

CONFIDENTIAL
BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
DEC 14 2001
THOMAS K. KAHN
CLERK

Miscellaneous No. 01-0068

**IN THE MATTER OF A COMPLAINT FILED BY MARCELLUS M. MASON,
JR.**

IN RE: The complaint of Marcellus M. Mason, Jr., against Donald L. Graham,
United States District Judge for the Southern District of Florida, under the
Judicial Conduct and Disability Act of 1980, 28 U.S.C. § 372(c).

ORDER

Marcellus M. Mason, Jr. filed this complaint against United States District Judge Donald L. Graham pursuant to Title 28 U.S.C. § 372(c) and Addendum Three to the Rules of the Judicial Council of the Eleventh Circuit.

The allegations of the Complaint are "directly related to the merits of a decision or procedural ruling". Additionally, this complainant currently has pending in this court several Petitions for Writs of Mandamus that address this issue. Consequently, pursuant to 28 U.S.C. § 372(c)(3)(A) and Addendum Three Rule 4 (a)(2) this Complaint is **DISMISSED**.


Chief Judge

Tuesday, November 27, 2001

Judge Complained Of: Donald L. Graham

Honorable Chief Judge:

Background Information. Subsequent to my filing of Complaint No. 01-0054, Graham has been involved in further acts of misconduct.

Pursuant to 28 U.S.C. § 1291, I have an absolute and irrevocable right to appeal. This appeal is not discretionary in that no federal judge in the United States may deny me my right to appeal under 28 U.S.C. § 1291. No federal judge has the authority to even attempt to deny my right to appeal under 28 U.S.C. § 1291. A district judge does not have the legal authority to tell a party you may not file an appeal. Denial of a right to appeal by a federal district judge is not a decision on the "merits" because it is decision that can not lawfully be made.

On or about September 22, 2001, I filed notices of appeal in Case Nos. 01-14078-CIV-Graham, 01-14230-CIV-Graham, and 00-14240-CIV-Graham. Under the direct instructions of Graham, the Clerk returned my notices of appeals on September 24, 2001 without filing them with the Eleventh Circuit Court of Appeals. On October 9, 2001, I attempted to re-file these very same notices of appeal. Again on October 17, 2001, these very same notices of appeal were returned to me by the Clerk. The Clerks were acting under the specific instructions of Donald L. Graham to return my notice of appeals. As a direct result of this gross misconduct, Graham has already cost me my right to appeal in Case No. 01-14230-CIV-Graham.

It is unclear to me who in the hell Donald L. Graham thinks he is, but Graham cannot under any set of circumstances arrogate his authority by returning my notices of appeal. This type of misbehavior is simply unacceptable to me and I will not tolerate it. It should be clear to all concerned that I will fight for my rights incessantly. It is height of stupidity and arrogance for a federal district judge to order clerks to return notices of appeal. What is Graham afraid of?

Signed