

Wednesday, July 18, 2001

Edward B. Davis, Chief Judge  
United States District Court  
301 North Miami Avenue, Room 150,  
Miami, Florida 33128-7788

RE: Marcellus M. Mason, Jr. v. Highlands County Board of County Commissioners, Case No. 01-14078-CIV-GRAHAM/LYNCH

Honorable Judge Davis:

At the outset I should point out that it is not my intention to file an appeal with you, for I am quite capable of doing that with the 11<sup>th</sup> Circuit Court of Appeal. However, I do ask that you use your authority as Chief Judge and reassign Case No. 01-14078-CIV-GRAHAM/LYNCH to someone other than Judges Lynch and Graham. I want you to have this case and all other cases of which I am a party to be reassigned to Judges other than Graham and Lynch because they blatantly ignore the law and have been openly hostile to my causes. I would appreciate it, if you would consider the following facts:

**Case No. 01-14078.** The complaint in this lawsuit was filed on or about 3/12/01. (DE #1). A motion to proceed in forma pauperis was filed on 3/12/01. (DE #2). I also filed a mortgage statement at the time which demonstrated that my mortgage was in arrears. (DE #3). I also filed a PLAINTIFF'S MOTION FOR A RULING ON HIS IN FORMA PAUPERIS MOTION<sup>1</sup> on or about July 10, 2001. Judge Graham has taken more than four months to rule on a simple motion to proceed in forma pauperis. Judge Graham does not have the legal authority to sit on motions and not do anything.

**Case No. 00-14240,** Heartland Library Cooperative, et.al. v. Marcellus M. Mason, Jr. . This lawsuit was filed on or about August 7, 2000. (DE #1). On 2/13/01, the court dismissed this frivolous lawsuit. (DE #33);(DE #27). I filed a motion for leave to amend to add claim for malicious prosecution on 1/8/01. (DE #5). This motion was denied without prejudice. (DE #26). I have subsequently filed other motions for leave to amend to add a cross-claim for malicious prosecution. (DE #36). On or about May 18, 2001, I filed a Defendant's/Cross Plaintiff's Renewed Motion for Clarification And Motion For Leave to Amend. On or about July 9, 2001, I filed a Defendant's/Cross Plaintiff's Third Motion For Leave to Amend. As of this date, July 19, 2001, Judge Graham and Judge Lynch have refused to respond to any of motions for leave to amend. It should not take over five months to rule on a motion for leave to amend especially when Judge Lynch is well known for making quick snap decisions even if they are errant.

In this same case after the court dismissed the plaintiff's single claim, I filed a motion for taxation of costs which was promptly denied without any explanation from Judge Graham. (DE #'s 30:31:32:35). Upon denial of my motion for taxation of costs, I filed a notice of appeal and a motion to proceed in forma pauperis [11<sup>th</sup> Circuit Case No. 01-11153-C. (DE #37);(DE # 41). The motion to proceed on appeal in forma pauperis was filed on March 15, 2001. As of May 21, 2001, Judge Graham had not ruled on my motion to proceed in forma pauperis that had been pending since March 15, 2001 or almost two months. I received a letter from a clerk from the 11<sup>th</sup> Circuit inquiring about the motion to proceed in forma filed with the district court or

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<sup>1</sup> All of my financial affidavits show the following: I was and still unemployed. I have a home mortgage of \$458.00 a month. I have and had a car payment of \$332.00 a month. The car has since been repossessed, but I still have the \$332.000 month payment. I have light bills that exceed \$100.00 a month. I had a telephone bill that averaged between \$50-\$100. I have water bills that average between \$30-\$70.00 a month. I have been unemployed since September 1999. My wife has a gross income of \$618.00 a month. Any reasonable person would realize that I have no money to pay court filing fees. My financial condition is well documented and beyond the requirements of the Southern District of Florida.

Judge Graham. I immediately copied this letter and attached it to a Defendant's Motion For Clarification On Plaintiff's Motion To Proceed On Appeal In Forma Pauperis. On April 30, 2001, after receiving the inquiry from the 11<sup>th</sup> Circuit, Judge Graham decided to deny motion to proceed on appeal in forma pauperis. (DE #43). It should not take over 2 ½ months to rule on a simple motion to proceed in forma pauperis..

**Case No. 00-14201**, Marcellus M. Mason, Jr. v. Highlands County Board of County Commissioners, Eleventh Circuit Case No. 00-16512-B. This case was filed on July 3, 2000. (DE #1). A motion to proceed in forma pauperis was filed on July 3, 2000. (DE #2). This motion languished in the court and was not ruled on until November 21, 2000 or over four months after it was filed. Judge Graham's refusal to timely rule on this matter caused some confusion in this case. I filed yet a second motion to proceed in forma pauperis on November 8, 2000. (DE #11). Both motions to proceed in forma pauperis were denied. (DE #12);(DE #13). On November 30, 2000, I filed a notice of appeal. (DE #14). As required by the rules, I filed a motion to proceed on appeal with Judge Graham on 12/19/00. (DE #16). Rather than Judge Graham ruling on the motion, he referred the motion to Magistrate Judge Lynch. (DE #18). Judge Lynch subsequently denied my motion to proceed in forma pauperis on appeal. (DE #20). I then filed an appeal with Judge Graham who subsequently denied my appeal. (DE #21);(DE #22). I filed an appeal of the with the Eleventh Circuit and motion to proceed in forma pauperis. The Eleventh Circuit looking at the exact same financial information allowed me to proceed on appeal in forma pauperis. This case is now on appeal bearing 11<sup>th</sup> Cir. Case No. 00-16512-B. Judge Graham is almost certain to be reversed.

**Case No. 99-14027**. This case is the biggest travesty and miscarriage of justice. On November 24, 1999, I filed a motion for a preliminary injunction pursuant to Title VII. (DE # 39). In almost two years, neither Judge Graham nor Lynch has ruled on this motion. I have made repeated motions and filings with Judge Graham and Judge Lynch trying to figure out why they refuse to rule on my motion for a preliminary injunction. See for example, (DE #60); (DE #66); (DE #80); (DE #88); (DE #93); (DE #160); (DE #164); (DE #165); (DE #171); (DE #183); (DE #187); (DE #211); (DE #214); (DE #219); (DE #288); (DE #295); (DE #300); (DE #305); (DE #309); (DE #306); (DE #333); (DE #343); (DE #410); (DE #414);(DE #507);(DE #573);(DE #668);(DE #706). Judge Graham does not have the right to deny a Congressionally mandated form of relief by sitting on his ass and not doing anything. Judge Graham has denied my right to relief not on the merits but on his unwillingness to rule on a motion.

To further add salt into my wound, Judge Lynch granted the defendants motions for "preliminary injunctions." (DE #199) (DE #231); (DE #201);(DE #246). It took the court exactly (DE #199) (DE #231) exactly 6 and 13 days, respectively, to grant the defendants' motions for preliminary injunctions or "*a pretrial discovery issue and not an injunction per se*". The defendants' counsel asked the Magistrate Judge to issue injunctions to stop me, a non-lawyer, from communicating with the government defendants in this matter without seeking the permission of their private attorneys, Allen, Norton & Blue, who live in Tampa, Florida, or 100 miles away from Sebring, Florida where I live. The defendants through counsel also asked Judge Lynch to issue an injunction requiring me to submit my Florida Public Records request to their Private Attorneys before submitting to the government defendants directly. I have a First Amendment right to petition the government and I am not required to seek a private attorney's permission to speak with or petition the government about any subject I feel like, lawsuit notwithstanding. I have a Florida Constitutional right and a statutory right to public records. I am never required to seek the permission of a federal judge to petition the government or make public records request under the laws of Florida. It is not Graham's or Lynch's damn business what my out of court behavior is. I do not need, want, or seek their approval of my out of court behavior. I have every right to say whatever I want to the government defendants in this matter with or without the approval of private attorneys or a federal judge. My rights are no less or greater than any non-litigant citizen. The following legal authorities have all concluded that the Magistrate Judge and his orders of June 19, 2000 and July 25, 2000, (DE 201);(DE #246), are not just "clear error," but "dead wrong": See American Canoe Ass'n Inc. v. City of St. Albans, 18 F.Supp. 2d

620 (S.D.W.Va. 1998); Holdren v. General Motors Corp., 13 F. Supp. 2d 1192 (D.Kan. 1998); Loatman v. Summit Bank, 174 F.R.D. 592, (D.N.J. 1997); U.S. v. Ward, 895 F.Supp. 1000, (N.D. Ill. 1995); E.E.O.C. v. McDonnell Douglas Corp., 948 F.Supp. 54; Miano v. AC & R Advertising, Inc., 148 F.R.D. 68; Tucker v. Norfolk & Western Ry. Co., 849 F.Supp.1096,1098 (E.D.Pa.1994); Pinsky v. Statewide Grievance Committee, 578 A.2d 1075,1079 (Conn. 1990); State v. Miller, 600 N.W.2d 457; 1999 Minn. LEXIS 592 (Minnesota Supreme Court 1999); Stone v. City Of Kiowa, 263 Kan. 502; 950 P.2d 1305; 1997 Kan. LEXIS 177, \*34 (Kansas Supreme Ct. 1997); Washington State Bar Association, [URL:<http://www.wsba.org/barnews/2000/02/ethics.htm>]; Restatement of the Law (Third) The Law Governing Lawyers, §99. Cmt. K., pg. 76; Florida Bar Rule 4-4.2.

The Magistrate Judge has not stated why any of the foregoing cases that deal with exact issue as this case are not appropriate in the instant case. The Magistrate Judge does not state why he alone appears to have more insight than every other legal authority to have handled this issue. Instead he patronizes the plaintiff by saying, "If the Plaintiff was represented, his attorney would know that this is proper procedure." The mere fact that a white man dons a robe and sits in a high chair does not make him right or wise. I have repeatedly asked Judge Graham and Judge Lynch where they get the legal authority from to issue orders telling me how I have to speak to the government defendants in this matter or dictating to me how I access public records, however they have failed to cite any legal authority for their patently illegal behavior. See (DE # 200); (DE # 239); (DE # 264); (DE # 262); (DE # 284); (DE # 334); (DE # 509); (DE # 515); (DE # 526); (DE # 633) and the court's orders: (DE # 279);(DE # 407); (DE # 514);(DE # 524);(DE # 634). As a matter of fact, the defendants counsel even know these orders, (DE #'s 201:246) are illegal because they have told the Eleventh Circuit Court of Appeal as much. In other words, defendants' counsel tell the Magistrate Judge one thing and the Eleventh Circuit another. See *PLAINTIFF'S OBJECTIONS TO R&R (DE # 766) DISMISSING PLAINTIFF'S COMPLAINT*, page 6, filed on or about June 12, 2001.

My lawsuit was dismissed pursuant to two motions for sanctions in the form of dismissal submitted by the defendants. (DE #511);(DE #646). The dismissal was based on the illegal orders referenced above. (DE #201);(DE #246). The Magistrate Judge wrote a purely conclusory Report and Recommendation recommending dismissal of my lawsuit, which was adopted by Graham. (DE #766); (DE #791). I vigorously opposed the R&R. See *PLAINTIFF'S OBJECTIONS TO R&R (DE # 766) DISMISSING PLAINTIFF'S COMPLAINT*. Graham claims he did a "de novo" review, but he followed his usual practice of making mere conclusory statements with no recitation to law or facts. (DE #766). I would ask only that the Honorable Judge Davis read my *PLAINTIFF'S OBJECTIONS TO R&R (DE # 766) DISMISSING PLAINTIFF'S COMPLAINT* in its entirety. The facts and the law are laid out quite well.

This case has been sloppily managed or mismanaged to my detriment. I filed a motion to disqualify along with several supplements to lay out how badly managed this case has been mismanaged. See DE #'s 460, 533, 543, 560, 567, 611, and 638. See also *PLAINTIFF'S THIRD MOTION TO DISQUALIFY AND PLAINTIFF'S OBJECTIONS TO COURT ORDER DENYING PLAINTIFF'S MOTION FOR CLARIFICATION* filed on or about April 11, 2001

I filed a motion to proceed on appeal in forma pauperis on or about June 23, 2001. This motion has not yet been ruled on. Subsequently, I filed a *PLAINTIFF'S MOTION FOR A RULING ON HIS IN FORMA PAUPERIS MOTION* on or about July 10, 2001. This motion has not been ruled on yet either.

## **Conclusion.**

Judge Graham and Judge Lynch have been guilty of sitting on my motions and not doing anything. Judge Graham and Judge Lynch have blatantly ignored my rights under the law. I have concluded that Judge Graham and Judge Lynch are either incompetent or don't give a damn about the law they are charged to enforce. Frankly, I don't believe that either Graham or Lynch are as incompetent as their behavior would indicate. I would appreciate it if the Honorable Judge Graham would randomly

reassign my cases to someone who cares about the law and what is right. I ask and demand to be heard on the merits my case, not on the illegal and misguided personal opinions of Graham and Lynch. It should be quite obvious that I have no respect for the personal integrity of either Graham or Lynch. Their continued participation in cases for which I am a party is detriment to me, the law, this court, the court of appeals, and ultimately to the defendants themselves. Frankly, I will not be bullied and have my rights summarily dismissed by Graham and Lynch. Judge Davis can not be proud of Graham and Lynch's behavior.

Sincerely,

Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, Florida 33870

CC. Maria Sorolis, Allen, Norton &Blue, Counsel for defendants.

Monday, August 06, 2001

Edward B. Davis, Chief Judge  
United States District Court  
301 North Miami Avenue, Room 150,  
Miami, Florida 33128-7788

RE: Letter of July 18, 2001, Marcellus M. Mason, Jr. v. Highlands County Board of County Commissioners, Case No. 01-14078-CIV-GRAHAM/LYNCH

Honorable Judge Davis:

As I have not heard from you regarding my letter of July 18, 2001, I am unclear as to whether you have adequate time to investigate my allegations or that you have authority to act as requested or that you consider my allegations worthy of consideration. If you are unable to do anything, I would appreciate it if you would point me into the right direction to someone who has supervisory authority over the conduct of Graham and Lynch. It is simply not enough to file an appeal and let what I think blatantly illegal behavior by Federal Judges to go unpunished.

Since my last letter, I have filed suit against Graham, Lynch, Sorolis, and Koji. See Marcellus M. Mason, Jr. v. Frank Lynch, Jr., et.al., Case No. 01-14224. I truly believe that Graham and Lynch violated my First Amendment Rights by dismissing my lawsuit because I will not ask the permission of private attorneys to petition the government and demand public records pursuant to Florida Law. I will simply will not relent. Graham and Lynch will be called to answer for their patently illegal behavior. I simply am not going to be bullied by two judges acting like children. Graham and Lynch appear to want to teach me a lesson because I have challenged their authority to issue any orders restricting my right to petition the government or restrict my right to public records under Florida Law. I have every right to demand that my lawsuits be heard on the merits, not on Graham and Lynch's badly misguided personal notions and vindictive motives. Graham and Lynch are not a part of the solution, they are part of the problem. Contrary to Graham and Lynch's thoughts otherwise, this matter is hardly finished.

I would appreciate an update on the status of my requests of July 18, 2001.

Sincerely,

Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, Florida 33870

CC. Maria Sorolis, Allen, Norton & Blue, Counsel for defendants.

Tuesday, August 07, 2001

Edward B. Davis, Chief Judge  
United States District Court  
301 North Miami Avenue, Room 150,  
Miami, Florida 33128-7788

RE: Letter of July 18, 2001, Marcellus M. Mason, Jr. v. Highlands County Board of County Commissioners, Case No. 01-14078-CIV-GRAHAM/LYNCH

Honorable Judge Davis:

You should consider my letter of July 18, 2001 and subsequent letters a complaint within the meaning of 28 U.S.C. § 372 or statute that governs complaints regarding federal judges.

Attached to this letter are two motions filed with Graham seeking clarification of his orders. These motions are but a few of the reasons that demonstrate that Graham and Lynch have systematically ignored my rights and badly mismanaged this case. I have not included even included a string of bad decisions made by Frank Lynch, Jr, as I feel these matters are properly left for the appellate court.

Frankly, I am sick and tired of being bullied by Graham and Lynch and I believe the record fully establishes that I am not going to tolerate their childish, petulant, and lawless behavior. The integrity of the Federal Judiciary is now on trial. Would Judge Davis like to have Graham and Lynch as Judges in any action he might be involved? I have not made wild unsubstantiated allegations, the record fully supports all the allegations I have made and I would appreciate you giving my allegations all the respect it deserves. I ask no one to take my word on faith, I ask only that the record be investigated. You might also notice and consider that the defendants' counsel has not rushed to the aid of Graham and Lynch even though they have been the beneficiary of Graham and Lynch's unethical and lawless behavior.

Sincerely,

Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, Florida 33870

CC. Maria Sorolis, Allen, Norton &Blue, Counsel for defendants.

Tuesday, August 07, 2001

Edward B. Davis, Chief Judge  
United States District Court  
301 North Miami Avenue, Room 150,  
Miami, Florida 33128-7788

RE: Letter of July 18, 2001, Marcellus M. Mason, Jr. v. Highlands County Board of County Commissioners, Case No. 01-14078-CIV-GRAHAM/LYNCH

Honorable Judge Davis:

You should consider my letter of July 18, 2001 and subsequent letters a complaint within the meaning of 28 U.S.C. § 372 or the statute that governs complaints regarding federal judges.

Attached to this letter is a motion seeking clarification as to why motions I had outstanding for months were not ruled on. [Case No. 99-14027]. A random sample of the docket will show that Lynch makes snap decisions that usually come on the very same day of a response by either the defendants or the plaintiff. The attached motion will demonstrate conclusively that Frank Lynch, Jr. made an arbitrary decision not to rule on many of the plaintiff's outstanding motions. This action has circumvented my appellate rights. Lynch has essentially legitimized and arrogated his own authority by not ruling on my motions so that I can seek appellate review.

I have also attached to this letter a motion where I am demanding that the Lynch/Graham duo tell me specifically where they get subject matter jurisdiction to dictate to me, a non-lawyer, the terms under which I may communicate with the government or dictate how I access public records. Frankly, I am little damn tired of patronizing remarks by Lynch like "this court is considering this motion as a pretrial discovery issue and not an injunction per se" (DE #201);(DE #246); and "If the Plaintiff was represented, his attorney would know that this is proper procedure." R&R, (DE #766) at page 3. None of these statements justify subject matter jurisdiction. I am demanding to know the precise statute or constitutional provisions that gives a federal court jurisdiction over the matters at issue here. If the Graham/Lynch duo are not prepared to answer these fundamental questions, then I want both them disqualified. I am well within my legal rights to demand that these jurisdictional questions be specifically answered.

Frankly, I am sick and tired of being bullied by Graham and Lynch and I believe the record fully establishes that I am not going to tolerate their childish, petulant, and lawless behavior.

Sincerely,

Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, Florida 33870

CC. Maria Sorolis, Allen, Norton &Blue, Counsel for defendants.

Friday, October 04, 2002

William J. Zloch  
Chief United States District Judge  
Southern District of Florida  
299 E. Broward Blvd., Rm. 202B  
Fort Lauderdale, FL 33301

Dear Judge Zloch:

Firstly, Frank Lynch Jr. should be fired outright as it should be easy to find a new Magistrate candidate that easily exceeds the legal ability of Mr. Lynch. Lynch himself is the cause of much of Graham's problems.

I did research on what a Chief Judge does and I found some interesting things. I was dismayed when I found out that you designated Donald L. Graham to "sit by designation" on appeal in Trustmark Ins. Co. v. Eslu, Inc. (8/2/2002, No. 01-14917) under 28 U.S.C. § 292. "What this says is that as late as August 2, 2002, you were still of the opinion that Graham is not only fit to be a district judge, but an appeals court judge. Graham will never be an appeals court judge because his record has been to widely disseminated to influential members in the legal community, thus it is a certainty, that any possible appointment of Graham to an appellate court will never make it out of committee.

I also found out that a Chief judge can reassign a case to:

- promote docket efficiency, or to conform to the requirement of any case management plan adopted by the Court;
- further the efficient performance of the business of the Court,
- prevent excessive delay in the disposition of cases, it may, in the event of prolonged illness, disability, or other unavoidable absence of any Judge, transfer cases from the calendar of said Judge.

An honest assessment will find that each of the foregoing objectives have been impaired in all the cases of mine assigned to Graham. If there was ever a time to reassign a case, this would be such a time. I never accepted the idea that the Congress of the United States left it totally to the discretion of the presiding judge to decide when his or her behavior was no longer in the best interest of justice. I never accepted the idea that a Chief Judge was powerless to stop a district judge from damaging the reputation and integrity of the entire district court. It is in nobody's best interest for Graham to continue to participate in any of my cases. We all want what's in the best interest of justice, don't we? I am afraid the standards for good conduct for district judges in the S.D. Fla. are too low. I am working with the Congress and others in the legal community to raise the standards for federal judges in the S.D.Fla.

Graham's conduct is starting to infect and taint the entire S.D. Fla. as Graham's buddy and fellow *Bush I* extreme right conservative, K. Michael Moore, a man with a questionable past, is now the subject of a 28 U.S.C. § 372(c) complaint. See attachment. It would seem that right wing conservatives only adhere to law and order sometimes or when they feel like it.

Sincerely,

Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, Florida 33870

Attachment: 28 U.S.C. § 372(c) Complaint, K. Michael Moore

