

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SEP 24 1997  
LUTHER D. THOMAS, Clerk  
By: \_\_\_\_\_  
Deputy Clerk

George High, 43141-019  
Bldg. 5752-3  
P.O. Box 2000  
Fort Dix, N.J. 08640-0902

UNITED STATES OF AMERICA

September 21, 1997

v  
George W. High, Sr.  
Case No. 1:92-CR-182-4

NOTICE OF MOTION TO DISQUALIFY JUDGE ON MOTION UNDER 28 USC § 2255 &  
MOTION FOR RELEASE ON BAIL-NEWLY DISCOVERED EVIDENCE

SIR/MADAM:

PLEASE TAKE NOTICE that upon the annexed affidavit of the petitioner, George W. High, Sr., the attached memorandum of law, and upon all the papers and proceedings heretofore had herein, the undersigned will move this court in the chambers of the Honorable Robert I. Vining, Jr., Room 2211, United States District Courthouse, at 75 Spring Street, Atlanta, Georgia 30335, on October 3, 1997 at \_\_\_\_\_, or as soon thereafter as counsel can be heard, for an order disqualifying the Honorable Robert L. Vining, Jr. from passing judgement on the merits of the petitioner's pending motion under 28 USC § 2255 & Motion for release on bail-newly discovered evidence, and for such other and further relief as to this Court may seem just and proper.

Dated: September 21, 1997

George W. High, Sr., Petitioner

To: United States District Attorney  
For the Northern District Of Georgia

See: Yagman v Republic Ins. C.A.9 Cal. 987 F.2d 622, (district court judge have a self-enforcing duty to disqualify themselves in any proceeding in which their impartiality might be questioned or when they have personal bias or prejudice concerning a party).

UNITED STATES DISTRICT COURT FOR  
NORTHERN DISTRICT OF GEORGIA  
THE ELEVENTH CIRCUIT

September 21, 1997

George High, 43141-019  
Bldg 5752-3  
P.O. Box 2000  
Fort Dix, N.J. 08640-0902

Case No. 1:92-CR-182-4

DEFENDANT'S AFFADAVIT IN SUPPORT OF MOTION TO DISQUALIFY JUDGE  
ON MOTION UNDER 28 USC § 2255 & MOTION TO DISMISS INDICTMENT AND  
MOTION FOR RELEASE ON BAIL-NEWLY DISCOVERED EVIDENCE

George W. High, Sr., The petitioner here, says:

1. On October 13, 1993, I was found guilty of Conspiracy to possess with intent to distribute and to distribute, False statement in Acquiring a firearm, Convicted Felon in possession of a firearm, Conspiracy to Commit Offense Against the United States, and Structuring Transaction to evade Reporting requirments. In violation of Federal Statutes; 21 U.S.C. §§ 841 (a)(1) and 846 and 18 U.S.C. § 2, also 18 U...C § 922 (a)(6), and 922 (g)(1), and 18 U.S.C. § 371 and 2, also 31 U.S.C. § 5324(3), 18 U.S.C. § 2 and C.F.R. § 103.11.
2. The trial was had before the Honorable Robert L. Vining, Jr., who, on January 20, 1994 imposed a sentence of 97 months imprisonment.
3. Having obtained no relief through normal apellate channels from what I firmly maintain is a unjust conviction, on September 15, 1997 I filed before this Honorable Court a Pro Se Motion 28 USC § 2255 To Dismiss Indictment.
4. With all due respect to this Honorable Court, It is my firm belief, and I respectfully submit, that Judge Robert . Vining, Jr. has invinced in this case a bias against myself and my co-defendants, so strong as to effect his objectivity in assessing the claims made in my pending motion to dismiss indictment with prejudice, and to warrant his disqualification on this matter. In the interest of justice, I respectfully urge that Judge Robert L. Vining, Jr. excuse himself from futher participation in this matter.
5. A reading of the records of trial reflects very clearly that the evidence implicating me in the alleged crime was significantly less than that which served to convict my co-defendants, though I submit that even the evidence as to them hardly merited a conviction. Though some of the testimony was the most blatant type of hearsey, Judge Vining chose to imphasize that evidence in his charge to the jury. I respectfully urge that an unbiased judge would not repete such obviously incompetent testimony
6. I futher submit that our cases was initially assigned to another judge, but was changed to Judge Vining for reasons un-be-known the defendants.
7. I submit futher that ~~the~~ Judge Vining's bias against the underigned

is underscored by the the granting of the government's case, despite my (and co-defendants) record of appering as required for indictment, and during the course of trial, despite the extremely high bail upon which myself and another defendant had been therefore released. Judge Vining refused to allow defendants to remain free on bail pending Appeal, despite the prior clean records of all of the defendants, all of which was brought to Judge Vining's attention.

8. No person can say with absolute certitude what is on the mind of another. However, insofar as one can do so, I can and do assert that Judge Vining possesses a partiality toward the government in the present case which makes an objective assessment of the points raised in my motion impossible. Judge Vining's demenor throughout the trial leads me inevitably to that conclusion.

9. The extremely harsh sentence imposed upon me, despite the most tenous proof of a minimal involvement, indicate futher that justice would be better served if my present motion was heard by one whos feelings against myself and my co-defendants were not so blatantly prejudiced.

10. In light of the above, I respectfully call upon Judge Vining to look into his heart and ask whether he would wish to be judged by one whos attitude toward him is as his toward me and my co-defendants. I then call upon the Judge to disqualify himself from futher participating in the determination of my pending motion.

WHEREFORE, it is respectfully urged that Judge Robert L. Vining, Jr. excuse himself in the instant case and be hereafter disqualified from participating in any Judicial determination involving the undersigned.

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George W. High, Sr.