UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,
Respondent

MOTION FOR RECONSIDERATION of DENIAL of RULE 60 MOTION FOR RELIEF

Comes now Petitioner, Steven Alan Magritz, the living man, in want of counsel, and as and for a Motion for Reconsideration of the Decision and Order of Lynn Adelman, Dkt. 21, dated February 22, 2019 denying my Motion for Relief, Fed. R. Civ. P., Rule 60, Dkt. 18, filed December 20, 2018, shows the Court as follows. Terms such as I, me, my, myself, etc., refer to Steven Alan Magritz.

On March 22, 2018 A.D., I filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was assigned to Lynn Adelman.

On July 12, 2018 A.D., I filed a sixteen page Mandatory Judicial Notice, *signed under penalty of perjury*, with twenty-two pages of exhibits in support, noticing the court of fraud upon the court by respondent's attorneys in their brief in support of their motion to dismiss. *None* of the facts regarding the attorneys' fraud stated in my Mandatory Judicial Notice of fraud upon the court *have ever been rebutted*. *One* of most egregious false statements by the attorneys was that I was denied habeas corpus relief in the state appellate courts because I had *failed to file*

a direct appeal. This was parroted by Adelman to justify a procedural default decision and order.

On July 20, 2018 A.D., I filed a Motion for Summary Judgment, a twenty-two page Statement of Facts *signed under penalty of perjury,* and a thirteen page Memorandum in Support.

On November 13, 2018 A.D., I filed a Verified Bill Quia Timet expressing my fear that the court was frustrating the will and intent of Congress and delaying granting me summary judgment.

On November 28, 2018 A.D., Lynn Adelman issued a Decision and Order granting respondent's motion to dismiss my petition and denying my motion for summary judgment. Also on November 28th the Court, by and through its Clerk, entered a judgment dismissing my petition.

On December 20, 2018 A.D., I filed a "MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60", a "MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60", and a "Praecipe to the Clerk" in which I noticed the Clerk that "Lynn Adelman has been **disqualified** in case no. 18-C-0455" and further, that my motion and memorandum were to be presented to the chief judge.

Adelman's November 28th Decision and Order was replete with a false, slanderous, unsubstantiated accusation against me; false statements; outright fabrications; a false, twisted, perverted "application" of non-existent law, *and more,* all of which I evidenced and exposed in a twenty-two page Memorandum in support of my Rule 60 motion, *signed under the penalty of perjury,* the charges which,

individually and in totality, evidenced fraud upon the court by Lynn Adelman, d/b/a judge. Adelman's fraud, deceit, misrepresentation, dishonesty, lack of integrity, want of good faith, and fraud upon the court disqualified him as judge, and evidenced pervasive, outrageous, *antagonistic* bias, thus I proclaimed: "I hereby disqualify Lynn Adelman for bias or prejudice."

My Memorandum in Support of my Rule 60 motion, Dkt. 19, is incorporated herein by reference in its entirety as if fully reproduced herein.

The apparent motivation behind Adelman's "bias or prejudice" is obvious, plain, and simple – to *continue to run interference for and cover-up the corruption of a fellow judge,* state court judge Sandy A. Williams. Williams is married to a prosecutor. Adelman's misconduct is obstruction of justice on steroids. Adelman's wanton disregard for the law and defiance of the Constitution and laws of the United States of America is not unlike the corruption and cover-ups being exposed and routed out at the highest levels of government in Washington, D.C.

As "justification" for dismissing my petition for writ of habeas corpus, Adelman defied and denied the Constitution by parroting the false, ludicrous, ridiculous statement by respondent's [state] attorneys that my petition had been denied at the state level because I had *failed to file a direct appeal* of the politically motivated persecution by the state court judge. Regarding "Procedural Default", Dkt. 16-6, Adelman stated,

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

The main problem with Adelman's statement is that it is blatantly, patently *false.* The record of this Court evidences the Wisconsin Court of Appeals did *not* reject my

federal claims for failure to file a direct appeal. For a judge to assert and claim that a man restrained of his liberty by a biased, rogue state court judge must first file a direct appeal *or else is precluded from remedy by a writ of habeas corpus* is *rebellion* against both the federal and state Constitutions and utter disregard of the laws of the United States of America and of Wisconsin.

As set forth on page 3 of my Memorandum in Support of my Rule 60 motion, Dkt. 19, the applicable, governing state law is Wis. Stat. § 974.06 (8), which was taken *directly* from 28 U.S.C. § 2255. Adelman cannot justify his flagrant disregard of the law, especially since the *state law was taken directly from federal law.*

On February 22, 2019 A.D., Adelman issued a Decision and Order, Dkt. 21, denying my motion for relief under Rule 60 *after I had disqualified him for his earlier fraud upon the court* which I had "graciously" referred to as bias or prejudice out of respect for the institution of the courts, which is supposed to dispense "justice" rather than "just-us". In his February 22nd decision and order Adelman heaped more fraud upon this honorable Court.

Fraud number one, February 22nd decision and order, Dkt. 21: On page 1, paragraph 2 Adelman wrote:

> The alleged fraud involved misstating the reasoning behind the state court of appeals's denial of Magritz's state habeas petitions. However, the respondent did not misstate the state court's reasoning.

Fact: The "alleged" (sic) fraud which I evidenced to this Court, Dkt. 10, consisted of at least a dozen false representations / fraudulent statements made by the respondent's attorneys. The most relevant one here being:

> Magritz's failure to pursue direct review in state court is in and of itself fatal to his federal habeas petition. Dkt. 7:13.

As stated above, Adelman parroted and embellished this false, ludicrous, ridiculous statement in his "decision", Dkt. 16-6, that I had procedurally defaulted and therefore Adelman denied me relief by way of the writ of habeas corpus.

Fraud number two. Dkt. 21-1: Adelman *falsely* wrote in paragraph 3:

> Next, Magritz argues that the order and judgment must be set aside under Rule 60(b)(6) because I am biased and should have recused myself under 28 U.S.C. § 455(b)(1).

FACT: I did *not* argue that Adelman *should have* recused himself under § 455(b)(1). My twenty-two (22) page Memorandum in support of my Rule 60 motion *evidenced* at length and in detail that Adelman's pervasive "bias or prejudice", much of which was actually fraud upon the court, was the grounds or the reason that justified relief in the interest of justice. The antagonistic bias and fraud upon this Court *exhibited* by Adelman are "extraordinary circumstances"[1] which are *grounds* for relief under Rule 60(b)(6).

Fraud number three. In the very first paragraph on page 2, Adelman cites only the second sentence of a summarizing paragraph in my motion which offers only a broad-brush, detail-less condensation of my twenty-two page Memorandum. Adelman omits the first sentence of said paragraph, which declares Adelman's "bias or prejudice" constitutes the "*grounds*" for relief under Rule 60(b), rather than his *subsequent fraudulent claim* that I was motioning the court for his recusal:

> I am entitled to relief and so move the Court pursuant to Rule 60(b)(6) for bias or prejudice, Title 28 § 455(b)(1) of the presiding officer, Lynn Adelman.

[1] *LILJEBERG v. HEALTH SERVICES ACQUISITION CORP.*, 486 U.S. 847, 864 (1988).

Fraud number four. Adelman fraudulently asserts my Rule 60(b)(6) motion was a motion for his recusal, which is *absurd* since *I had already disqualified him for fraud upon the court* which I had politely ("politically correctly") termed "bias or prejudice". Adelman *deceitfully, deceptively, fraudulently* cites *and uses* Liteky v. United States, 510 U.S. 540, which is a case wherein "*Before trial petitioners moved to disqualify*[2] *the District Judge* pursuant to 28 U. S. C. § 455(a)."[3] My Rule 60(b)(6) motion was for relief from a judgment obtained by fraud upon the court by respondent's attorneys, and, much more importantly and legally significant, *fraud upon the court by presiding judge Lynn Adelman* evidenced and exhibited by and through pervasive, egregious antagonistic "bias or prejudice" which is repugnant and shocks the conscience. My Rule 60 motion most assuredly was *not a motion for Adelman to recuse* himself. No way. Absolutely not. Injuries already had been suffered. I did *not* motion, ask for, petition, request, beg, etc. for the recusal of Adelman, I *ORDERED disqualification for Adelman's Fraud Upon the Court.* Fraud by a judge is unacceptable. Period.

Adelman's options were to *repent* of his fraud, "man up" by "asserting" he had made a "mistake", and rule according to the law, *or*, compound his "error" by committing additional fraud upon the court. Adelman chose the latter, thus *compounding his "error"* and causing to be mailed to me via U.S. mail his

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[2] JUSTICE SCALIA wrote: Section 455(a) of Title 28 of the United States Code requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." This case presents the question whether required recusal under this provision is subject to the limitation that has come to be known as the "extrajudicial source" doctrine. (510 U.S. 540, 541)

[3] *Id.*, 510 U.S. 540, 542.

fraudulent "DECISION AND ORDER" in apparent violation of Title 18 § 1341 to defraud me of the intangible right of honest services, Title 18 § 1346.

Fraud number five. On page 2, Dkt. 21, Adelman stated the following regarding his "understanding" at the time of signing the fraudulent "Decision and Order":

> However, my opinion was based on my understanding of the record and the law.

This is a troubling statement for several reasons:

First. *If true*, it is akin to Andrew McCabe admitting on the nationally televised 60 Minutes program to having committed sedition. Adelman has been an attorney for more than fifty (50+) years and has been a federal judge for *decades*, yet his *understanding* of the law was contrary to the federal Constitution, contrary to Wisconsin's Constitution, contrary to federal law Title 28 § 2255, and contrary to Wisconsin Statute § 974.06(8). Adelman *fabricated* a "well established law", fraudulently asserting that my failing to file a direct appeal resulted in a "procedural default". That is fraud upon the court and upon me, Adelman's victim. *That* was Adelman's "understanding" (sic) of the law at the time.

Second. Then Adelman, after having been tutored in the "law" via my Rule 60 Motion for Relief, by a layman with no legal training, that he had ruled contrary, and egregiously contrary, to all written law, and having been given the opportunity to correct by and through my Rule 60(b)(6) motion, refused to correct his "error", thus signifying that his "error" was intentional, purposeful, with scienter, with malice aforethought, *fraud upon this Court* and upon me.

Third. That Adelman's "*understanding of the record*" at the time of his decision was so defective and deficient that he made mistakes in judgment is just too big of a pill to swallow. No one meticulously sorts through a record, as Adelman obviously did, to pick and choose items from different sources and places, and then misstate or mischaracterize them, *by accident.* A tornado going through a junkyard and creating a Boeing 747 is more likely. Since Adelman had a "corrected", *more perfect understanding* of the record by virtue of my Memorandum than he had on February 22nd when issuing the defective / deficient / fraudulent decision and order, he had the duty and obligation to vacate the November 28, 2018 judgment. But Adelman did *not* vacate the judgment. Adelman's *uncorrected* "mistakes" scream *fraud upon this honorable Court.*

Bias or prejudice. Bias on the part of a judge is deemed a "structural error" or a "structural defect" which violates due process and voids a judgment issued by a biased judge[4]. The twenty-two page Memorandum in support of my Rule 60 motion *charges* and evidences pervasive, outrageous, antagonistic bias against me. Nowhere in Adelman's two page denial of my motion did Adelman deny or refute any of the numerous charges / instances of bias evidenced in the Memorandum. Adelman did not deny that the Memorandum evidenced pervasive antagonistic bias by Adelman. Adelman had a duty to protect himself and deny the

[4] There is irony in the fact that federal judge Lynn Adelman, who is expected to dispense justice and display honesty, integrity, and good faith toward Magritz in providing Magritz remedy from blatant, egregious, retaliatory acts of biased state court judge Sandy Williams, himself exhibits and evidences pervasive, outrageous, *antagonistic* bias in an obvious effort to protect Williams.

charges of bias against him. Adelman did not deny that he was biased. Adelman agreed, *nihil dicit*, he was biased.

When a reasonable person, knowing all of the relevant facts, would question the impartiality of a justice, judge, or magistrate under 28.U.S.C. § 455, a judgment rendered by such a person must be vacated, and the vehicle for doing so is Rule 60(b)(6). *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988). In Liljeberg, a judgment was rendered, and ten (10) months after judgment facts were discovered that gave rise to the *appearance* of impartiality by a reasonable observer, even though the judge was not conscious of the circumstances creating the *appearance* of impropriety. The judgment was vacated on a Fed. R. Civ. P. Rule 60(b)(6) motion. If a judgment is vacated under Rule 60(b)(6) based upon the *appearance of impartiality*, how much more so is it imperative that a judgment be vacated when the ruling comes from Lynn Adelman whose *documented* bias or prejudice is pervasive, outrageous, antagonistic, not refuted, not denied, and admitted *nihil dicit*.

Adelman's fraudulent Decision and Order dated February 22, 2019 A.D. is Refused For Fraud, so marked, and returned with this Motion For Reconsideration.

I move this honorable Court for reconsideration[5] of Lynn Adelman's February 22, 2019 denial, Dkt. 21, of my Rule 60 Motion For Relief, Dkt. 18.

/s

Dated this February 28, 2019 A.D.

Steven Alan Magritz

[5]Denial is abuse of discretion, *Harrison v. Byrd*, 765 F.2d 501.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Praecipe to the Clerk

Steven Alan Magritz,
Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,
Respondent

To: Clerk of Court Stephen C. Dries:

Dear Clerk Dries:

Take Notice: As this Court has been previously given **Notice** that Lynn Adelman was **disqualified** in case no. 18-C-0455, Steven Alan Magritz v. JON E. LITSCHER, as stated in my Rule 60 Motion For Relief, Dkt. 18, and further expounded upon in my Memorandum in Support, Dkt. 19. Adelman was disqualified for fraud upon the court, which, to be "politically correct", I termed "bias or prejudice".

As set forth in my Motion for Reconsideration filed this day Adelman has again perpetrated fraud upon this honorable Court and upon me by issuing a denial, Dkt. 21, of my Rule 60 Motion, and filing said denial with this Court.

You are hereby instructed by this Writ of Praecipe to present my Motion for Reconsideration and Refused For Fraud to Chief Judge William C. Griesbach for hearing.

/s

Dated February 28, 2019 A.D.

Steven Alan Magritz

Certificate of Service

Re: Steven Alan Magritz v. JON E. LITSCHER
Case No. 18-cv-455-LA

I certify the following is being served by United States mail, postage prepaid, on Daniel J. O'Brien, State of Wisconsin, Department of Justice, P.O. Box 7857, Madison, WI 53707:

Motion For Reconsideration of Denial of Rule 60 Motion For Relief
Refused For Fraud
Praecipe To the Clerk

Dated this February 28, 2019 A.D.

/s

Steven Alan Magritz