

FILED

DEC 18 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

DAVID STEBBINS
8527 Hopewell Rd
VS. Harrison, AZ

CASE NO

Case: 1:12-cv-02029
Assigned To : Unassigned
Assign. Date : 12/18/2012
Description: Pro Se Gen. Civil

PLAINTIFF

UNITED STATES

DEFENDANT

**COMPLAINT, MOTION FOR ECF ACCESS, AND
FOR MARSHAL SERVICE**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following
FTCA/Bivens action against the United States.

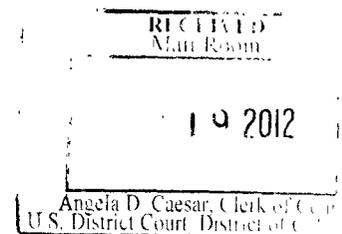
I was representing myself in two cases in the Court of Federal Claims (or CFC for short).
The first was Case No. 12-289, and the other was Case No. 12-296. Both cases were summarily
dismissed pursuant to FRCP 12(b).

I filed two technically perfect notices of appeal, one for each case, and the CFC sent me
back a stapled stack of blank sheets of paper, saying that they would not docket anything. They
even sent it to the wrong address (possibly so that I would hopefully not find out about the
situation until it was too late).

They have kept me out of the appellate court forever, and I wish for the United States,
pursuant to the Federal Tort Claims Act, to compensate me for the value of those cases (that is,
the amount I would have won, had I won the case on appeal).

Please find attached Exhibit A, a Standard Form 95 that I sent to the CFC in an attempt to
comply with 28 USC § 2675. Please also find attached Exhibit B, an affidavit of my mother,
who watched me mail the Standard Form 95, so I can prove that it was sent.

Lastly, I called the CFC Clerks Office and asked if they would ever respond to the
Standard Form 95, reminding them that "the law says I only have to send it to you once, and then



I can just sue your ass.” The clerk I spoke to replied that I would get no response. Because they have lied and said that they not received the Standard Form 95 (even though Exhibit B proves that they did), I am now relieved of my obligation to send that to them.

I recorded this phone conversation. To view it, please visit the following link:
www.youtube.com/watch?v=jp67tpF6tQY

Let's talk about something I know is on this Courts' mind: Judicial immunity. Under the Federal Tort Claims Act, the United States herself is still immune from suit so long as the personal perpetrator of the act is also immune from suit. Therefore, the question is whether or not the Court Clerks have judicial immunity. The simple answer is... no.

Granted, at first glance, it appears that this case is controlled by the precedent of *Sindram v. Suda*, 986 F. 2d 1459, 1460-61 (D.C. Cir. 1993) (“clerks, like judges, are immune from damage suits for performance of tasks that are an integral part of the judicial process”). However, this precedent was overturned just a few months later by the Supreme Court in the case of *Antoine v. Byers & Anderson, Inc.*, 508 US 429 (1993), holding that judicial immunity does not protect a person from failure to perform purely ministerial acts. In fact, the Supreme Court held in *dicta* that even *judges themselves* can still be liable for failure to perform purely ministerial tasks!

Therefore, the Clerks of the Court of Federal Claims are not immune from suit. Therefore, neither is the United States herself.

Wherefore, premises considered, I respectfully request that the United States be ordered to pay me the cost of these two cases, just like I requested in the Standard Form 95.

MOTION FOR ECF ACCESS

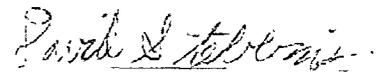
Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion

that I be admitted to the ECF.

The crux of my case revolves around the clerks not filing the pleadings I send to them. If I had ECF access, I would not have to worry about this Court's Clerks doing the same; I could simply file the pleadings myself. I request leave to do that.

MOTION FOR MARSHAL SERVICE

I am moving for leave to proceed *in forma pauperis* in this case. If this is granted, I ask that the Marshal be charged with serving process on the Defendants, pursuant to Fed. R. Civ. P. 4(c)(3).



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