

23-7952

United States Court of Appeals
for the
Second Circuit

JASON GOODMAN,
Appellant,

v.

NATIONAL ACADEMY OF TELEVISION ARTS
AND SCIENCES,
Appellee,

On Appeal from the United States District Court for the
Southern District of New York
Case 1:20-cv-07269-VEC-OTW

PRO SE APPELLANT BRIEF

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PRELIMINARY STATEMENT

This case represents a stunning, potentially unprecedented example of judicial misconduct. On its face, it appears to be a copyright dispute between an independent social media broadcaster and the National Academy of Television Arts and Sciences, (“NATAS”). Its true nature, however, is hidden beneath an elaborate false veneer.

After nearly three years of litigation, and only through extensive independent research, appellant Jason Goodman, (“Goodman”) discovered evidence in the public domain that revealed a long-established professional association between presiding Judge Valerie Caproni and the CEO of appellee NATAS, Adam Sharp (“Sharp”).

Throughout the case, Judge Caproni permitted the appellees to viciously cyber stalk, harass, and disrupt Goodman and his attorney Jonathan Snyder (“Snyder”) via a malicious professional hacker, nonparty David George Sweigert, (“Sweigert”).

Even after Snyder directly cited Sweigert’s threats in his motion to withdraw, Judge Caproni did not so much as admonish the nonparty to cease his outrageous extrajudicial conduct. This disruptive misfeator violated orders directed at him to cease filing as recently as November 2023. To wit, his final entry prompted punitive action against compliant party Goodman, not the persistently noncompliant nonparty.

Perhaps worst of all, Judge Caproni obstructed evidence that would prove or disprove Goodman’s core claim, that this matter was brought about as part of a scheme concocted by Sharp and Sweigert to deny Goodman due process and a fair trial. Such an elaborate scheme could only be accomplished with the help of a judge.

JURISDICTIONAL STATEMENT

The District Court had subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b). Pursuant to 28 U.S.C. § 1367, the District Court had supplemental jurisdiction over the Television Academies' state law claims because those claims were substantially related to the Television Academies' federal Copyright Act and Lanham Act claims.

This Court has jurisdiction over this appeal under 28 U.S.C. § 1291 because the District Court entered judgment denying Goodman's motion pursuant to FRCP Rule 60(b)(4) to vacate void judgements on November 29, 2023, and because Goodman filed a timely notice of appeal on December 4, 2023, (*See* App'x A0329).

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether or not every ruling Judge Caproni made in this case is void pursuant to FRCP Rule 60(b)(4) because she conspired with Sharp and Sweigert to deny Goodman's right to a fair trial, due process, and equal protection under the law.
2. Whether an email sent to the Television Academy on July 28, 2020, was sent by an unknown Academy member who was not Sweigert, or if the email was in fact sent by Sweigert, or someone acting at his direction or on his behalf.
3. Whether or not Sweigert created the name Multimedia System Design, Inc., D/B/A/ Crowdsourcethe Truth, ("MSDI") and shared it with appellees to compel Goodman to retain counsel and increase the complexity of legal proceedings.
4. Whether or not Judge Caproni concealed a long established professional

association with Sharp or worked with Sharp in any of the following capacities;

- a. Production of a June 2, 2009, C-SPAN3 television program titled, *“Security, Privacy, and Technology”*
- b. Establishment of a clandestine relationship between the FBI and Twitter
- c. Assisting or allowing nonparty Sweigert to foment, influence, disrupt, or otherwise wrongfully affect the outcome of this case

STATEMENT OF THE CASE

A. FACTUAL BACKGROUND

1. Sweigert began cyber stalking and suing Goodman in 2017

5. Appellant Goodman is an independent investigative journalist, a documentarian, and social media broadcaster. As one component of his broadcasts, Goodman creates photorealistic digital “political cartoons” containing parody images of public figures and institutions, intended to be ironic, funny, or thought provoking.

6. In 2017, for unknown reasons, Sweigert announced his plans to sue Goodman for the rest of his life and has proceeded in doing so since that time.

7. On June 14, 2018, Sweigert sued Goodman in the District of South Carolina, despite neither party residing there. The case was transferred sua sponte to SDNY and ostensibly, randomly assigned to Judge Caproni approximately two years prior to this instant action being filed, (*See App’x A0021*).

8. For the past seven years, nonparty Sweigert has cyber stalked Goodman, tracking virtually everything he does every day. Sweigert spends inordinate amounts

of time ginning up vexatious litigation against Goodman in courts across the country.

9. Sweigert sent emails intended to entice Nintendo of America, Inc., executives to sue Goodman for alleged copyright claims after Goodman created a “Stupid Mario Bros” parody depicting Sweigert and his brother in cartoon imagery mocking their abuse of the courts and Goodman. (*See* App’x A0302 – A0309)

2. An allegedly anonymous email provoked this litigation

10. On June 12, 2020, Goodman broadcast a now deleted video in which he parodied television award show extravaganzas, jokingly titled the “Crony Awards”.

11. No real awards were created or presented, and there were no actual nominees or attendees. The parody broadcast consisted of a Zoom call between two people examining World Health Organization, (“WHO”) data, major news media websites, and discussing Covid-19 public health outcomes from around the world.

12. Countries with the lowest per capita death rates as reported by the WHO were selected as “winners” in various categories. None were identified based on downplaying the severity of Covid-19 as incorrectly stated in appellees’ complaint.

13. Even if insensitive or objectionable content were included as falsely claimed, Goodman was exercising the first amendment when he created a parody image intended to mock the EMMY statue and television awards shows in general.

14. The anonymous email alert and DMCA complaint that followed were extremely suspiciously timed. Goodman’s parody image was published on June 12, 2020. Six weeks after that, on July 28, 2020, the anonymous email was sent to

NATAS alerting them of the alleged infringement. (*See* App’x A0010)

3. Appellees delayed a DMCA complaint for an ulterior purpose

15. Nearly four weeks after receiving an allegedly anonymous email, on or around August 21, 2020, Sharp filed a DMCA takedown complaint which he knew or reasonably should have known would disable a YouTube channel for ninety days.

16. By waiting until August 21, Sharp ensured the punishment would begin two months before the 2020 U.S. Presidential Election and last until after it was over.

17. On or around August 21, 2020, Goodman filed a DMCA counterclaim reactivating his YouTube account and prompting appellees to immediately sue.

18. After Goodman offered to remove the image immediately at no charge, appellees rushed to litigate, filing a complaint including the parody image, making it a permanent record, and contradicting their goal of deleting it, (*See* App’x A0009).

19. Waiting to complain defies logic if removal of the image was the goal but it advanced the agenda of disabling Goodman’s reporting during the election.

4. Appellees and Judge Caproni concealed Sweigert’s involvement

20. Before this case began, but after the DMCA complaint was filed, Goodman had a phone call with appellees’ counsel Margaret Esquenet, (“Esquenet”).

21. During the call, Goodman warned Esquenet that Sweigert had been cyber stalking, harassing, and maliciously suing him for years, and that he regularly sought new creative opportunities to gin up vexatious litigation against Goodman.

22. Goodman suggested Sweigert sent the email to draw her client into

wasteful litigation calculated to harm Goodman, which Goodman wanted to avoid.

23. Goodman proposed that Esquenet ask appellees to withdraw the DMCA complaint ending the YouTube dispute, and in exchange Goodman would remove all occurrences of the offending image immediately and permanently without litigation.

24. Goodman clarified that he disagreed with their legal conclusion, but did not want to upset appellees, and did not value the image over his YouTube channel.

25. Without communicating the offer to her clients, Esquenet rejected it out of hand. Appellees then brought action within fourteen days as allotted by YouTube.

5. Judge Caproni allowed Sweigert to interfere in this case

26. Throughout these proceedings, Sweigert has harassed the litigants, clogged the docket, and deliberately provoked withdrawal of Goodman's attorney.

27. Sweigert harassed Goodman's attorney Snyder, inter alia, by posting images of his child on a blog that hosted threatening content, (*See App'x A0208*).

28. Snyder cited Sweigert's outrageous, possibly even criminal harassment in his withdrawal affidavit, but Judge Caproni took no action, (*See App'x A0116*).

29. While attempting to retain new counsel, Goodman consulted with an attorney named Larry Klayman via email, ("Klayman").

30. In or around August 2021, an accidental response to a harassing message sent by Sweigert, caused Goodman to inadvertently share comments that were only intended for Klayman, (*See App'x A0124*).

31. Goodman sent Klayman the email address that had been controlled by a

stipulated protective order, (“SPO”) issued December 18, 2020, (*See App’x A0023*).

32. Goodman discussed the email address with Klayman because it lies at the heart of the case and, if Sweigert is its author as Goodman alleges, it would be irrefutable evidence that the conspiracy to deny Goodman’s rights exists as claimed.

33. Despite strenuous efforts, Goodman was unable to retain new counsel. On February 22, 2022, the district court issued a default judgment against MSDI, and additionally enjoined Goodman from various actions, (*See App’x A0245*).

6. Judge Caproni and Adam Sharp worked at the FBI and Twitter

34. Throughout the remainder of 2022, Goodman conducted research of public domain information including Congressional transcripts, news broadcasts, lectures, statements, and curricula vitae published by these individuals themselves.

35. Through this research, Goodman discovered evidence of a hidden relationship between Appellee Sharp and Judge Caproni, (*See App’x A0311 – A0327*). Discovery of this evidence gave rise to Goodman’s motion to vacate void judgments pursuant to Rule 60(b)(4), filed November 28, 2023, (*See App’x A0256*).

36. Judge Caproni’s denial of the motion to vacate on November 29, 2023, gave rise to this appellate action, (*See App’x A0328*).

B. PROCEDURAL HISTORY

1. Appellees filed a DMCA copyright takedown with YouTube

37. On July 28, 2020, an anonymous email alerted appellees to an alleged copyright violation in a video on a YouTube channel titled, JASON GOODMAN.

38. Nearly four weeks later, on or around August 21, 2020, appellees filed a DMCA copyright complaint and takedown notice with YouTube, removing the video and causing Goodman's YouTube channel to be disabled for ninety days.

39. Goodman filed a DMCA counterclaim on or around August 21, 2020, reactivating his YouTube account and granting appellees fourteen days to respond with litigation, or otherwise acknowledge the counterclaim and abandon their claim.

2. Pre-litigation settlement offer rejected

40. After Goodman filed the DMCA counterclaim restoring his YouTube channel, counsel for appellees agreed to a telephonic conference. During the call, Goodman offered to remove all occurrences of the image in exchange for withdrawal of the DMCA takedown complaint, but the offer was immediately refused.

3. Appellees sued a false corporate entity for an ulterior purpose

41. On September 4, 2020, appellees sued, but oddly, they chose not to sue the creator of the video or the owner of YouTube channel. They filed against a nonexistent corporate entity concocted by Sweigert, called MSDI.

42. Sweigert named this false entity to closely resemble the name of a real company Goodman previously owned, Multimedia System Design, Inc., ("MSD").

43. No business entity known to Goodman exists or has ever existed that uses or used the assumed name "D/B/A/ Crowdsource the Truth."

44. No existing legal entity has ownership of, liability for, or control over Goodman's intellectual property, statements, or posts made by Goodman on the

internet including the content at controversy in this action, apart from Goodman.

45. Goodman has alleged from the outset that Sweigert alerted appellees to the parody image and recommended they sue MSDI to deny Goodman's right to a pro se defense and to increase the expense and complexity of this legal proceeding.

SUMMARY OF THE ARGUMENT

46. In *Yates v. Village of Hoffman Estates*, Illinois, 209 F. Supp. 757 (N.D. 111. 1962) the Court held that "not every action by a judge is in the exercise of [her] judicial function it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse. When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges' orders are void, of no legal force or effect." *Simmons v. United States*, 390 U.S. 377, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968) "The claim and exercise of a Constitution right cannot be converted into a crime" ... "a denial of them would be a denial of due process of law".

Butz v. Economou, 438 U.S. 478, 98 S. Ct. 2894, 57 L. Ed. 2d 895 (1978)

47. Judges may not normally conduct clandestine professional relationships with litigants in cases they preside over. Here however, Judge Caproni conspired with appellees and Sweigert to instigate this action and corruptly affect its outcome.

48. As part of that process, Judge Caproni alone, not a jury, determined that Goodman's parody artwork and criticism of television awards shows were prohibited and actionable. This was done in conflict with Goodman's First Amendment rights.

49. Goodman was exercising the First Amendment when he produced a parody image expressing disfavor with television news and television awards shows.

50. The power bestowed upon Article III judges comes by and through the United States Constitution, created by and for We the People. Constitutional authority cannot logically or legally be used to overpower that which grants it.

51. The Supreme Court famously held in *Texas v Johnson*, “Johnson's conviction for flag desecration is inconsistent with the First Amendment.”

Texas v. Johnson, 488 U.S. 907, 109 S. Ct. 257 Pp. 491 U. S. 402-420 (1988).

52. Johnson’s destruction of an American flag was viewed as objectionable by many, but it was still protected expression under the First Amendment, just as Goodman’s meaningful depiction of the EMMY statue transformed by Covid is also.

53. Judge Caproni has grossly abused her authority and Goodman’s rights. She violated the Constitution and the Canons of Judicial conduct by conspiring with appellees and Sweigert to deny Goodman’s right to a fair trial, deny him due process, obstruct crucial evidence, and deny equal treatment under the law.

STANDARD OF REVIEW

54. The United States Court of Appeals for the Second Circuit reviews a district court's decision on a Fed. R. Civ. P. 60(b) motion for abuse of discretion, though the denial of a Fed. R. Civ. P. 60(b)(4) motion challenging an underlying judgment as void is reviewed de novo.

Baker v. Gates, 638 F. App'x 25, 28 (2d Cir. 2015)

55. The question of whether a district court judgment is void goes to the fundamental issue of the court's jurisdiction and authority to render the judgment in the first place. A void judgment is one entered by a court that lacked jurisdiction over the parties or subject matter or acted in a manner inconsistent with due process.

56. Since the validity of a judgment is a legal question that implicates the district court's power and jurisdiction, the appellate court must review such issues de novo, without giving deference to the lower court's determination. This allows the appellate court to make an independent assessment of whether the judgment should be considered void and vacated based on its own analysis of the law and the record.

57. “We review a district court's decision on a Rule 60(b) motion for abuse of discretion,” *Johnson ex rel. United States v. University of Rochester Med. Ctr.*, 642 F.3d 121, 125 (2d Cir. 2011), though the denial of a Rule 60(b)(4) motion challenging an underlying judgment as void is reviewed de novo, see *Central Vt. Pub. Serv. Corp. v. Herbert*, 341 F.3d 186, 189 (2d Cir. 2003).”

Baker v. Gates, 638 F. App'x 25, 28 (2d Cir. 2015)

ARGUMENT

I. Judge Caproni Acted in a Manner Inconsistent with Due Process

58. The Fifth Amendment's Due Process Clause states that no person shall "be deprived of life, liberty, or property, without due process of law," and the Fourteenth Amendment's Due Process Clause mirrors this language. *U.S. Const. amends. V, XIV* § 1. Procedural due process requires "that a deprivation of life,

liberty, or property be preceded by notice and opportunity for [a] hearing appropriate to the nature of the case." *Chase Grp. All. LLC v. City of N.Y. Dep't of Fin.*, 620 F.3d 146, 150 (2d Cir. 2010) (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542, 105 S. Ct. 1487, 84 L. Ed. 2d 494 (1985)).

59. Relief from a judgment pursuant to Rule 60(b)(4) is not warranted "simply because [the judgment] is or may have been erroneous." *United Student Aid Fund v. Espinosa*, 559 U.S. 260, 270, 130 S. Ct. 1367, 176 L. Ed. 2d 158 (2010). Rather, Rule 60(b) relief is appropriate only "in the rare instance where a judgment is premised either on a certain type of jurisdictional [**7] error or on a violation of due process that deprives the party of notice or an opportunity to be heard."

Estate of Shefner v. Beraudiere, 582 F. App'x 9, 12 (2d Cir. 2014)

II. Judge Caproni deliberately obstructed discovery of the email address

60. If the anonymous email that instigated this dispute was not sent by Sweigert, revealing the author's identity would have no impact. If the image was identified by a random Television Academy member, the controversy over this email would end. Refusal to reveal the identity in camera defies logic with regard to dispelling a substantial controversy and only makes sense if the author were Sweigert, and Judge Caproni was intent on keeping that out of the record.

61. "The suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith of the prosecution. To establish

a Brady violation, the petitioner must demonstrate: (1) that the prosecution suppressed evidence; (2) that the evidence was favorable to the defendant or exculpatory; and (3) that the evidence was material.”

McWhorter v. State, 142 So. 3d 1195, 1202 (Ala. Crim. App. 2011)

62. Although there is no Brady Rule in civil litigation, if “prosecution” were swapped with “judge” and “accused” swapped with “defendant,” the *McWhorter* citation would describe what Judge Caproni has done to Goodman in this case.

63. The first prong of the test is satisfied because the judge took every opportunity to obstruct the evidence. The second prong cannot be tested until the author is known. The third prong is satisfied because the email evidence is material to understanding Sweigert’s true interest in this dispute.

64. The Brady rule ensures criminal defendants receive fair trials and have access to favorable evidence. The constitutional due process in a civil case pertains to a Judge’s equal application of the law and maintenance of fairness.

65. This controversy was triggered when an allegedly anonymous email was sent. No person other than Sweigert monitors all of Goodman’s internet activity as far as Goodman is aware and Sweigert is fixated on repeatedly suing Goodman.

66. Sweigert is the most likely author of the email. Revealing the identity in camera would maintain privacy while dispelling this fundamental controversy and would prove or disprove the claim that Sweigert sent the email with malicious intent.

67. By aggressively denying Goodman’s requests to discover the email

author's identity, Judge Caproni obstructed evidence crucial to proving claims that Sweigert initiated this action and that the judge worked to hide facts from the record.

68. Despite no similar rule to Brady applying in civil litigation, due process, fair unbiased treatment of all litigants, and equal protection under the law must be guaranteed in any U.S. District Court for proceedings to be perceived as legitimate.

III. Judge Caproni allowed interference to affect an unjust outcome

1. Judge Caproni was already familiar with Sweigert's grossly abusive litigation style when this case began, having presided over *Sweigert v Goodman* (2:18-cv-01633 VEC-SDA) for two years prior to the outset of this instant action.

2. Judge Caproni had authority over Sweigert as a nonparty in this case and as plaintiff in *Sweigert v Goodman*, yet she allowed him to interfere unabated.

3. Goodman informed the judge of Sweigert's efforts to entice Nintendo of America, Inc., into suing him over alleged copyright infringement for parody images, (*See App'x A0302 – A0309*). This pattern and practice of conduct was also ignored.

4. Goodman's well-founded, evidence backed claims were ignored by Judge Caproni while Sweigert was consistently allowed to harass with impunity.

IV. Judge Caproni unjustly sanctioned Goodman

5. The SPO was specifically and explicitly executed to, "protect the confidentiality of nonpublic and competitively sensitive information" (*See App'x A0023*). It speaks extensively of confidential information and confidentiality.

6. Appellees and Judge Caproni have ignored the fact that the email

address in question was placed into the public domain when counsel for the appellees spoke it aloud three months before Goodman sent it, (*See App'x A0074 line 23*).

7. Fired former attorney for appellees Samuel Eichner, uttered the email address aloud during a public status conference, causing it to be recorded in the transcript and published on the record, (*See App'x A0074 line 23*). This removed the control of the SPO since the email address was no longer confidential or non-public.

8. Goodman was wrongfully sanctioned in order to obstruct the email author's identity. This strong evidence in and of itself favors Goodman's claims.

9. The identity of the email author should be revealed, and a determination should be made about Judge Caproni's cooperation with appellees in hiding it.

CONCLUSION

10. For the reasons stated herein, the Court should reverse Judge Caproni's ruling denying the motion to vacate void judgments pursuant to FRCP Rule 60(b)(4) and deem each and every one of her rulings in this matter void, and unenforceable legal nullities, in addition to any other relief as determined by the Court.

Dated: New York, New York March 18th, 2024

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. RULE 32

1. This brief complies with the type-volume limitation of Fed. R. App. P.

32(a)(7)(B) because it contains 4104 words.

2. This brief complies with the typeface requirements of Fed. R. App. P.

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Dated: New York, New York March 18, 2024

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CERTIFICATE OF SERVICE

I certify that on March 18, 2024, the foregoing document was served on the parties below via email and to the Court via ACMS Electronic Filing.

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Dated: New York, New York March 18, 2024

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