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CLARENCE MADDOX  
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S.D. OF FLA. - MIAMI

DEC 30 2004  
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Thursday, December 16, 2004

Dear Mr. Graham:

RE: DC Case No. 99-14027-CV-Graham, 11<sup>th</sup> Cir. Case No. 01-13664-A

Mr. Graham, may I file a motion under Rule 60(b)(4), FRCP stating that you should have disqualified yourself because you, among other things, intentionally misrepresented the law to me? Mr. Graham, you stated in my lawsuit that I could not state a claim under 42 U.S.C. § 1981 against a state actor while at the very same time you allowed a Plaintiff to state a claim under 42 U.S.C. § 1981 against the very same state actor. In my lawsuit, you stated:

*Counts Eight, Nineteen, Twenty-One, Twenty-Three and Twenty-Five deal with §1981 claims. This Court believes that those claims should likewise be dismissed pursuant to the Eleventh Circuit's opinion in Butts v. County of Volusia, 222 F.3d 891(11th Cir. 2000). In Butts, the Eleventh Circuit held that §1983 constituted the exclusive remedy against state actors for violation of rights contained in §1981. The Plaintiff has a valid §1983 count pending concerning his termination of employment. He has two Title VII claims as well as a disparate treatment claim pending. The Plaintiffs response does not give sufficient reason why he is entitled to plead a §1981 claim in light of the Butts decision.*

See Page 3, Report and Recommendation, (DE #435), URL: <http://geocities.com/mcneilmason/secret/99-14027/DE-435/de435.pdf>. At the very same time that you were saying that I could not state a claim against a state actor under §1981, you were allowing another Plaintiff to state a claim under §1981 against the very same state actor, Highlands County Board of County Commissioners, in Case No. 00-14094-CIV-Graham, Fa Nina St. Germain v. Highlands County Board of County Commissioners. Fa Nina St. Germain's §1981 was disposed of on the facts, not the law and not Butts v. County of Volusia, 222 F.3d 891(11th Cir. 2000), in Case No. 00-14094-CIV-Graham. See (Doc. 58, Pages 2) Order on Summary Judgment, URL: <http://www.secretlaw.com/NewComplaint/HelpLetters/00-14094/de58.pdf>. Clearly, somebody was lied to either me or Fa Nina St. Germain. On May 20, 2004 [Eleventh Circuit Case No. No. 04-11894-B], the Eleventh Circuit made the following bold, **false**, and **inaccurate** assertion:

*Mason merely asserts that Judge Graham was not impartial because ... (2) would not let Mason file a § 1981 claim, but did let another plaintiff with similar claims do so. As to the alleged languishing, a review of the district court docket sheet shows that the court ruled upon his motions in a timely manner. Moreover, a review of Mason's complaint and the other plaintiff's complaint reveal that their claims are not similar. Mason's complaint alleges that county entities and employees violated his First Amendment rights, which is actually a 42 U.S.C. § 1983 claim. The plaintiff to which Mason compares himself, however, brought racial and national origin discrimination and retaliation claims under 42 U.S.C. § 2000e (Title VII) and § 1981. Both Title VII and § 1981 can be used to bring race discrimination claims.*

See pgs. 2-3, Opinion, Eleventh Circuit Case No. No. 04-11894-B, URL: <http://geocities.com/mcneilmason/secret/04-11894/04-11894.tif>. Mr. Graham you know full well that the Eleventh Circuit's assertion is false because my complaint specifically alleges racial discrimination and retaliation claims under 42 U.S.C. § 2000e (Title VII) and § 1981. See (DE #321, pps. 1, 2, 11; 63-64, 65, ¶¶ 1, 2, 3, 85, 459-462, 465-466, 473-474), URL: <http://geocities.com/mcneilmason/secret/99-14027/ConsolidatedAmendedComplaint.doc>. I fail to see how untruths serve the interest of justice.

Signed,  
  
Marcellus Mason

CC: Robert H. Waters, Jr., 500 S.Australian Ave. Ste. 400,W. Palm Beach, Fl. 33401; D Marvin Jones, 1311 Miller Drive, Bldg. #G470, Coral Gables, Florida 33146; Maria Sorolla, Hyde Park Plaza, Suite 350,324 South Hyde Park Avenue, Tampa, Florida 33606; Lynn G. Waxman, 324 Datura Street - STE 201, West Palm Beach, FL. 33401-5415

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