

Elena Ruth Sassower

From: Elena Ruth Sassower [elena@judgewatch.org]
Sent: Wednesday, November 21, 2007 5:37 AM
To: 'smithc28@msu.edu'
Subject: Renewing Contact -- Bringing Accountability to the U.S. Supreme Court
Attachments: 11-19-07-press-release.pdf

Dear Professor Smith,

Do you recall our exchange of e-mails in 1998?

I see from your homepage at Michigan State University that you have engaged in a great deal of scholarship about the U.S. Supreme Court and its Justices. It is in this connection that I write.

Attached is the Center for Judicial Accountability's November 19th press release "How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?", summarizing two such misconduct complaints presently before Chief Justice Roberts – also encompassed by a petition for rehearing in an unprecedented "disruption of Congress" case arising from the corruption of federal judicial selection, which was on the Court's conference calendar yesterday.

The press release, misconduct complaints, and rehearing petition are all posted on CJA's website, www.judgewatch.org, most conveniently accessible via the top panel "Latest News".

It would appear from your homepage that you would be interested in pursuing evidence-based scholarship as to the Supreme Court inner workings. Are you? If not, can you advise as to which scholars would be?

Thank you.

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P R E S S R E L A S E

November 19, 2007

How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?

Two misconduct complaints, now before Chief Justice John Roberts, provide a rare window into the Supreme Court's internal operations, showcasing lawlessness, lack of professionalism, and invidiousness by the Court's Clerk's Office, covered-up by the Court's Legal Office.

The first complaint, against the Court's Clerk and his staff, details how they shielded the Government from accountability by improperly withholding from the Chief Justice, as Circuit Justice for the District of Columbia, a motion to compel the Government's response to a petition for a writ of certiorari in a politically-explosive "disruption of Congress" case (#07-228). They did this without citing any legal authority, which they refused to provide. Such misconduct resulted in the Court's denying the cert petition – and was the basis for a second motion, seeking recall/vacatur of the denial order and, additionally, clarification by the Chief Justice of his remarkable decision, as D.C. Circuit Justice, in *Boumediene v. George W. Bush*, 127 S.Ct. 1725 (2007), being misused by the Clerk's Office. This second motion disappeared in the Clerk's Office, as if in "a black hole", with the Clerk and his staff refusing to give any information as to its status.

This first complaint was sent to the Chief Justice in his administrative capacity. The response was a three-sentence letter from the Court's Legal Office, by its counsel. Ignoring all the facts, law, and legal argument presented by the complaint, the letter baldly purported that the actions of the Clerk's Office were "consistent with Court rules and policies" and that there would be "No response...to further correspondence on these issues."

This has led to the second complaint – against counsel for his flagrant cover-up. The complaint notes that the letter from the Legal Office did not indicate that a copy was being provided to the Chief Justice and asks the Chief Justice whether he endorses and approves of counsel's handling of the complaint against the Clerk and his staff and, if not, what steps he will take. It also requests the Chief Justice to distribute the eight enclosed copies of the complaint to the Associate Justices because they "share responsibility for the proper functioning of the Court's Clerk's Office and Legal Office" and because it bears upon their consideration of the petition for rehearing in the "disruption of Congress" case, calendared for the Court's November 20, 2007 conference. The Clerk's Office misconduct is the first ground for rehearing in that petition. The second ground is the Chief Justice's September 19, 2007 speech at Syracuse University on judicial independence, the First Amendment, and the rule of law – the very issues presented by the cert petition.

This story is easy to verify – and explosive. The two complaints to the Chief Justice, dated October 26, 2007 and November 14, 2007, and the substantiating underlying Supreme Court submissions are all posted on the Center for Judicial Accountability's website, www.judgewatch.org, via the sidebar panel "'Disruption of Congress' – The Appeals". Indeed, the website posts the full record of the case, establishing that two levels of the District of Columbia judiciary, as well as the U.S. Attorney's Office for the District of Columbia, utterly trashed the rule of law to cover-up the corruption of federal judicial selection involving the Senate's most influential members – Senator Hillary Rodham Clinton, among them. Such record of judicial and prosecutorial lawlessness is the basis upon which both the cert petition and rehearing petition assert that the Court's review of the case is mandatory, compelled by its supervisory and ethical responsibilities.

* The **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens' organization dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful.