UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

----------x Civil Docket No. 11-2303

Nicholas E. Purpura, *pro se*
Donald R. Laster Jr. *pro se*
et al.

Plaintiffs/Appellants

v.

MOTION TO RECALL AND VACATE AND REQUEST FOR JUDICIAL INTERVENTION BY AN EN BANC COURT

Request For Declaratory Judgment
Individually & in their Official Capacity
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;
KATHLEEN SEBELIUS, in her official capacity
Individually & in their Official Capacity as the
Secretary of the United States, Department of Health
And Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, in his official capacity as the
Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA
L. SOLIS, in her official capacity as Secretary of the United States
Department of Labor,

Respondents/Appellees
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Preliminary Statement

For the Republic to function properly, an honorable judiciary is indispensable to justice. According to the Judicial Code of Conduct it is the obligation of every judge to observe the highest standards of conduct to preserve the integrity of the Court.

It is indisputable the Court of Appeals for the Third Circuit has in the Appeal of *Purpura v. Sebelius* been operating as a law unto itself; and has no regard for the *FRCP, FRAP, LAR* as well the Judicial Conduct Rules making a mockery of judicial procedure as well violating "due process". In short, one could say a quasi-criminal enterprise.

This Court thus far has demonstrated that impartiality is near impossible. One could believe the Court fears criticism as the Quisling before Hitler from an all-powerful government that has a tendency to retaliate against anyone interfering with their Draconian policies. In short, this Court's behavior is unacceptable that mandates an *En banc* review.

Background

Before addressing this Court's latest action, it's imperative that an *En banc* Court be aware of what has thus far transpired that blackens the name of every Honorable Judge sitting on the Third Circuit, who takes their Oath and responsibilities to adjudicate in compliance with the U.S. Constitution and rules regardless of their personal feeling and views.

Petitioners have submitted the following legitimate and proper requests:

- Show Cause Order for a TRO which has still not been signed; (Ignored)
- Motion to Vacate a procedurally infirm Extension of Time; (Ignored)
- Motion for a Summary Judgment; (Ignored)
- Motion for Recusal; July 15, 2011 – Order issued July 28, 2011;
- Request for the names of those Honorable Judges that recused themselves; (Ignored)
- A request to be informed of which Judges are on the panel; (Ignored)
- Entry of a Motion Entry for Default. (Ignored)

These violations of proper judicial procedure are nearing the numerous violations experienced in the District Court's willful corruption in connivance with the Department of Justice.

On July 28, 2011 an Order was entered denying Petitioners' request for the recusal of Thomas I Vanaskie from adjudicating any issue related to *Purpura v. Sebelius*, Civil Docket No. 11-2303. Said Order was signed by Circuit Judge Thomas I. Vanaskie, as "*Motion Denied*" with no explanation *see,* attached. The rules specifically require an explanation why Petitioners' request has been denied thus demonstrates a biased ruling.

Argument

Judge Thomas I. Vanaskie was appointed to a lifetime post by Mr. Obama and obviously has a substantial personal and financial interest in the outcome of the issue at bar. As Petitioners proved, Defendants acknowledged by their silence, Mr. Obama is ineligible to sign, appointment, or exercise Presidential authority. Therefore, every law passed or appointment made while Mr. Obama occupies the Oval Office is invalid.

It is without argument Defendants failed to respond to Count 6 of the original Petition, that Mr. Obama is not constitutionally eligible to sign "H.R.3590" into law. It is imperative this Court be aware that the entire rule of law based on the Constitution, and is the crux of the issue at bar, is at risk. The appointment of Judge Vanaskie is not valid under the U.S. Constitution.

Disregard for a moment that Defendants failed/refused to address five (5) additional Counts, or failed to demonstrate that not one of the fifteen (15) Count were not unconstitutional acts as set forth in the Petition. It is without argument Defendant willfully failed to reply to Counts 5, 6, 7, 12, 13, and 14 as required by the *FRCP,* pursuant to Rule 8(d), which was and is an automatic admission that the assertions of these allegations are correct and factual that mandated forfeiture.

It is inarguable that the above facts demonstrate Mr. Obama is ineligible to hold the Office of the President. Therefore, Judge Vanaskie is prohibited from adjudicating any issue related to this Petition. Federal law requires that any judges exclude themselves when circumstances arise that would involve "*even the appearance of impartiality*." Clearly, by sitting as a justice and deciding upon Plaintiffs' Petition would be self-serving.

Once again, Petitioners remind this Court, our public servants who serve the citizens and residents of the United States of their Article 6 Oath to uphold the U.S. Constitution and Laws of the United States when entering public service. To do anything less soils the integrity of the Court making a mockery of Justice.

WHEREFORE, Petitioners request this Court *en banc* Recall and Vacate Judge Vanaskie Order that was not only self-serving but illegally issued by the rules of Judicial Conduct. Under the circumstances, Petitioners have requested judicial intervention by an *en banc* Court, due to the seriousness of this action, to alleviate the apparent political ideology that get in the way of justice that would shred the U.S. Constitution as we know it, undermining the "Rule of Law".

Respectfully submitted,

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Nicholas E Purpura Donald R. Laster, Jr