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

MOTION TO RECALL AND VACATE ORDER DATED AUGUST 1, 2011 Judge Greenaway Authoring Judge. (DW) **AND SECOND REQUEST FOR JUDICIAL INTERVENTION BY AN EN BANC COURT**

v.

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

It has become obvious impartiality as well as proper judicial procedure being adhere to is impossible in the Court of Appeals for the Third Circuit. On Friday July 28, 2011 Judge Thomas I. Vanaskie in a ploy to distract Petitioners and instigate unnecessary litigation refused to recuse himself as a sitting Judge in the matter of *Purpura v Sebelius* as if he were on the panel, see, page 1 of Order top right "Panel No. ACO-144" knowing full well he is/was required to recuse himself/ The LAW IS UNAMBIGIOUS! No Judge can sit on a panel in which they have a personal and/or financial interest in the outcome of the action, see the Judicial Conduct Rules.

This same Court of Appeals hubris is beyond the pale that gives new meaning to the term "Hoodlum's in Black-robes". It is a shame that the actions of a few judges acting in an inappropriate and unlawful manner that bring dishonor to the remaining Honorable Judges on the Court. To date Petitioners have not been informed by the Court concerning the August 1, 2011 Order, instead Petitioners saw the Order as stated below on the Internet by an agitator that a ruling was issued on August 1, 2011. Thereafter, accusing Petitioners of not following our own case. The Court Order said:

> "08/01/2011 Open Document ORDER (SLOVITER, JORDAN and GREENAWAY, JR., Circuit Judges) The appellant's motion for an injunction pending appeal is denied. Appellant's motion to vacate the order granting the government an extension of time to file a response brief is denied. Appellant's motion for default of appeal and order for declaratory relief is also denied. Appellant's motion requesting that the court disclose the names of those judges who have recused themselves from this case is denied. Appellants motion for entry of default is denied. , filed. Panel No.: BLD-236. GREENAWAY, JR., Authoring Judge. (DW)"
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> "08/01/2011 Open Document ORDER (GREENAWAY JR., Circuit Judge) denying Motion to Recuse Judge Greenaway, JR. filed by Appellants Nicholas Purpura and Donald R. Laster, Jr., filed. Panel No.: BLD-236. GREENAWAY, JR., Authoring Judge. (DW)

It has becoming blatantly obvious the Court of Appeals, Third Circuit in the matter of *Purpura v. Sebelius* has instituted a new and special rule titled: "*The Purpura/Laster Exclusionary*" Rule, whereby the *FRCP, FRAP, LAR,* Judicial Conduct Rules as well as procedure "*due process*" will not apply.

It is inarguable Judge Greenaway has a substantial personal and financial interest in the outcome of the issue at bar. 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, and the numerous papers related to this case is self-serving. Judge Greenaway was required to recuse himself! Therefore, Judge Greenaway's Order must be recalled and vacated as invalid!

Note: It appears Judges Greenaway and Vanaskie have been able to unnecessary protract this litigation in order to protect the Justice Department, Mr. Obama, and their own appointment.

Petitioners inarguably proved Mr. Obama is ineligible to sign "H.R. 3590" into law, make appointments, or exercise Presidential authority. Therefore, every law or appointment made while Mr. Obama occupies the Oval Office is invalid. No need to reiterate what is/and has been

argued and proved *ad nauseam* before this Court and District Court which is part of the record concerning the Defendants failure to reply to Count 6 [to include the other 14-Counts] that automatically warranted an Order for default rendering "H.R.3590" by law, "*null and void*" see, the *FRCP,* pursuant to Rule 8(d).

The failure by Defendants to respond by law, was an admission that Mr. Obama' is ineligible to occupy the Oval Office as set forth in the Constitution, see, Article II, Section 1.

Judge Greenaway's Order of August 1, 2011 blatantly violated proper "*due process*", even if Mr. Obama had authority to appoint him or he had no personal or financial interest in the outcome of this action. The Supreme Court of the United States held for an Order to be considered as rendering proper '*Due process*' the Court is obligated to adhere to prior precedent *see*, Goldberg v. Kelly, 397 U.S. 245, 271, 299:

> *"…that for a full and fair hearing to have occurred, the courts must demonstrate compliance with elementary legal rules of evidence, and must "**state reasons for their determination**" and, the courts must indicate what evidence was relied on*."

At all times, like Judge Vanaskie, and now Judge Greenaway was/is absent "*subject-matter jurisdiction*" to adjudicated any matter concerning Purpura v. Sebelius, under the "*color of law*". "*Orders*" that failed to hew to precedent held by the Supreme Court of this United States, as clearly demonstrated by Judge Greenaway's Order, that fails to put forth a valid explanation exists for a single denial listed.

In short, at all relevant times, Judges Vanaskie and Greenaway failed to articulate the reason for the departure from "*public policy*," "*regulatory requirements*," "*statutes*," "*case law"*, and "*precedent*" held by the Supreme Court of the United States

At all relevant times, Judges Vanaskie and Greenaway individually and collectively acted in concert, directly and indirectly, engaged, and participated in, or aided and abetted, a continuous course of conduct as an "enterprise" to deny Petitioners procedural "due process" by employing under the color of law, *absent "subject-matter jurisdiction"* devices, schemes, and artifices to acting in connivance with the Department of Justice, engaged in acts, practices, to protract this litigation by abrogating the *FRCP, FRAP, LAR*, and the Judicial Conduct Rules.

This Third Circuit could learn a lesson from Supreme Court Justice Brennan:

> "*what is systematic and obvious: the Supreme Court has the responsibility to for laying down law that deeply affects some of the most important domestic matters in the country. This high Court is far more interested in matters of policy, reason, principle, limits on principle and generally prevailing fact. And precedent must be treated within the limit of the law*."

WHEREFORE, Petitioners request this Court *en banc* Recall and Vacate Judge Greenaway's Order of August 1, 2011 that was not only self-serving but illegally issued by the rules of Judicial Conduct. The illicit behavior of certain individual on the Court have shown they have no regard for the laws of these United States. Therefore, again under the circumstances Petitioners request judicial intervention by an *en banc* Court to protect the integrity of the Court and Petitioners from coming before a handpicked kangaroo Court.

Respectfully submitted,

_____ _____ August 2, 2011

Nicholas E. Purpura Donald R. Laster, Jr