according to O'Hagan Wolfe, had then submitted a "motion for reconsideration. "





February 10, 2015, Appellate Division Supreme Court  
Disciplinary Committee's Decision/Order has claim :

" Specifically, the Committee has completed its secondary review of your complaint against Mr Eigerman after your request for reconsideration and has determined that there is insufficient evidence to warrant further investigation. In Particular, public records show that the United States Court of Appeals for the Second Circuit declined to consider, on the merits, Mr Eigerman's arguments on your behalf. "

WHEREFORE, I am requesting that this Court issue a **REVERSE** order against the Disciplinary Committee's illegal Decision/Order dated February 10, 2015 because my former Appellate Attorney Daniel A. Eigerman-Esq **BREACHED** the Retainer Agreement Contract dated November 7, 2011 by lying to me by claiming he filed an appellate brief on my behalf in the 2nd Circuit Court of Appeals and by claiming he will **NOT** file any Misconduct Complaints on my behalf against those assigned Clerk Staff Persons to 2nd Circuit Court of Appeals' Chief Clerk Catherine O' Hagan Wolfe.

Respectfully,



Benjamin Cunningham  
(Pro-se) Appellant

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