

**CENTER for JUDICIAL ACCOUNTABILITY, INC.**

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Professor Andrew Horwitz  
Associate Professor of Law & Director of Clinical Programs  
Roger Williams University School of Law  
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RE: Putting into practice the recommendations of your law review article, "Coercion, Pop-Psychology, and Judicial Moralizing: Some Proposals for Curbing Judicial Abuse of Probation Conditions", 57 Washington & Lee Law Review 75 (2000), by an *amicus* brief to the D.C. Court of Appeals in the "disruption of Congress" case, *Elena Ruth Sassower v. United States of America*

Dear Professor Horwitz,

Following up our phone conversation together on April 28<sup>th</sup>, this is to formally request your *amicus* and other legal assistance in challenging, on appeal, the propriety and constitutionality of terms of probation whose rejection by me – because I believed them to be improper and unconstitutional -- resulted in my being sentenced to a maximum six months' incarceration for "disruption of Congress". Such jail sentence, doubling a previously announced 92-day sentence, was imposed for no reason other than my rejecting the probation terms. Among these probation terms were those requiring, for a two-year period,

(1) that I stay away from the U.S. Capitol Complex, consisting of 15 separate buildings including the U.S. Supreme Court and Capitol Power Plant;

(2) that I have "no verbal, written, telephonic, electronic, physical or other contact" with the five Senators involved in the case – Senate Judiciary Committee Chairman Orrin Hatch, Ranking Member Patrick Leahy, New York Home-State Senators Schumer and Clinton, and Senator Saxby Chambliss, with some relaxation of the restriction relating to Senators Schumer and Clinton because they are my Home-State Senators;

(3) that I keep time sheets, accurate to 1/10 hour increments, of my work as coordinator of the Center for Judicial Accountability, Inc. (CJA) – with a warning that “block time entries are not acceptable”;

(4) that I write letters of apology to the five Senators and to the federal judicial nominee whose May 22, 2003 Senate Judiciary Committee confirmation hearing I purportedly disrupted when I respectfully requested to testify in opposition – a request not made until after Senator Chambliss had already announced the hearing adjourned.

As discussed, the appeal – *Elena Ruth Sassower v. United States of America* (#04-CM-760, #04-CO-1600) – is a high-profile, politically-explosive case, offering a powerful opportunity to advance the important concerns and recommendations presented by your law review article, “*Coercion, Pop-Psychology, and Judicial Moralizing: Some Proposals for Curbing Judicial Abuse of Probation Conditions*”, 57 Washington & Lee Law Review 75 (2000). Indeed, as discussed, your article is part of the appellate record, having been cited in support of a challenge to the constitutionality of the apology letters, embodied in a motion to correct the illegal sentence, made by *pro bono* counsel during my incarceration.

The lower court’s denial of that motion – without addressing ANY of the constitutional or statutory arguments presented – was the subject of a separate notice of appeal – now consolidated into the appeal of the conviction and sentence. The date for perfecting these consolidated appeals is Tuesday, June 28, 2005 – exactly one year to the day since the June 28, 2004 date I was sentenced and began serving my six-months’ incarceration.

The appeal, in which I am *pro se*, will present the D.C. Court of Appeals with four major issues:

(1) whether I was entitled to the disqualification of the lower court judge for “pervasive actual bias”, meeting the “impossibility of fair judgment” standard articulated by the U.S. Supreme Court in *Liteky v. United States*, 510 U.S. 540?;

(2) whether I was entitled to change of venue/removal to the U.S. District Court for the District of Columbia, pursuant to the venue provision of the “disruption of Congress” statute, where, additionally, the record in D.C. Superior Court established a long-standing pattern of egregious violations of my fundamental due process rights and “protectionism” of the government?;

(3) whether the “disruption of Congress” statute is unconstitutional, *as written and as applied?*; and

(4) whether, when the lower court judge suspended execution of the 92-day jail sentence he imposed on me, his terms of probation were appropriate and constitutional and whether, when I exercised my statutory right to decline probation, it was legal and constitutional for him to impose a superseding six-month jail sentence?

These issues have the potential to “make law” in an unprecedented case that has already made – and which will continue to make – history. To maximize their law-making potential, I hope to reinforce each issue by an *amicus curiae* brief from a prominent legal authority. It is for the fourth issue that I am requesting an *amicus* brief from you – or at least your assistance in crafting my appellate argument and a recommendation of some other prominent professor, attorney, or organization that might be favorably disposed to submitting an *amicus* brief for the fourth issue. Pursuant to Rule 29 of the D.C. Court of Appeals, the due date for filing an *amicus* brief is one week after the filing of my appellate brief. Appropriate to this case about patriotism, the rule of law, and fundamental citizen rights, that date is the day after the Fourth of July: Tuesday, July 5, 2005. I expect the U.S. Attorney would consent to such filing, thereby obviating the need for a motion.

For purposes of this *amicus* request, the dispositive document for your review is the June 28, 2004 sentencing transcript – posted on CJA’s website: [www.judgewatch.org](http://www.judgewatch.org)<sup>1</sup>. I would be pleased to fax and/or mail you the motion to correct the illegal six-month sentence, along with the prior motions to preclude mootness of that issue. These are summarized by my draft “Statement of the Case/Facts”, whose pages 148-160 relate to the June 28, 2004 sentence and the subsequent motions. I have also drafted an “Argument” corresponding to the four “Issues Presented for Review”, with the recitation relevant to the fourth issue appearing at pages 245-252, 265-269. To assist your review, these documents are e-mailed herewith, along with tables of contents. In the event your server cannot accommodate the transmittal of these lengthy drafts, they are also accessible from CJA’s website, posted on the “Disruption of Congress” page, where they will be modified periodically as a “work in progress”.

I look forward to your enthusiastic response and the benefit of your great expertise in advancing your “...Proposals for Curbing Judicial Abuse of Probation Conditions”.

Please advise, as soon as possible. Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc. (CJA)

<sup>1</sup> See sidebar panel: “Disruption of Congress” case – “The Tale of Two Transcripts”.