IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FIFTH DISTRICT RULING ON BEHALF OF SECOND DISTRICT PER RULING OF SUPREME COURT JUSTICE CANADY

RANDALL C. TOWNSEND ET AL
APPELLANTS **CASE NO. 2D-10-774**

Vs.

HEATHER M. GRAY ET AL
APPELLEES

UPDATED PER NEW EVIDENCE

PER RELATED CASES

IN RE: SC2011-41 ORDER OF CHIEF JUDGE CANADY TO DISQUALIFY 2nd DCA TO ENGAGE THE 5TH DCA (received 12/29/2010)
IN RE: SC09-1121 ORDER DISBARRING ATTORNEY HEATHER M. GRAY
IN RE: SC09-1910 ORDER FOR STATEWIDE GRAND JURY #19
IN RE: SC60-95935 TOWNSEND v. BRUCE CHAPIN ET AL.; P.C.A. 5D98-2111
IN RE: SC60-95936 TOWNSEND v. DAVID POPPER ET AL.; P.C.A. 5D98-1866
IN RE: SC60-86918 TOWNSEND v. LANE; P.C.A. 5D94-1913 5th DCA
IN RE: SC07-1181 TOWNSEND ET AL v. KAREN TOWNSEND ET AL. 2nd DCA
Now as R.O.C.P 1.530 and 1.540 Action By Proved Frauds: Extrinsic, Intrinsic and Fraud to the Courts by all defendants inclusive of judges and attorneys.
IN RE: 2D10-774 TOWNSEND ET AL. v. HEATHER GRAY ET AL;
IN RE: 13th Circuit 06-6005 TOWNSEND ET AL. v. HEATHER GRAY ET AL.
FLORIDA BAR COMPLAINTS- 05-3977; 93-31, 690 and 691 and 692;

APPELLANTS VERIFIED MOTION FOR DISQUALIFICATION

OF JUDGES AND MOTION FOR RECUSALS

Pursuant to Fla.R.Jud.Admin. 2.060, and §38.02 and §38.10 Florida Statues COMES NOW APPELLANTS AS RESPONDENTS, PLAINTIFFS, APPELLANTS AND ONGOING VICTIMS REQUESTS DISQUALIFICATION OF THE JUDGES ASSIGNED TO THIS CAUSE AND STATES:

1. **The movant is a party to this cause.**
2. **The movant believes that those for whom he speaks per F.S.617 did not get a fair trial or hearing because of the assigned judge's bias in favor of Appellees.**
3. **The movant's fear is based on the following:**

(a). WHILE IT IS THE CONSTITUTIONAL CONTRACT DUTY OF THIS COURT TO PROTECT THE INTEGRITY OF THE COURT IT IS THE DUTY OF THESE VICTIM APPELLANTS FOR WHOM PER F.S.§617 TOWNSEND SPEAKS TO PROTECT OUR COURTS; OUR CHURCH CORPORATION AND CONSTITUTIONAL RIGHTS OF DUE PROCESS AND INTEGRITY WITHOUT DEFAMATION BY UNLAWFUL "GOVERNMENT PERSONS" AS APPELLANTS REDRESS GOVERNMENT PERSONS ILLEGAL ACTIONS.

REJECTING THIS MOTION FOR RECUSAL SHOWS THIS COURT HAS NO INTEGRITY AND BECOMES AN MENS REA PARTICIPANT TO THE CRIMINAL ACTS OF GOVERNORS, LAW ENFORCERS, AND OTHER SUBJECTS DIRECTLY AS SUB-AGENTS OR CO-PARTICIPANTS OF THIS COURT.

(b) Until the posting of the Order of April 13, 2011, Appellants could only generally allege that the Fifth District Court of Appeals was tainted, prejudiced and biased because of their previous rulings in these matters and related matters back to on or about 1994 or before. Now with the naming of judges Orfinger, Palmer and Evander direct causes of bias and prejudice is shown as follows:

CASE LAW Robinson v. Weiland ET AL 5D05-2380 (judge Sawaya, Orfinger, Lawson) just found April 19, 2011, **is stating TOWNSEND V. LANE 659 SO2d 720 (Fla. 5th DCA 1995) and seven other cases is used as an example of judicial error of the lower court not to conduct an evidentiary hearing on the issues of fraud of Robinson's "robbers" as now alleged to be done by these attorneys sued as Chapin, Popper, Scruggs, Grant, Gibbs, Gardner, Denny, Rolfes and "others Doe" as Gray's fraudulent and negligent actions per her contract was to**

prosecute against "Robinson Types" for Townsend ET AL. The Mens Rea criminal enterprise of each defendant and "others" Townsend sues is to conspire to do intrinsic fraud and by extrinsic frauds prevent Townsend from even having an "honest day in court" since the intentional negligence in 1988 as Malpractice of Attorney David H. Popper.

The ineffective counsel started and was affirmed by Popper himself; the law firm of Austin, Lawrence and Landis P.A. employing Popper before Popper joined Chapin; Bruce Chapin as partner and employer of Popper at the law firm of O'Neill, Chapin, ET AL; The Florida Bar Officers even in the 1990's stating "This is the worse case of abuse by an attorney on a client in my over 27 years investigating cases for the Florida Bar but my boss has told me to close this file and never talk to you again. Good Bye!"; Attorney David Gibbs, III; Former Judge and Attorney Charles Scruggs; In part in 2007 by Federal Judge James Moody; the 11th Circuit Court of Appeals in their ruling in <u>TOWNSEND ET AL v. BECK ET AL</u> case **08-10721 of October 6, 2008, as on records filed with this court January 3, 2011; Disbarred Attorney Heather Gray and "others" with now this <u>ROBINSON</u> case position showing these attorneys and "others" now**

admitting to their own ineffective counsel or outright "Frauds", since Townsend v. Lane is the example of conspired: "law enforcers"; "government officials"; judicial and lawyer errors of the lower court and as the statue of limitations and related frauds in Intrinsic, Extrinsic and Frauds on the Courts per Rules R.O.C.P 1.53 and 1.540 did not expire during the contract for representations these attorneys as were to perform as the cases states "within their scopes" and not by "ineffective" or fraudulent services. In proved conspiracy these Co-Participants have "unlawfully impeded" Townsend from a jury in a court and even in his own Church performing the Fiduciary duties of the FBCCP By-Laws these victim members and Corporation expects him to honorably serve. How will any honorable court ignore bias and prejudicial motives to not be evident of fraud and conspiring motives in this ORFINGER ruling even reversing himself to now deprive and defame himself of honor and integrity on the Bench. Now for this court to repeat its proved "negligence" of the P.C.A. as ROBINSON states to not allow an evidentiary hearing and discovery as stated is required in the Robinson 5th DCA ruling is proof of conspiracy by this court and "others" as Judge Powell, Stroker, 5th DCA Harris, Peterson and Thompson; Clerks of Courts; 13th Circuit Judges Palomino, Arnold,

Timmerman, Crenshaw, Gomez, Sierra, Holder, Stoddard, Barbas, or as Judge Cook ET AL as "agents" of Hillsborough County Administrator and Attorney now fired Pat Bean, the Hillsborough County Commissioners and State Attorney Mark Ober ET AL or as Judge Canady acknowledged by recusing the entire 2DCA did not follow the prescient ruling of even as Judge Orfinger or the Florida Supreme Court having disbarred Heather Gray per the numerous proofs of frauds to clients even by this 5TH DCA or allow discovery so more frauds of defendants could be exposed and brought into the case Gray was paid and agreed to appeal.

(c) Even judge Cook in her 09/2009 hearing admitted on the record she had to obey the Orders and Rules of her Superiors. It is clear now she is not obeying the written records or Orders but the unwritten or not yet exposed Orders of her Co-Conspirators by her dismissal of the 06-6005 case and ignoring that Gray is in Default and that Gray ET AL did not or still has not responded legally per the Rule of Law or per the fact that she was disbarred at the time of filing the Motion to Dismiss on which Cook ruled and now this Orfinger court has upheld and tried to show honor to a fraud against Appellants/Respondents/Ongoing Victims of Popper ET AL and or related conspiring Deputies Jeffers ET AL as

admitted by Judge Crenshaw in 2006 even rewriting the Malicious Prosecution Count given to judge Cook and also as per judge Crenshaw saying "Shut up. I am trying to get you a lot of money and you can go after the others later." Townsend refused this Townsend believes illegal "Crenshaw ET AL offer" and refuses to "sell out those for whom he still speaks" in this case that has yet since judge Muszynski in about 1988-1989, to be before an honorable or purely neutral judge. Nor can a case proceed until "Discovery" is fully allowed. Even in the record is the fact that the 11/12/2001 letter to Attorney Scruggs from Townsend demanding discovery of records and testimony of the Townsend children would be gained and used in the court of judge Palomino on 11/15/2001 in the cases of Beck v. Townsend 01-15813 Repeat Violence and Karen Harrod Townsend v. Townsend 01-15814, Domestic Violence being ignored goes to motives and the criminal enterprise of Appellee's ET AL and "others Doe" in 2010 to send HCSO deputies to threaten Townsend to stop filing legal papers and stop trying to see your kids.

Many other exhibits of "Intentionally and knowingly" written false promises of Appellee's is throughout the records in this case. Even the filing by Attorney Scruggs on 3/25/2003, PETITIONER/HUSBAND'S

Verified Motion to Disqualify Judge Timmerman in the Divorce case 02-4974 and part of the master plan approved by retained March 14, 2003 Attorney Gray was by Rule of Law ignored and used to cause fraud to Appellants and fraud on an Honorable Court.

(d) No judge in these related cases has Granted the 1000 plus legal demands by Townsend for "Discovery" of even his own records by Contracts or even allowed Townsend since 1999 to freely even talk to or dispose his own children on or fore the record so to disprove the intentionally false "abuse and molestation and fraud" charges made by proved criminals as the Ex-wife, "alleged honorable pastors Nasworthy, Beck, Meister and Brown" and the "pastors Sect" and "alleged by only themselves honorable government law enforcers".

(e) Gray at or about the time of her representation of Townsend ET AL and knowing of Townsend's allegations against Charlie Crist as Attorney General and Governor and "others" in his "gang" is employed to report and represent cases on behalf of defendants herein as a major conflict of interest and argued many other cases even to these judges of this 5TH DCA and 2nd DCA who brought charges against her in her Florida Bar Investigation and Disbarment by the Supreme Court.

(f) QUID PRO QUO MOTIVES OF BIAS AND OR PREJUDICE

NEGLECT OF DUTY ISSUES SHOW THE COURTS ARE IN CONTINUING VIOLATIONS OF:

"RULE 2.085 TIME STANDARDS FOR TRIAL AND APPELLATE COURTS (a) Purpose. Judges and lawyers have a professional obligation to conclude litigation as soon as it is reasonable and justly possible to do so….(d) Time Standards…(B) Jury Cases---18 months (filing to final disposition)…(C) Domestic Relations… Contested 180 days (filing to final disposition)….

In each of these underlying causes now enjoined these judges and others of alleged honorable "law enforcement" ignore the ongoing criminal acts, violations of Rules of Law and legal Orders of their Superiors, Constitutional violations and damages still being caused against Respondent/Appellants by Plaintiff/Defendants even as this ROBINSON Orfinger ruling shows judicial misconduct and the conspiracy since intentionally ineffective counsel Popper and Popper ET AL began to conspire to "never let Townsend have discovery or his day in court" since about 1988.

RULE 8.00 FLORIDA RULES OF JUVENILE PROCEDURE and specifically F.S. §39.01 (1)-(57) were and are "impeded" since on or about 1997 by the Ex-wife and her Employer and other Co-Participants and

"others Doe" herein as Defendants who still conspire by "THREATS and OBSTRUCTION" by "Government Persons" on the FBCCP/CPCS kids and those for whom Townsend speaks to conceal frauds at Law and Facts and violations of the FBCCP By-Laws by Defendants. Since the "ineffective counsel" started by Popper ET AL began in about 1988, these Children for whom Townsend speaks have been detained "KOLB" style by "Government Persons" directly connected as judge Crenshaw said "all things are related" by Popper, Chapin, Bush, Crist, Gibbs, Jeffers and Jeffers Deputies ET AL, Scruggs, Gray ET AL and "others Doe" and deprived of F.S.§39.071 (Right to Counsel) other than the now proved F.S.617 honorable counsel Townsend advocates.

RULE §90.501 EVIDENCE CODE 90.502 in whole and specifically "Subsection (4) (a) When the services of the attorney are sought to be utilized in the commission of a crime or fraud, the privilege does not attach…"

(g) TO THE POINT OF "MOTIVE OF THE CONSPIRACY", THE PATTERN OF NO DISCOVERY IS THE SAME IN <u>TOWNSEND v. LANE</u> and <u>BECK ET AL v. TOWNSEND</u> now consolidated in this case as <u>TOWNSEND ET AL v. GRAY ET AL.</u> allowing Townsend and those for whom he per F.S.617 speaks to prove the Truth or innocence of

charges made by Government Agents of Popper ET AL or Jeffers ET AL. No Lane a/k/a Sabal business records were produced. Also NO FBCCP or CPCS Business Reports produced by Order of Judge Crenshaw showed were in matter of CLA Gibbs or Gardner or FBCCP Registered Agent Florida Senator John Grant or attorneys for Dickinson and Gibbons as Charles Denny ET AL or "others" not legally per the Rules of Civil Procedure documented in the court as Townsend demanded from Denny ET AL in the Court of judge Crenshaw 09/2007, "who are you representing and who is paying you and show me more records that you are unlawfully withholding from the Church Members as even my kids you even by frauds claim to speak or represent.", as it is not per the will of the FBCCP Corporation or the Church members opposing allegedly "Government" Jeffers BECK ET AL right to do fraud of members and students and or the FBCCP Corporation. Rule 90.502(4)(a) crime, fraud (c) breach of duty "In Kneale v. Williams 158 Fla. 811, 818, 30 So2d 284, 287 (1947) the Supreme Court stated: It appears to be well settled that the perpetration of a fraud is outside the scope of the professional duty of an attorney and no privileges attach to a communication and transaction between an attorney and client with respect to transactions constituting the making of a false claim or the perpetration of a fraud….". Therefore, just as **ROBINSON id. states**

Judges Rom Powell, Stroker and "others" including as more concealed evidence will prove and Attorney Popper and Chapin were conspiring against Townsend in the underlying cause Scruggs and Gray was to litigate so shows the FBCCP Corporation lawyers and or as Deputies ET AL as Government Officers have no right to "impede" or "withhold evidence" or "obstruct" evidence nor does the "judge" or "deputies ET AL" as Government have the right per the FBCCP By-laws to "impede", "detain" and or "fraud" a Church members duty, assembly, family/parent/children actions, action, knowledge, and or vote as this is a specific Tort and Breach of the FBCCP By-Laws.

(h) Rule F.S.§38.02 states: "If the judge finds that the suggestion is true, he shall forthwith enter an order reciting the ground of his disqualification and declaring himself disqualified in the cause: if he finds that the suggestion is false, he shall forthwith enter his order so reciting and declaring himself to be qualified in the cause….". In this case again it is necessary for a judge (Orfinger, Palmer and Evander) to recuse himself and enter an order per the Rule of Law. Proofs of others as judges ignoring this rule goes to motive and conspiracy.

(i) These judges reviewed an incomplete record and even did not take judicial notice or allow time to file papers as Appellees and "others Doe"

refuse to file court ordered per Rule of Law papers or responses to deny allegations confirmed by these Appellants.

THEREFORE FOR THESE ABOVE REASONS AND OTHERS NOT YET DISCOVERED BECAUSE THESE "GOVERNMENT PERSONS" CONSPIRE TO "IMPEDE" DISCOVERY AND PER THE DIRECT REPLY FROM FLORIDA SUPREME COURT CLERK THOMAS D. HALL in his letter of March 4, 2011, cc: Hon. David A. Monaco, Chief Judge, Fifth District Court of Appeal, this Demand for Discovery, Recusal of judges Orfinger, Palmer, Evander and the entire 5th DCA is not generally but specifically made as it appears the Fifth DCA is without quorum of any judges not appointed by Governors Chiles, McKay, Bush or Crist or not under the direct control of Florida Bar officer John Harkness or John Berry, as discovery will show are directly involved in the underlying conspiracy to oppose Townsend having an "honorable day in court".

Per Florida Rules of Court Rule 2.050(g) Neglect of Duty this Motion is forwarded to the Chief Judge of the Florida Supreme Court and to the Office of Governor Rick Scott for their specific functions of their Fiduciary Duty.

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RANDALL C. TOWNSEND per F.S. §617

CERTIFICATE OF FONT

I HEREBY CERTIFY that the size and style of type used in this brief is 14 point Times New Roman.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified Mail to Judge Canady of the Florida Supreme Court 500 S. Duval St. Tallahassee, FL 32399-1925 and to the 5th DCA at 300 South Beach Street, Daytona Beach, Florida 32114 and Heather Gray 10011 Cannon Drive, Riverview Florida 33578 and to the Capital Tallahassee Offices of Governor Rick Scott PL-05 and Attorney General Pam Bondi PL-01, The Capital Tallahassee, Florida, 32399 this ____, 2011.

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Respectfully Submitted as for all Appellants by,
Randall C. Townsend, Pro Se, Per F.S.§617
P.O. Box 21, Odessa, Fl. 33556
(941) 350-2677. See more exhibits and files at:
www.Judgeoneforyourself.com

BEFORE ME THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED RANDALL C. TOWNSEND, PRESENTING IDENTIFICATON, WHO UPON BEING DULY SWORN AND CAUTIONED EXECUTED AND STATED IN HIS OWN WORDS AND TOOK AN OATH THAT THE STATEMENTS AND THE THINGS CONTAINED THEREIN ARE TRUE AND CORRECT, TO THE BEST OF HIS KNOWLEDGE, INFORMATION AND BELIEF.
SIGNED: RANDALL C. TOWNSEND_____
WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, 2011, BY
ID PRODUCED_____NOTARY PUBLIC:_____
For all Appellants.