

INSIDE



June/July/ Aug 2008 Issue # 10

REPORT

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[Online Newsletter Only]

But no weapon that is formed against you shall prosper, and every tongue that shall rise against you in judgment you shall show to be in the wrong. This [peace, righteousness, security, triumph over opposition] is the heritage of the servant of the Lord [those in whom the ideal Servant of the Lord is reproduced]; this is the righteousness or the vindication which they obtain from Me [this is that which I impart to them as their justification], says the Lord. — Isaiah 54:17



Update on Eddie

This is a monthly online newsletter written by Eddie Ray: Kahn. Request a subscription by emailing FreeEddieKahn@yahoo.com. A requested donation for an annual subscription of \$50 to pay for expenses is appreciated but is not required. Each issue will give an update on Eddie's current situation and share knowledge that Eddie is learning such as "chinks in the government's armor" during his illegal incarceration as a co-defendant in the Wesley Snipes Tax Case. Please do not email this address and ask for tax advice.

Dear Subscribers,

This is supposed to be a *monthly* newsletter. Unfortunately due to things beyond our control (written newsletter confiscated in June, with very limited communication ability since July 16th) this issue will be a June/July/August 2008 Issue. I realize it is Sept. Eddie said you would all understand! Thank you!

Eddie was moved to the Oklahoma City Transfer Center where he was housed from May 7, 2008 to July 16, 2008. In June he wrote the next issue of the newsletter. However, it was confiscated from the envelope that he mailed to me. He decided to wait until they moved him to his final destination to rewrite it. They tried twice to move him by plane, both times deciding the airplanes were not mechanically sound. Moving 150 guys at once all handcuffed and shackled must be quite a sight. Finally, they decided to move him by bus. It was a two day trip stopping at the Lubbock, Texas County jail at noon where they spent that night. There were 39 guys who each got a floor pad, a blanket, a toothbrush & toothpaste with only 1 sink and 1 toilet. Don't many pets get better treatment than this? During the trip they stopped to pick up and drop off prisoners at several county jails. They reached La Tuna early afternoon and Eddie was processed with a bed by 8pm that evening. With Eddie's colon problem and inability to do a salt water colon flush for over 48 hours he was already hurting and beginning to impact.

Free Eddie Kahn Fund

Donations are accepted by sending to:
(PLEASE NOTE NEW ADDRESS)
Kookie Kahn
P.O. Box 27
Timnath, Colorado 80547

By: Check
Money Order
Cash
PayPal address of
FreeEddieKahn@yahoo.com

**God Bless you for
your help.**

THIS ISSUE:

- Update on Eddie
- Reflecting upon First Appearance & Arraignment – No Controversy No Case

When the jail employees started to ask Eddie to sign documents, he refused. They got upset and finally called the lieutenant. They told him they would put him in the hole (i.e. solitary confinement) if he did not sign the documents. He thinks they were bluffing, however, he could not call their bluff because putting him in the hole for even 2 or 3 days could cause irreversible damage to his colon. So, reluctantly, he put "Under Duress" above his signature on every document. At the time, they agreed to that.

Since then, Eddie met with his Case Manager, Ms. Ubinger and Counselor, Mr. Fernandez on July 24th. They were very disturbed because Eddie would not sign the documents without putting Under Duress above his signature and adamant that he must sign without the "Under Duress". They stated that he is *refusing* to sign. Eddie said, "No, I *will* sign Under Duress". She told him that until he signed those documents (apparently the way they want him to sign), he will:

- 1) Not be allowed any visits
- 2) Not be able to receive any mail
- 3) Not be allowed to make any phone calls
- 4) Not be allowed to receive any money for his commissary account.

Eddie checked with one of the jailhouse lawyers who told him he has never seen a Bureau of Prisons regulation that requires anyone to sign anything. Eddie's opinion: Without such a regulation, there can be no punishment. Eddie formulated a complaint (BP-8) to Ms. Ubinger on July 28, 2008 requesting that she state, in writing, what rule, regulation, BOP policy or law that he has broken that allows her to punish him in this way. He also demanded a copy of it. As of August 1, 2008, she had not provided him with that information. I am not aware that she has yet, even at the publishing of this newsletter (Sept. 6, 2008).

I spoke with Ms. Ubinger on the phone. She told me that she is not "threatening" anything...that he is "required" to sign so they can open his mail to check for contraband. Ms. Ubinger told me that for whatever reason Eddie is not complying with their rules and it is his own choosing.

I received a letter from Eddie on August 8th (written on August 1st). He indicated to me that he also asked Ms. Ubinger for a copy of the Judgment Commitment Order. She said she would give him a copy of it, however, he has not gotten that either.

One of the questions Eddie asked Ms. Ubinger was why he was not in the Camp, as he qualified for it according to the point number that he has. Her answer was that, because he lived out of the country, "You are where you need to be." Apparently they make an automatic assumption that he is a flight risk because he lived in Panama.

Isaiah 40:31

"But they that wait upon the LORD shall renew their strength; they shall mount up with wings as EAGLES they shall run, and not be weary; and they shall walk, and not faint"

Did you know that an eagle knows when a storm is approaching long before it breaks?

The eagle will fly to some high spot and wait for the winds to come.

When the storm hits, it sets its wings so that the wind will pick it up and lift it above the storm.

While the storm rages below, the eagle is soaring above it. The eagle does not escape the storm, it simply uses the storm to lift it higher. It rises on the winds that bring the storm.

When the storms of life come upon us ... and all of us will experience them ... we can rise above them by setting our minds and our belief toward God.

The storms do not have to overcome us. We can allow God's power to lift us above them. God enables us to ride the winds of the storm that bring sickness, tragedy, failure, and disappointment into our lives. We can soar above the storm.

Remember, it is not the burdens of life that weigh us down, it is how we handle them.

~ Author Unknown ~

I spoke with one of the head unit leaders, Mr. Terrazas who told me if I sent him my questions in writing that he would answer me in writing. Then he promptly gave me his email address. I sent an email on Aug 21, 2008 requesting for him to send me the documents that identify any statute, regulation, or rule of law that authorizes a BOP official to deny an inmate reception of mail, to make any phone calls, to buy any commissary or have any visitors for refusing to sign documents and/or documents under duress. At the same time I followed it up with a hard copy sent signature confirmation. I have not received a reply to my email and on August 29, 2008 I got back the letter which had originally been accepted and received by the prison and then was marked Refused, unopened and returned to me. I believe he has no intentions of answering my questions as he told me he would do. I believe it is because he can't. Looking at 28 CFR Ch. V Subpart B (7-1-07 Edition)

(http://edocket.access.gpo.gov/cfr_2001/julqtr/pdf/28cfr540.12.pdf) it states that an inmate will receive general correspondence even if he does not sign their form. The only time he would not receive general correspondence is if he signed Part I which states that he does not wish to receive general correspondence. He did not sign Part I. 540.13 Notification of rejections – states that when correspondence is rejected, the Warden shall notify the sender in writing of the rejection and the reasons for the rejection. For those of you who have sent Eddie mail at LaTuna and had it rejected, and I know there are a few, I would be interested in knowing if you got a notice from the Warden and if so, what the reason was. I have not only had personal letters but also Legal Mail returned because, according to the mail room from an employee who would not identify themselves, it must come from an attorney's office.

I have been calling and leaving messages on several of the prison staff's voice mails now since the middle of August with no luck of even one courtesy returned call. On Friday Sept. 5th the person who answered the phone told me that I need to stop calling because none of these people ever call back. He told me that my continual phoning and asking him to forward my calls was putting him in a *compromising position*. He said he is "*just doing his job*". (When a hit man shoots someone...well, I guess *he's just doing his job* too!) This employee told me that I would not be able to help Eddie from the outside, that he just needs to learn to cooperate and do what he is told...he is not following the rules! Then he hung up on me!!! I have now sent a letter, signature confirmation, to the Warden. Forgive them Lord for they know not what they do.

As I sit here and reflect on what is happening in our lives, I cannot think about the future, only what I can do today to help make things right. Eddie and I are both strong in our faith and know that we will make it through this valley and that for whatever reason this will work for our benefit. We just celebrated our 30th wedding anniversary...apart...wishing we were together. Thank you for your continued prayers and support for both of us. Eddie continues to write this newsletter in hopes it will help others who may find themselves in similar situations and to educate you as to what the latest really is going on inside the beast.

Best Regards,

Kookie Kahn

Now for the Nitty Gritty...

The judicial system is very broken. It must be fixed. There are four people who can do the job:
Everybody,
Somebody,
Anybody, and
Nobody.
Everybody thinks
Somebody will surely do it. It is a job
Anybody can do. But Nobody is doing it. At least some are trying. What are you doing?

Philippians 4:8

Finally, brethren, whatever is true, whatever is honorable, whatever is right, whatever is pure, whatever is lovely, whatever is of good repute, if there is any excellence and if anything worthy of praise, let your mind dwell on these things.

DISCLAIMER:

Please understand this information is not to be construed as legal advice. It is for educational purposes only and disseminated under my First Amendment Right of Freedom of Speech.

In reviewing the transcripts of both the Hearings and the Trial, there were some things that struck me as vitally important to know before someone is faced with that situation.

If possible I would go into the Hearing with a copy of the USA Constitution. I would have article 3 and article 4 of the CUSA highlighted. I would also have the appropriate quotes from Mookini and Balzac. I would read them into the Record, if necessary.

The First Appearance - "I need some clarification, Magistrate Jones. The U.S. Supreme Court stated in Balzac v. People of Porto Rico 258 U.S. 298, 312 (1922) and Mookini v. U.S. 303 U.S. 201 that there are two different Federal District courts in America; one that was created under Article 3 of the CUSA with judicial power, and the other one created under Article 4, section 3 of the CUSA which has no judicial power. Will you state for the Record, Magistrate Jones, which Article of the CUSA this U.S. District Court was established under?"

1) "Is your office ordained and established under Article III of the Constitution of the United States of America (CUSA) ?" If no, "What article of the CUSA was it created under?" If yes, "Will you give me a copy of your Appointment Affidavit and your Oath of Office?" (If he says no, quote Federal Crop Insurance Corp. v. Merrill. 332 U.S. 380 at 384.

"Whatever the form in which the Government functions, anyone Entering into an arrangement with the Government takes the risk of having accurately ascertained that he who purports to act for the Government stays within the bounds of his authority... and this is so even though as here, the agent himself may have been unaware of the limitations upon his authority."

2) "Are you a Civil Servant?" (The Magistrate signed a Standard Form 61 Appointment Affidavit). The Oath on that form is found at 5 USC 3331. 5 USC 2903 states that this Oath is required to be taken by anyone entering into employment with the Executive branch of government.

3) "So you work for the Executive branch of government?" If the answer is yes, "Then what judicial power do you have since Article 3 of the CUSA states that all "judicial power" is vested in the Judicial branch of government?"

4) "Sir, has the Plaintiff bonded this case?" If yes, "I need a copy of the bond(s)." (Note: According to Gene Keating (and others) all these cases must be, and are bonded.) "Who is holding the bond(s) and how many are there?" (The people that have researched this say there are 3 bonds – a Bid bond, a Performance bond and a Payment bond.) Side Note: If there are 3 bonds per case, there should be millions of these bonds being traded on Wall Street. However, I do not know anyone personally who has or even has seen an *executed* bond. If any of you have access to one, I would love to have a copy of it.

5) I would then say... "For the Record, Magistrate Jones, I believe you are denying me Due Process of Law. You are usurping the power of an Article 3 Judge. You are assuming and presuming that you have some authority over my physical body, and that you have the authority to deprive me of my liberty. However, I do not believe such authority exists. The U.S. Attorneys have put no evidence into the Evidence file that such authority exists. I believe you are conspiring with the U.S. Attorneys, the IRS-CID agents, FBI agents and the US Marshals involved in this matter to commit the crimes of False Arrest and False Imprisonment. Therefore, I need the name of your Risk Management company, your Bonding company and their addresses. I will need the same information from the U.S. Attorneys, the U.S. Marshals, the IRS-CID agents, and the FBI agents involved in this conspiracy. Will you give me that information?" I also want to state for the Record that I do not accept your offer and I do not consent to these proceedings. I also demand

an indemnity bond to indemnify me against any harm I might incur as a result of these proceedings. I demand to be taken before an Article 3 judge in an Article 3 Court regarding this matter immediately or be released.” (I would stay on that issue like a bulldog. I know they will try to get me to talk about some other issue. I would not budge as they cannot comply with your demand, but they know you have every right to demand it.)

The Arraignment – the key to the case, in my opinion. Why? Because, if you did not plead Not Guilty at the First Appearance (i.e. the first time you went before the Magistrate), there has been no controversy established. Without a controversy, the Court had no authority to make any judgments as there is nothing for it to adjudicate. I believe it is the Magistrate’s job to make sure there is a Not Guilty plea to give the Court *Standing* to proceed to judgment. In other words, if I don’t plead, he will plead not guilty for me because, if I don’t plead not guilty, there is no controversy!)

In my case, the Magistrate asked me to plead. I said I did not understand the Nature and Cause of the charge, so I would not plead. He then asked the attorney that the Court had appointed as my Standby Counsel if he would plead. He would not, so the Magistrate said, “Well then, I will enter a Plea of Not Guilty”. The questions (if I had it to do over again knowing what I know now) I would immediately ask are:

1) “Does a Magistrate have the lawful authority to enter a plea for someone charged with a felony?”

The real answer: (If he says “yes”, cite Federal Rules of Criminal Procedure Rule 5. It states that a Magistrate cannot even ask for a Plea from someone charged with a felony.)

2) “You state that I am not guilty. Is that your opinion or is that a judicial determination?” (If he says it is a judicial determination, then obviously the case is over as he has ruled you are not guilty. He cannot say it is just his opinion, as that has no legal effect.)

3) “Do you have the authority to create a controversy and involve me in it without my consent?”

4) “Are you acting as my attorney?” (He can’t say yes.)

5) Is there a Verified document in the Evidence file in this case that positively identifies me, a natural person, as the Defendant?”

6) (Very Important!) “For the Record, I Eddie Ray of the Family Kahn, a natural person, deny being the Defendant in case number 5:06-cr-22 absent verified proof that can be found in the Evidence file for this case.”

7) “Question, Magistrate Jones: There is an Evidence file for this case, right? Where is it located and how do I access it?”

Note: The existence of an “Evidence file” is something I am just becoming aware of. Howard Griswold was discussing it on one of his weekly conference calls. Howard’s conference calls can be accessed on Thursday evenings at 9 pm EST. The number to call is (218) 936-1200. Pin number is 966771#.

If, after Magistrate Jones has been battered by all the above and has not given me the documents or answers I demanded and still wants to plead “Not Guilty” for me, I would state: “For the Record, I deny I am the defendant in case no. 5:06-cr-22. Consequently, I did not and will not plead Not Guilty”.

If Magistrate Jones pleads Not Guilty he will be guilty of violating Federal Rules of Criminal Procedure Rule

5. Remember, it states that a Magistrate cannot even ask for a plea from someone charged with a felony. He will also be guilty of trying to create a controversy where none exists. He is trying to force me to agree to disagree. I would not do that. Magistrate Jones' Appointment Affidavit clearly identifies him as an Executive branch employee. Important Note: An Executive branch employee has no Article 3 judicial power. He has no authority to deprive me of my liberty or demand anything of me without my consent. I would *demand* that the U.S. Attorney's prove this court was not created under Article 4, Section 3 of the CUSA. Failure to do so would be deemed agreement on their part that it *was* created under Article 4 Section 3 of the CUSA. What would this statement do? In my opinion, it would destroy the case. Why? Because the Magistrate has to put this statement on the court Record.

In a November 2006 Docket report where Magistrate Jones is officiating, he stated: "Okay. I will do that then. I will enter a not guilty plea or note a not guilty plea by Mr. Kahn as to the two counts in which he's named..." It is important to note that I did not plead "not guilty". I objected to that Docket entry and demanded they change it to correctly state that Magistrate Jones pled Not Guilty on my behalf without my consent. The court would not change it. Now I know why. In reading the transcript when Judge Hodges was interviewing (they call it voir dire) the prospective jurors, he stated that the defendants all pled Not Guilty. Knowing what I know now, I would wait for him to say it (I believe he has to say it) and immediately say, "Correction for the Record, Sir. I never pled Not Guilty. If you would like to confirm my statement, here is the transcript." I believe the judge would be in a real quandary. I do not believe he would want me reading into the Record what actually transpired when Magistrate Jones did his dirty deed. But, if he can't prove I pled Not Guilty, he has no controversy to adjudicate.

Bottom Line: In my opinion, the bottom line is this: NO CONTROVERSY, NO CASE. It could be that simple.

Caveat: I do not believe that an attorney can or would do this for me. I have to have my statements and questions typed up and read them into the Record. What I will be doing, in reality, is making a record of criminal wrong doing by the Magistrate and the U.S. Attorneys. They want to put me in jail. I want to put the real criminals in jail.

May God bless you all,

Eddie

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