

TY CLEVINGER
21 Bennett Avenue #62
New York, New York 10033

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

April 5, 2016

The Hon. Merrick B. Garland, Chief Judge
U.S. Court of Appeals for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001

RE: Complaint of Judicial Misconduct

Chief Judge Garland:

I wish to file a judicial misconduct complaint against you and Acting Chief Judge Karen LeCraft Henderson. I incorporate by reference my [judicial misconduct complaint](#) against Judge Ellen S. Huvelle (Case No. DC-15-90003). I also incorporate by reference my [September 29, 2015](#) and [January 16, 2016](#) letters to you, my [June 19, 2015 letter](#) to former Chief Judge Richard W. Roberts, and my [March 3, 2016 letter](#) to the Judicial Council of the D.C. Circuit (enclosed).

As chief judge, you have fostered a culture of corruption in the E. Barrett Prettyman Courthouse. In the foregoing letters, I laid out overwhelming evidence of a years-long fraud on the court perpetrated by the attorneys for William C. Cartinhour, Jr. and aided by U.S. District Judge Ellen S. Huvelle. As explained in those letters, Mr. Cartinhour's attorneys tampered with his medical records in order to conceal the fact that he is a paranoid schizophrenic. They used his testimony to obtain a \$7 million verdict against my client, even though they knew that he had an altered perception of reality, experienced hallucinations, and was frequently incapacitated by his illness.

In fact, it is now evident that Mr. Cartinhour was actively psychotic during his videotaped trial testimony in *Robertson v. Cartinhour*, Case No. 1:09-cv-01642-ESH (“*Robertson P*”), but his attorneys knowingly misrepresented the problem as a heart condition. Given such brazen fraud and criminality, one would expect the judiciary to react swiftly and refer the perpetrators for prosecution. Instead, you and your colleagues have covered up the misconduct and retaliated against the whistleblower, *i.e.*, me.

The ongoing scandal in the federal courthouse began more than six years ago with Judge Huvelle and then metastasized as more and more judges “circled the wagons” to protect her. At the initial scheduling conference in *Robertson I* on December 15, 2009, with nothing more than a complaint in front of her and without having heard any evidence, Judge Huvelle impugned my client as a “rat” based on her “sixth sense.” She then announced that she was going to award the disputed funds to Mr. Cartinhour, never mind the fact that (1) both parties had demanded a jury trial, or (2) the fact that she had

not yet seen or heard the evidence. Finally, she froze all of my client's assets *sua sponte* without notice, a hearing, or a chance to respond, but only based on her "sixth sense."

In any civilized country, that should have resulted in a recusal and a stern rebuke. Instead, you and your colleagues ignored Judge Huvelle's misconduct repeatedly thereafter. The predictable result was escalating misconduct by Judge Huvelle. When Mr. Cartinhour implicated his own attorneys in forging his signature on an affidavit, Judge Huvelle covered it up, and the D.C. Circuit covered up for Judge Huvelle. When the same attorneys knowingly filed false discovery responses in order to conceal an adverse witness, Judge Huvelle covered it up, and the D.C. Circuit covered up for Judge Huvelle.

I later presented uncontraverted evidence that Judge Huvelle secretly (and illegally) communicated with Mr. Cartinhour's lawyers around the same time that she was covering up their crimes. I also presented evidence that Judge Huvelle communicated ex parte with a witness, namely Mr. Cartinhour's psychiatrist, who later claimed that he told "the court" about Mr. Cartinhour's schizophrenia. If Judge Huvelle learned about Mr. Cartinhour's schizophrenia via ex parte communications with his psychiatrist, then she aided and abetted his attorneys' fraud by failing to disclose that information to my client or the jury.

When a related case against Mr. Cartinhour ("*Robertson II*") was transferred from New York to D.C., Judge Huvelle violated the local rules and used her position as chair of the local assignments committee to assign the case to herself, even though that case implicated her in serious misconduct. Unsurprisingly, she dismissed the entire case with prejudice and sanctioned me six figures for filing it. When my client and I appealed, you and Judge Henderson, along with Senior Judge Edwards, affirmed her decision without an explanation. To be clear, you refused even to discuss her violation of the local rules or her conflict of interest, even though I presented you with *Ligon v. City of New York*, 736 F.3d 118 (2013), a then-recent case from the Second Circuit where Judge Shira Scheindlin was recused after manipulating the case assignment system in order to route a case to herself. To any outside observer, it looks like you and your colleagues could not find a plausible way to distinguish *Ligon* from Judge Huvelle's case, so you just ignored the issue and acted as if I never raised it.

In her sanctions order, Judge Huvelle also accused me of filing a bankruptcy case for the purpose of interfering with *Robertson I*. In reality, the bankruptcy case was filed by an attorney in Memphis, Tennessee, and that is an undisputed matter of public record. When I asked Judge Huvelle to correct the false accusation, she refused. When I appealed, you, Judge Henderson, and Judge Edwards just ignored the issue. Judge Huvelle didn't care if she lied about me, and neither did you. I must therefore wonder how far you are willing to go in order to save a colleague from embarrassment. Is my reputation and career really that expendable?

We have now reached the point where multiple felonies have been perpetrated by Mr. Cartinhour's attorneys, and a \$7 million fraud has been perpetrated against my client,

but nobody in the E. Barrett Prettyman courthouse has the decency to admit that maybe – just *maybe* – somebody in a black robe made a mistake along the way. No, at this point the judiciary is hellbent on sweeping it all under the rug. Meanwhile, the district court refuses *even to investigate* the criminal misconduct of Mr. Cartinhour's attorneys, having held my grievances in limbo for more than a year. Instead, the district court wants to disbar the whistleblower who filed the grievances, *i.e.*, me.

You may recall that the State Bar of Texas originally charged me with misconduct based on Judge Huvelle's allegations, but it later dismissed those charges after I provided evidence of Judge Huvelle's bias, misconduct, and conflicts of interest. In other words, the State Bar of Texas implicitly acknowledged that Judge Huvelle's sanctions order was tainted, yet your colleagues in the district court are still seeking to disbar me on the basis of those same, discredited allegations. Granted, you may not be directly responsible for the actions of your colleagues, but you and Judge Henderson have nonetheless created an atmosphere conducive to that sort of misconduct.

In my previous letters, I explained that you, Judge Huvelle, and the rest of your colleagues on the Court of Appeals had a legal duty to inquire into the frauds perpetrated by Mr. Cartinhour's attorneys. *See, e.g., In Re M.T.G., Inc.*, 366 B.R. 730, 754 (E.D.Mich. 2007). Instead, you and your colleagues have done absolutely nothing. According to Canon 2(A), a judge “should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” You and your colleagues have failed that standard by creating an overwhelming appearance of impropriety. In fact, it appears that you and your colleagues have become accessories after the fact by covering up the crimes committed by Mr. Cartinhour's attorneys.

You personally participated in the following cases that were tainted by the concealment of Mr. Cartinhour's illness and resulting lack of capacity: Case Nos. 10-7015, 10-7016, 10-7033, 11-7026, 11-7076, 12-7049, and 12-7100. Judge Henderson participated in Case Nos. 11-7026, 11-7076, 12-7049 and 12-7100. In my September 29, 2015 letter to you, I objected to your conflict of interest in handling my misconduct complaint against Judge Huvelle:

Every active member (and most senior members) of the Court of Appeals has been made aware of Judge Huvelle's misconduct in one or more of the following cases, either by serving on a panel or reviewing a petition for rehearing *en banc*: 10-5231 (original proceeding), 10-7033 (interlocutory), 11-7026 (final), and 12-7100 (final). You personally served on the panel that heard Case No. 10-7033.

Each time, you and/or your colleagues ignored her misconduct, issuing perfunctory *per curiam* opinions that never acknowledged the issue. From reading the opinions, you would never know that the issue had been raised and fully briefed by the parties.

I copied that letter to all other circuit judges, including Judge Henderson. Rather than refer the case to the Judicial Conference as I requested, however, you handed the case to

Judge Henderson, who was almost as conflicted as you were. My September 29, 2015 letter also objected to the long delay (eight months at that time) in responding to my complaint against Judge Huvelle:

If you now acknowledge the evidence of her misconduct in my complaint, you will inevitably impugn yourself and your colleagues for having turned a blind eye for so long. And in light of the eight-month delay in deciding whether to investigate, it certainly looks as if my complaint is being stonewalled.

I further cited Rule 11 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings for the premise that your job was not to investigate my complaint, but simply to determine whether an investigation needed to occur.

You did not respond, so I sent a letter to all circuit judges on January 16, 2016 objecting to the long delay and citing Canon 3(A)(5) of the Code of Conduct for U.S. Judges (“A judge should dispose promptly of the business of the court.”). Finally, Judge Henderson signed an order on February 18, 2016 dismissing my complaint in its entirety, notwithstanding her conflict of interest. That dismissal was a farce. My complaint against Judge Huvelle was supported by 41 evidentiary exhibits, including transcripts, medical records, emails, FedEx records, affidavits, and billing records. I presented enough evidence to indict one of Mr. Cartinhour's attorneys, and at least enough evidence to merit a thorough investigation of Judge Huvelle, but Judge Henderson dismissed the case anyway.

By failing to disqualify herself from the misconduct complaint in spite of her conflict of interest, Judge Henderson violated Canon 3(C). To the extent that either or both of you are responsible for the one-year delay in acting on my misconduct complaint, you violated Canons 3(A)(5) and 3(B)(1). I should also note that all D.C. Circuit judges are conflicted insofar as they, too, have covered up Judge Huvelle's misconduct. Accordingly, I ask that you refer this complaint to the Judicial Conference for reassignment to another circuit.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a stylized, cursive script.

Ty Clevenger

cc: Senator Charles Grassley, Chairman
U.S. Senate Judiciary Committee
Judges, U.S. Court of Appeals for the D.C. Circuit
Judicial Council of the D.C. Circuit