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U.S. Court of Appeals Third Circuit
214 United States Courthouse
601 Market Street
Philadelphia, Pa. 19106-1790

June 27, 2011

Re; PURPURA et al v Sebelius Case No. 11-2303
TO BE MADE PART OF THE OFFICIAL RECORD

Clerk of the Court,

We must respectfully, but resolutely object to the order issued by Clerk Marcia M. Waldon for the Court on June 23, 2011 on grounds it was and is improperly granted. While Federal Rules of Appellate Procedure (FRAP) Rule 27 states:

“Rule 27. Motions

(b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order—including a motion under Rule 26(b)—at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. A party adversely affected by the court’s, or the clerk’s, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.”

Allowing for Respondents/Appellees specific Motion to be granted by an authorized clerk, the approval of the Motion is clearly prohibited under the Local Appellate Rules (LAR) 31.4 which specifically states:

“31.4 Motions for Extension of Time to File a Brief

A party’s first request for an extension of time to file a brief must set forth good cause. Generalities, such as that the purpose of the motion is not for delay or that counsel is too busy, are not sufficient. A first request for an extension of **14 days or less may be made by telephone or in writing**. Counsel should endeavor to notify opposing counsel in advance that such a request is being made. The grant or denial by the clerk of the extension must be entered on the court docket. If a request for extension of time is made and granted orally, counsel must file a confirming letter to the clerk and to opposing counsel within 7 days. A first request for an extension of time should be made at least 3 days in advance of the due date for filing the brief. A motion filed less than 3 days in advance of the due date must be in writing and must demonstrate that the good cause on which the motion is based did not exist earlier or could not with due diligence have been known or

communicated to the court earlier. Subsequent requests for an extension of time must be made in writing and will be granted only upon a showing of good cause that was not foreseeable at the time the first request was made. Only one motion for extension of time to file a reply brief may be granted.” [Emphasis Added]

Some might consider the failure to rescind this illicit order as a violation of Article 6 or possible malfeasance due to its specific violations of LAR 31.4.

While Resondent/Appellee went “on and on” about this and that case they had to handle they did not in any fashion give any good cause. The two (2) paragraphs taking up 11 lines at the end of their Motion is nothing more than a statement of

We are too busy to answer this Petition at this time.

Or based upon past history

We do not want to answer this Petition since they are correct on all counts.

These types of excuse are clearly and explicitly **NOT** a reason to grant an extension of time. LAR 31.4 does **NOT** allow for 30 day extensions. At most, providing a valid good cause is set forth, only 14 or fewer days may be granted.

Throughout the District Court Proceedings, and into this Court, the Defendants/Appellees have tried to ignore the Petition and engaged in prevarication, stalling and collusion with the lower Court in obvious violations of Judicial Procedures. Even in their “MOTION FOR 30 DAY EXTENSION IN WHICH TO FILE APPELLEES’ BRIEF” they continue in their prevarication by misrepresenting contents of Appellants’ Petition.

Appellants Petition, authorized under Amendment 1 [confirmed and reinforced by *Bond v United States* (09-1227)], specifically addresses 19 violations of the U.S. Constitution and four (4) existing Statues. Respondents failure to answer the original Petition by law, warranted a Default. We remind the Clerk, Respondents repeatedly failed to answer six (6) Counts after three (3) procedurally infirm extensions of time. Appellants pray this Circuit Court will not repeat the same procedural infirmities that took place in the Court below.

Respectfully,

Nicholas E. Purpura,

Donald R. Laster, Jr.

June 27, 2011