

TO: UNITED STATES APPEALS COURT FOR THE 5th CIRCUIT.

UNITED STATES V. Jason GANDY

DISTRICT CASE# H-12-503

MOTION FOR 52(b) Relief

RELIEF REQUESTED: Automatic Reversal Once Judge Rosenthals (sealed by her) Misconduct that caused what is referred to as The Structural Error Doctrine from AZ v. Fulminante (Case Law # 1 in Exhibit D) in Gandy's case are finally proven.

The procedural History is explained in Exhibit E "Reasons Law Professors Are Needed" (RLPN here on out).

Direct Appeal # 18-20823 made without Gandy's ("G" here on out) approval & G did not get a copy until after his neck had been stitched back together by a doctor on 5-13-19. Emails to Attorney Seth Kretzer, Exhibit B shows the proof.

Exhibit F "Transfer Of Venue/Circuit" (T.V. here on out) has Direct Appeal issue & why the 5th Circuit should transfer this 52(b).

The 2255 is explained in "speedy trial Doc#133" Exhibit G (S.T. here on out). Brandon Sample who did that appeal got turned in to the Vermont Bar & gave false legal advice which is in Exhibit H.

G's Mental Health

G IS NOT BLAMING THESE LAWYERS because he had serious mental issues during these appeals & Judge Lee H. Rosenthal did an Excellent Job disguising, sealing hearings etc., & falsifying G's Docket sheet. All criminal Legal professionals, especially Judges should be required to get booked into places like FDC Houston & the Galveston County Jail and be labeled as a "cho mo" due to how easy it is for other inmates to find out what your in for. The suicide rate for people charged with these crimes is way higher than any other crime due to being treated as the worst. See Exhibit G "Speedy Trial Doc.#133" for more details of how prison quickly took a mentally healthy G and turned him into a G who tried every way to kill himself to end the solitary and hate from Judges, inmates, guards, & nearly everyone. Since G was young he developed Migraines when around bright fluorescent lights & has trouble doing his own legal work also due to vision problems.

RELIEF IN G's CASE IS EASILY RESOLVABLE BY FOLLOWING:

- 1.) CL#56 US v. Kim L. Powe (D.C. Cir. 1978).
- 2.) Missouri Law Review, Vol.85, Iss.4 [2020], Art.6 pg.18/982 to pg.47/1011 titled "III. Identifying Structural Error: Holdings of The Supreme Court & Circuit Courts. PLEASE READ THIS LAW REVIEW. Due to Chief Judge Lee H. Rosenthal (R here on out), Gov't attorney's, & even G's own attorney's treating G's case as though they have never heard of The Structural Error Doctrine, G is needing to ask whoever reads this motion if they are familiar with this Law Review due to examples of classic Structural Errors being perfectly revealed in G's case (DE#98 taking until 4-21-25 to get unsealed for example).

52(b) issues SIMPLIFIED / Layman's Terms / Blunt Truth:

- 1.) G called his lawyer who like CL # 29 Mapp v. Ohio 367 us 643, came to the rescue. H.S. & HPD officers knew not letting G's lawyer in & continuing questioning was against G's 6th & 5th amendment rights and planned on using his statements for purposes of impeachment if he tried to testify at trial. See Exhibit L, 2255 by Dallas Craig Hughes, ground 1 uses CL# 32 Mincey v. Arizona 437 US 385 which G gave to R in DE # 285 & 287 Exhibit Y). R purposely ignoring/going on a tangent with "alternate facts", proves she knows she did wrong. CL# 8 Cooper v. Dupnik (9th Cir. 1992) proves police routinely do this on purpose. CL # 64 US v. Scios (D.C. Cir. 1978) footnote 65 says G's 7-20-12 illegal interrogation is extraordinary b/c after invoking his right to counsel, police questioned him about KV in order to use G's info. to then call KV a liar & structurally alter a case that wouldn't exist without G's illegally obtained statements.
- 2.) CL#56 US v. Powe 591 F.2d 833 (D.C. Cir. 11-15-78): This 52(b) Relief is Exactly what R has coming because she's proved she's no dummy in CL #67 US v. William Douglas Roberts 86 F. Supp.2d 678 (5th dist. 2000). Here R ruled on 2 identical motions using the same case law that works in G's favor yet since G's motions sat on her desk for 4 years & she illegally allowed them to be ruled "moot" as long as G doesn't testify, this = Misconduct that structurally, literally ruined & nearly ended G's life (see Exhibit W, 7-20-18 picture from Ben Taub Hospital). R followed in her Judge friend Werlein's foot steps CL# 55 US v. Zavala 541 F.3d 562 (5th Cir. 8-22-08) holding G's motions DE 34 & 46 (sealed to protect herself) until trial. The POWE case says "A fair hearing and a reliable determination on the voluntariness of a confession are CONSTITUTIONALLY MANDATED where the trial court has indicated its awareness that the issue has been raised. Certain ALERTING CIRCUMSTANCES (DE46 R sealed) impose a duty on the trial Judge to take a more active role SUA SPONTE.

You Can't say G hasn't tried

Deputy clerk Shawn Henderson in the 5th Appeals should read this Law Review which pre dates 2-4-21; the day he copied Structural Constitutional Errors and CC'd them to R's court (DE79 case#18-20823). G did the same 2-3-21 DE #239. This Law Review also says although G's rights may have been "forfeited" they have not been waived. (Exhibit O, Page 2)

Will YOUR COURT ACTUALLY READ (EXHIBIT F) TRANSFER OF VENUE/CIRCUIT REQUEST? (called T.V. from here on out). If your court for some reason, after fully reading it decides not to transfer this 60(b)(6), 52(b), & successive 2255 with attachments, to another circuit, please provide a full explanation for why not? Knowing I know how connected Rosenthal is in the 5th appeals court. (Houston Chronicle Article by Gabrielle Banks in Jan. 2018 (Exhibit X) plus my own research.) Also (C.L.#38) shows how Judges, the Government, and the 5th Appeals Court react when I submit a meritorious motion or Judicial Misconduct Complaint on Rosenthal that your court has gone silent on. IF I were the appellate Judge reading this, I'd rather eliminate any chance of corruption in an appeals court that Rosenthal appears to be in full control of. (C.L.#38) If a supervisor's action or inaction contributed to the constitutional violation caused by the subordinate, liability exists. Epstein's victim (Virginia Diuffre) I wanted to meet who recently killed herself finally got her constant writing (like me on this case) to show real CHANGE by the introduction of "THE EPSTEIN FILES Transparency ACT" which God Willing will finally allow me to have access to my Grand Jury Transcripts, Exhibit J, which I refiled on 12-21-25. I would think having this proof should be required due to The Structural Error Doctrine.

I'm ready for a open suppression hearing to determine all the harm caused by Rosenthal not acting "Sua Sponte" when the Gov't refused to rule on my 2 motions to suppress filed in April & November 2013 for 4 years! Rosenthal knew better because in DE# 294 I'm shown asking again for DE#98 etc. and when the Gov't did not respond for almost 4 months, she ruled sua sponte in DE# 302 on 3-31-25 saying "The Gov't has not responded to the motion". SO WHY DID ROSENTHAL NOT RULE ON DE#34 & 46 when it had been 4 YEARS?

3. ****Newly Discovered **** Exhibit V is a Memorandum by a licensed attorney Michael Levin on 10-1-25 showing PROOF Rosenthal should have held a hearing to discover where all the fruits were to my statements besides what was illegally obtained from my home and shown to KV & talked about to his family.

4. Rosenthal's Misconduct in my case has POISONED PUBLIC CONFIDENCE IN THE JUDICIAL PROCESS:

CONSTITUTIONAL QUESTIONS; some posed to me by Law Professors (Martin Lee Camp of SMU) and crime beat reporters (Gabrielle) who actually consider Rosenthals conduct in my case criminal after reading all the documents I've had a hard time taking from Rosenthal; NEED ANSWERS:

A. How can Rosenthal rule so fast in a identical case as Gandy's (G here on out) in the year 2000 with (C.L.#67) William Douglas Roberts and then in 2013 allow the same motions to suppress Statements & fruits of G's statements DE#34 & 46 to be ignored for 4 years?

B. Why is DE#46 "Sealed Event" in G's docket sheet?

C. US v. Kim L Powe (D.C. Cir. 1978) says: The Dist. Court Judge was obligated, sua sponte, to conduct a hearing regarding the voluntariness of the defendants confession when defense

counsel failed to object. Circumstances suggested the confession was obtained through promises of leniency. [G's statements were used to get illegal evidence in the form of 2 headless pictures which were then illegally shown to KV (victim #1) & had been immediately illegally talked about to him on 7-20-12. These pictures were also talked about to other people & this is documented in recorded video interrogations that attorney Charles Flood and G watched together. These pictures and more importantly G's illegally obtained statements were used to structurally alter KV's 7-20-12 interrogation which destroyed the foundation or in reality created a case that without G's statements would never have existed. The pictures that G and Flood saw at FDC Houston appear to be what made Flood & Cogdell file DE#34 & 46. These 2 lawyers seemed to put forth a greater attempt than the Powe case (C.L. 56) to get the statements & their fruits a hearing yet it's not possible to erase the pictures from the mind of KV nor what he was told that G said. A hearing in this case is required.

D. DE# 89 on 12-5-16 has G's attorney Dan Cogdell asking "Judge, as you may or not recall..there are motions that have yet to be ruled on". This shows his patience nearly 4 years AFTER he filed DE# 34 & 46??? The way Rosenthal treated G's case is not fair or constitutional especially since it was his first court appearance after he was incorrectly found competent to stand trial. Yet she allowed over 4 more months to pass without her or the "Government" ruling on it. Doesn't the above POWE (C.L. #56) case have within it case law showing this was reversible structural error caused by a biased Judge?

E. Doesn't U.S. v. Gonzalez-Lopez (C.L. #50) show that Rosenthal allowing the above & 2 others to quit just because G refused to take their advice and sign a plea deal & then sealing that portion of the hearing and disguising it as a status hearing mean that this established Structural Error deserves a automatic reversal once a higher Judge finally reads DE #98?

G gets migraine headaches from, the bright fluorescent lights in prison, starring at a computer screen too long, and this dates back to when he was a kid due to being legally blind in the right eye and the left can't see up close/ he's off balance. Therefore he's had to hire & trust lawyers and Judges advice that were wrong when you read Levin's attached memo & Rosenthals advice in DE98. How many Structural Errors caused by Rosenthal can you find in DE# 98?

F. "There is talk of JUDGE ROSENTHAL TRANSFERRING THE CASE TO A DIFFERENT DISTRICT COURT, it is a court that is not necessarily more punitive (G think Dan would disagree with that, but both of these Judges would be bad in this case) but G believes IS FAR LESS LIKELY TO GIVE HIS MOTION TO SUPPRESS THE PROPER CONSIDERATION". From charles@floodandflood.com on 9-12-14 @ 10:43am to jgandy79@gmail.com. This is proof Rosenthal saw the 2 MOTIONS DE#34 & 46 were like a hot potato that had to be dealt with since G refused to sign a plea deal. Also Flood who G's contract says he was paid 30k for trial, fully understood how to win my case and watched the 7-20-12 interro's along with other interro's of KV who is shown Illegally obtained photos to coerce him to lie. Also see handwritten notes from Flood on 8-8-14 which say my #1 goal was "WIN MOTION FOR SUPPRESSION". This valuable attached document is easily found due to a Hearing on 12-6-21 DE# 262 which was Sample's 2255 motion. The exhibits are DE #'s 263-65. This proves G did not want to have Cogdell & DeBorde rule them "moot". Another email Flood sent to my mom was the day Rosenthal allowed him to quit while G was in suicide watch on 3-31-15 @ 1:27pm saying "In the event Rosenthal denies my request

to withdraw, G will continue to fight zealously as if G had never made the request". Rosenthal proves she knows this was wrong in DE#273 in my docket sheet saying "order denying motion to withdraw" using case law Matter of Wynn, 899 F.2d 644, 646 (5th Cir. '89) "An atty may withdraw only upon a showing of good cause..." G was in suicide watch from 3-12 to 3-31-31 (Exhibit I). Had Rosenthal forced Flood to stay on my case he would have fought for the suppression hearing and won like his brother Chris flood in the Zavala case (C.L.#55). Doesn't Rosenthal's own case law prove allowing Flood to quit was wrong?