

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

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In the Matter of ALTON H. MADDOX,
an attorney and counselor-at-law,
admitted under the name of ALTON H.
MADDOX, JR.,

NOTICE OF MOTION

GRIEVANCE COMMITTEE FOR THE SECOND
AND ELEVENTH JUDICIAL DISTRICTS,

Petitioner,

ALTON H. MADDOX,

Respondent.

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SIR:

PLEASE TAKE NOTICE, that upon the annexed affidavit
of ALTON H. MADDOX, JR., sworn to the 2nd day of January
1990, ~~the exhibit attached thereto and upon all the papers~~
and proceedings had herein, a motion will be made before
Presiding Justice Milton Mollen of this Court at the
Courthouse, 45 Monroe Place in the County of Kings, City
and State of New York on the 19th day of January 1990
at 9:30 o'clock in the forenoon of that day or as soon
thereafter as counsel can be heard for an order as follows:

A. Granting the respondent-appellant leave to appeal
to the Court of Appeals from the order of this court
entered in the office of the clerk of this court on the
1st day of December 1989 denying the relief sought in

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respondent-appellant's notice of cross-motion.

B. Granting such other, further and different relief as to this court seems just, proper and equitable.

ALTON H. MADDOX, JR.
Pro Se
16 Court Street
Brooklyn, New York 11241
718-834-9034

TO: ROBERT STRAUSS, ESQ.
Chief Counsel
Grievance Committee for
the Second and Eleventh
Judicial Districts
Municipal Building
210 Joralemon Street
Brooklyn, New York 11201

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

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In the Matter of ALTON H. MADDOX,
an attorney and counselor-at-law,
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GRIEVANCE COMMITTEE FOR THE SECOND
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Respondent.
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STATE OF NEW YORK)

SS.:

COUNTY OF KINGS)

ALTON H. MADDOX, JR., being duly sworn deposes and
says:

1. This affidavit is made in support of respondent--
appellant's motion for re-argument or for leave to appeal
to the Court of Appeals from the November 30, 1989, determi-
nation of this Court denying respondent's application
to dismiss a disciplinary investigation and proceeding.
Said leave is sought because questions of law arise which
are new and novel and which appears to be contrary to
settled law on the subject.

QUESTION I

Whether a grievance committee has the jurisdictional
basis to subject an attorney to professional discipline

for statements "expressed in the impoverished vocabulary of the street" and made "outside the precincts of a court" against public officials, a governor, a state's attorney general and an assistant district attorney?

The leading case in this area which decided the question about the jurisdiction of the grievance committee to subject an attorney to professional discipline for making out-of-court statements against judicial officers is Martin v. Erdmann, 33 N.Y.2d 559 (1973).

QUESTION II

Whether the out-of-court statements set forth in the complaints which are attributable to respondent--~~appellant and are directed at non-judicial public officials~~ falls within the ambit of constitutionally protected speech and insulated from any disciplinary action because of Article I, §8 of the New York State Constitution and the First and Fourteenth Amendments to the United States Constitution?

The leading cases in this area are Wood v. Georgia, 370 U.S. 375 (1962); Pennekamp v. Florida, 328 U.S. 331 (1946), Bridges v. California, 314 U.S. 252 (1941); Craig v. Harney, 331 U.S. 367 (1947); See In Re Sawyer, 360 U.S. 622 (1959); Getty v. Reed, 674 F.2d 568 6th Cir. 1982).

QUESTION III

Whether plaintiff is entitled to a waiver of Judiciary

Law §90 (10) in the investigatory stage of a disciplinary proceeding arising out of well-publicized complaints by third-party public officials against respondent which secrecy threatens the attorney-client privilege and which has a chilling effect on the association and privacy rights of respondent and his clients, Tawana and Glenda Brawley?

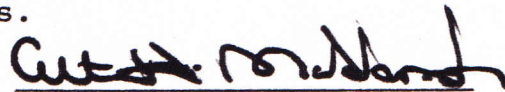
Matter of Capoccia, 59 N.Y.2d 549, 554 (1983) states that Judiciary Law § 90(10) was "enacted primarily if not only, for the benefit of the attorney under investigation." Judiciary Law § 90 (10) specifically speaks about a disciplinary investigation which falls within the holding of Matter of Capoccia, supra.

QUESTION IV

~~Whether the Appellate Division, Second Judicial Department was correct in finding good cause for requiring a private and confidential investigatory proceeding without notice and without allowing respondent-appellant an opportunity to be heard and thereafterwards fashioning blanket and arbitrary reasons for closing the investigatory proceeding.~~

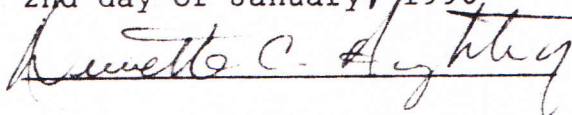
This is a new and novel issue. No prior application has been made for the relief requested herein.

WHEREFORE, it is respectfully requested that the relief shown on the face of the notice of motion should be granted in all respects.



ALTON H. MADDOX, JR.

Sworn to before me this
2nd day of January, 1990



DEWETTE C. AUGHTRY
Notary Public, State of New York
No. 492255
Qualified in Kings County
Commission Expires February 3, 1990