

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA**

AMIR H. SANJARI,)	
Plaintiff)	
)	
v.)	Cause No. 3:07-cv-00423-TLS
)	
ALISON GRATZOL,)	
Defendant)	
)	
<u>In Rem</u>)	

**EMERGENCY VERIFIED MOTION TO
EXPEDITE CONSIDERATION OF THE INSTANT CASE;
AND
REAFFIRMATION OF REQUEST TO VACATE REFERRAL TO
DISTRICT MAGISTRATE**

The undersigned Plaintiff, Amir H. Sanjari (“Sanjari”), *self-represented, in propria persona*, in the above-captioned action against Defendant Alison Gratzol (“Gratzol”) is hereby filing the instant Emergency Verified Motion requesting that:

A- the instant matter before the US District Court be considered (Complaint to proceed In Forma Pauperis) with haste and on an expedited and emergency basis.

And

B- referral of the instant case to US Magistrate be vacated completely.

In support, Plaintiff states as follows:

1. On 09.10.2007 Sanjari filed the instant action in the US District Court (“USDC”) of Northern Indiana. The issues in the instant matter currently before the USDC are Sanjari's *In Rem* Complaint, Application to proceed In Forma Pauperis (IFP) and the instant emergency verified motion.

2. On 09.17.2007, Sanjari filed his "REQUEST FOR CONDUCT OF ALL PROCEEDINGS BY US DISTRICT JUDGE ONLY". Sanjari, respectfully, reiterates his request for the conduct of all aspects of the instant case to be made solely by the US District Judge as mandated by **28 U.S.C. 636**, and that no aspect of the case whatsoever be conducted or decided by a magistrate judge at all. Sanjari continues to reserve and maintain his right and expectation to a jury trial. Sanjari requests that the court completely vacate the reference of the instant civil matter to the magistrate judge due to conflict of interest and undue (prior) bias. Also see. **28 U.S.C. 636, (c)(4)**. In addition, due to the gravity and history of the instant matter and ever present dangers and high probability of undue bias the exclusion of Magistrate Judge becomes even more necessary. **Bloom Hershkoff**, Federal Courts, Magistrate Judges, and the Pro Se Plaintiff, 16 Notre Dame J.L. Ethics & Pub. Pol'y 475 (2002) at 477, 503.

28 USC Sec. 455, and **Marshall v Jerrico Inc.**, 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980):

"The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision making process.

See **Carey v. Piphus**, 435 U.S. 247, 259 -262, 266-267 (1978).

The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law." "Parties who, by the constitution and laws of the United States, have a right to have their controversies

decided in their tribunals, have a right to demand the unbiased judgment of the court.”

PEASE v. PECK, 59 U.S. 595 (1855).

3. Pursuant to **28 USC 1657**, Sanjari is requesting that the instant USDC proceed with the consideration of the instant case on an emergency/expedited basis.

Provisions **28 USC § 1657** statute (priority of civil action) mandate:

“... that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, “good cause” is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.”

- i) Sanjari has sought, in the instant action, declaratory and injunctive relief (“good cause”),
- ii) Sanjari's constitutional rights of due process, equal protection, parental rights (**Fourteenth Amendment**), right of access to the courts (**Seventh Amendment**), right of association with his children (**First Amendment**) and his livelihood and “pursuit of happiness” have been egregiously and continuously violated. Furthermore, the USDC's expedited issuance of requested declaratory and injunctive relief would prevent further violations of Sanjari's (above) constitutional rights as well as his livelihood, “liberty and pursuit of happiness”. (“good cause”).
- iii) Since Sanjari filed the instant action in the USDC, Defendant Gratzol

has been continuing the further perpetration of abuse upon the Sanjari's younger minor child, MRS, including but not limited to psychological abuse resulting in the “*Stockholm Syndrome*” and “*Parental Alienation*” in “*Hostile Parental Environment*”. Such abuse upon MRS is a direct consequence of the instant *in rem* order and is expected to be curtailed and further abuse prevented once the court rules the said *in rem* order unconstitutional. (“*good cause*”).

On Thursday¹ (09.20.2007) and Monday (09.24.2007) and the days in between until Wednesday (09.26.2007) Sanjari's calls to MRS' mobile phone went unanswered. Contacts with Gratzol yielded no response as to why MRS had not responded to Sanjari's calls and Gratzol persistently refused to provide an answer as to whether MRS was safe, or had been hurt (either through direct or indirect abuse by Gratzol very likely resulting in MRS' self-mutilations as in the case of AFS- see below. It maybe noted that Gratzol, an unstable individual has herself history of attempted suicide, hence rendering the said *in rem* order even more ironic, egregious and unlawful.

The said *in rem* order has also permitted Gratzol's abuse (both psychological and physical) of Sanjari's older child, AFS. An indication (color photograph) of abuse upon AFS was presented to the instant USDC (**Exhibit # 1**, Motion For IFP, 09.10.2007) and which

¹ As per agreed arrangement, Sanjari always regularly (a matter of some years) calls and talks with MRS on Thursdays and Mondays at 7:00 p.m. EST.

also makes the case for granting IFP and proceeding with the instant action on an expedited manner. Previously, when such events occurred to AFS in Gratzol's unlawful custody, Sanjari was able to expose the said abuse and Gratzol's cover up of it. As a further consequence of the unconstitutional *in rem* order, Sanjari has been unlawfully deprived of his rights including the supervision of MRS. This results in a free reign of abuse by the Gratzols upon MRS. Previously, when such an unexpected lull in communication (such as that regarding MRS, above) occurred, it signaled AFS' self-mutilation and abuse by the Gratzols and their cover up of it. Similarly, the above break in communication with MRS during the period September 20 - 26 is very strongly believed to be of the same abusive nature upon MRS by the Gratzols. The Indiana state agencies rely upon the unconstitutional *in rem* order as an excuse for inaction even when they were provided with photographs of the mutilations. Therefore, this court has the constitutional, statutory and moral duty and legal authority, and is requested, to prevent further irreparable harm and abuse upon the minor child, MRS, through its expeditious consideration of the instant matter. (“*good cause*”).

The above more than satisfy the requirement and definition of “*good cause*” (prevention of continued deprivation of constitutional rights and violations under federal statutes as well as safety of minor child) for the consideration of the instant action expeditiously in accordance with the relevant constitutional and statutory

laws, rights and privileges, not least that of and **F. R. Civ. P. 1** stating:

“Rule 1. Scope and Purpose of Rules
These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.”

“Rule 1, supra , as amended, requires federal courts to construe and administer the rules to secure the just, speedy and inexpensive determination of every action.”

4. The “*Court confronted by a motion* [Sanjari's instant Emergency Verified Motion, the IFP Motion and the Complaint,] *authorized by the Rules must decide the motion within a reasonable time. . . [T]he right of a movant* [Sanjari] *to have a motion decided is so clear that it will be enforced under proper circumstances by mandamus.”* **US East Telecommunications v. US West Inf. Sys.**, 15 F.3d 261 (2nd Cir. 1994) (citing **Hudson v. Parker**, 156 U.S. 277, 288, 39 L. Ed. 424, 15 S. Ct. 450 (1895), **Richardson Greenshields Securities, Inc. v. Lau**, 825 F.2d 647, 652 (2nd Cir. 1987)); see also **Chudasama v. Mazda Motor Corp.**, 123 F.3d 1353, 1367 (11th Cir. 1997). “(failure to rule on pending motion an abuse of discretion) (Moreover, the ruling must be meaningful. It is not enough simply to deny a motion to dismiss a claim with little or no comment).” **In re IBM**, 687 F.2d 591, 603 (2d Cir. 1982), granting mandamus where district court had failed for nearly three months to rule on a motion, the legal issues were "clear-cut," and several concerns "emphasize[d] the importance of a prompt disposition of th[e] matter and of the litigation", as Sanjari herein has been doing regarding irreparable harm to him and his children.

5. “*Justice delayed, is justice denied*”, William E. Gladstone British politician (1809 – 1898), also re-iterated by US Supreme Court Justices. Hence, further delay and denial would, in the very least, be in violation of Sanjari's and his daughters' rights of access to the courts, due process, etc, not to mention loss of liberty and irreparable harm to them. "*It is beyond dispute that the right of access to the courts is a fundamental right protected by the Constitution.*" **Graham v. National Collegiate Athletic Ass'n**, 804 F.2d 953, 959 (6th Cir. 1986). In fact, the right of access to the courts finds support in several provisions of the Constitution including:

- i) The Due Process Clause of the **Fourteenth Amendment**, **Wolff v. McDonnell**, 418 U.S. 539, 579 (1974),
- ii) The Equal Protection Clause, **Pennsylvania v. Finley**, 481 U.S. 551, 557 (1987),
- iii) The **First Amendment** with respect to the Right to Petition the Government for Redress of Grievances and the Right to Associate with my children. See **Turner v. Safley**, 482 U.S. 78, 84 (1987) (citing **Johnson v. Avery**, 393 U.S. 482 (1969)).

6. *' The District Courts must consider with utmost gravity and consideration when assessing self-represented Plaintiffs' papers and consider the injury they would cause / prolong by knowingly unduly and very often unlawfully and unconstitutionally denying the self-represented complaints for expediency and/or mere discrimination in the treatment of self-represented Plaintiffs, especially if they proceed IFP, resulting in denial of justice or delaying it, particularly when "... it [the Court] does not like the allegations" **Nietzke v. Williams**, 490 U. S. 319, 324-27 (1989), or when a fellow member of state/federal judiciary or official is the subject of the litigation and is implicated.*
"...judges should be withdrawn from the bench whose erroneous

biases are leading us to dissolution. It may, indeed, injure them in fame or fortune, but it saves the Republic... “ **Thomas Jefferson** 1743-1826. Similarly prejudiced considerations by the USDC appear to go into denying the same class of Plaintiffs even when the self-represented (proceeding on IFP) specifically requests conduct of the case by a US Judge as opposed to by a Magistrate

*The timely, fair and lawful dispensing of justice by the USDC judges in accordance with the Constitution and laws of the Land and with the aim of minimizing injury to the Plaintiffs and in the spirit of the said Constitution and laws should not require and depend upon the Plaintiffs having to further resort to action in United States Court of Federal Claims for the said USDCs' deliberate shortcomings and constitutional failures. Nor should it, nor resolution of any grievance against the USDC, depend upon the biased and intimate hierarchy of the same circuit apparatus. There has to be a truly independent commission of citizens (to the exclusion of judiciary, attorneys and government officials) investigating USDCs' deliberate and egregious deprivations of self-represented, indigent Plaintiffs' rights. This point has also been alluded to in **Bloom Hershkoff**, *Federal Courts, Magistrate Judges, and the Pro Se Plaintiff*, 16 *Notre Dame J.L. Ethics & Pub. Pol'y* 475 (2002) at 477, 503. See also **Manual for Complex Litigation**, Third § 20.14 (Federal Judicial Center, 1995). Furthermore, the considerations (more likely, lack thereof) by USDCs of self-represented indigent Plaintiffs cases is one of the areas of the USDCs' glaring violations of equal protection and due process often resulting in the pursuance of writs of mandamus and/or actions in the US Court of Federal Claims (“**The Tucker Act**”, 28 U.S.C. § 1491(a)(1)) against the federal judiciary.’*

This is an excerpt from Plaintiff Sanjari's testimony/comment (based upon his prior experience with USDC Northern Indiana and other Districts), submitted on the **Draft Rules Governing Judicial Conduct and Disability Proceedings of The Committee on Judicial Conduct and Disability of the Judicial Conference of the United States under the Judicial Conduct and Disability Act (28 U.S.C. §§351-364)**. Circuit Judge Ralph Winters, Chair. September 2007.

7. The said *in rem* order has also resulted in the deliberate defrauding of the US government of significant sums of money and defrauding of Sanjari through misapplication of federal statutes.

8. The said *in rem* order is unlawfully and unconstitutionally jeopardizing Sanjari's personal liberty and free speech through attempts to prevent him from pursuing the requested injunctive and declaratory relief and remedies from the said *in rem* order which has led to many other deprivations perpetrated against Sanjari.

WHEREFOR the instant USDC has the constitutional and statutory duty and authority, as well as moral responsibility to prevent further abuse (“*good cause*”) upon the minor child, MRS, and stem the deprivations of Sanjari's constitutional rights (“*good cause*”). And it is requested to proceed (IFP) with *expeditious consideration* of the instant action before it as well vacating its referral to US Magistrate. (Please see enclosed proposed order).

I affirm under the pains and penalties for perjury that the above and foregoing representations are true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in black ink, reading "A. H. Sanjari" followed by a stylized flourish, enclosed within a hand-drawn oval.

Dated: October 03, 2007

Amir H. Sanjari
self-represented, in propria persona

c/o 130 D Old Ferry Road
Haverhill, MA 01830
Ph: (978) 373 1612

CERTIFICATE OF SERVICE

The undersigned hereby certifies that an additional copy of the above and foregoing document is mailed to the US District Court (USDC), Northern Indiana on this 03rd day of October, 2007, to be served by the United States Marshall Service (see Plaintiff's Civil Summons and IFP Applications to the said USDC and in view of the fact that the Complaint has not been served to the Defendant yet) upon the following:

Alison Gratzol (Defendant)
Radiation Oncology Unit
Elkhart General Hospital
600 East Boulevard
Elkhart, Indiana 46514.

A handwritten signature in black ink, enclosed in an oval. The signature appears to read "A. H. Sanjari" followed by a stylized flourish.

Amir H. Sanjari
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