

December 3, 2003

Addendum to CJ Hassell Letter

Following is a summary of events subsequent to those described in the August 18, 2003 letter addressed to and hand-delivered to Virginia Supreme Court Chief Justice Leroy Rountree Hassell, in which I described the judicial misconduct surrounding the fixed case before judge Gallahue:

Results were not long in coming. The very next day, Tuesday, August 19, 2003, Ms. Matulka, from whom I had heard nothing since our last meeting in late May or early June of 2003, called out of the blue and left me a voice message, informing me of a hearing before judge Gallahue scheduled for the following Thursday, August 21, 2003, and asking if that date and time would be OK with me. She emphasized that judge Gallahue "really, *really*" wanted to see me on that date, and that the hearing, this time around, would take place in open court.

Upon receiving that message from Ms. Matulka, I hand-delivered the second enclosed letter, addressed to judge Michael Luttig of the US Court of Appeals for the Fourth Circuit, describing the case fixing and judicial misconduct that had taken place in federal court, accompanied by a copy of the letter to CJ Hassell of the Virginia Supreme Court describing the case fixing and judicial misconduct that had taken place in state court in an attempt to dissuade me from seeking redress against the Agency in federal court<sup>1</sup>. I then called Ms. Matulka, and left her a message that I would be happy to attend the August 21 hearing.

Unlike the previous appearances before judge Gallahue which were marked by protraction and delay, the hearing on August 21, 2003 was brief. Ms. Matulka went out of her way in pretending that she knew nothing about the CJ Hassell letter. She also went out of her way to keep up a constant prattle to prevent me from getting in a word edgewise<sup>2</sup>, chivvied me

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<sup>1</sup> I also hand-delivered identical copies to judge Claude C. Hilton, Chief Judge of the US District Court for the Eastern District of Virginia, and judge Gerald Bruce Lee, of the same.

<sup>2</sup> Not that there was much to say or that I wanted to say. I knew. She knew. Judge Gallahue

into the courtroom where she told judge Gallahue that I wished to “appeal” his sentence, and asked him, for ostensibly procedural purposes, to impose a sentence so as to open the path for an appeal to Circuit Court. A subdued judge Gallahue said he would impose a sentence, although he did not mention what that sentence was. He then added that there were no bailiffs available to escort me to the clerk’s desk and instructed Ms. Matulka to escort me there so that we could note the appeal to Circuit Court, then come back. For some reason, Ms. Matulka seemed to balk at that, and waited for judge Gallahue to add something else. After a brief, awkward wait, judge Gallahue took a deep breath and enunciated, clearly: “Ms. Matulka, I *order* you to escort your client to the clerk’s desk.” For whatever reason, Ms. Matulka apparently thought that being ordered to by the judge made it OK. Perhaps the assumption was that such an order absolved her of some degree of responsibility. This late in the game and considering how far we had already travelled down the road of case fixing, judicial misconduct, ethical violations plus obstruction of justice, I thought it inane for any of the participants to be concerned with such minutiae.

En route to the clerk’s desk and as she went through the pretense of filing some paperwork while there, Ms. Matulka thought it important, for what reason I knew not and cared about less, to make a point by weaving into her by-then ceaseless stream of talk and commentary the following, which she emphasized more than once: (1) She was being *ordered*, by the judge, to escort me to the clerk’s desk. (2) That this was an exception to some rule or other, whereby those sentenced in General District Court and wishing to appeal to Circuit Court had to be handcuffed and escorted by bailiffs to the clerk’s desk, at which point they were to note their appeal – and that I was fortunate not to have to go through that<sup>3</sup>. (3) That it was quite peculiar and “irregular” that judge Gallahue was ordering an appeal noted without having first imposed a sentence<sup>4</sup> – which she “guessed” would entail some jail time.

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knew. That was sufficient for the time being. Best I could figure, the worry was that I would say something that would bring things to a head and ruin or otherwise remove whatever fig leaf of “plausible deniability” remained at that late point in the game.

<sup>3</sup> Ala “thank God for small mercies,” perhaps?

<sup>4</sup> Best I could figure it was a goad or some red herring, and she wanted me to react, then or later, to that particular “irregularity.” Considering that a fixed case is irregular per se and in its entirety, there was little purpose served by dwelling upon every irregular tree, when the entire forest was irregular. My goal was to set things right in their entirety.

A date, October 23, 2003, was set for the "appeal" to Circuit Court. Ms. Matulka recommended a bench trial (judge, no jury), as opposed to a jury trial. For my purposes, which boiled down to blowing the whistle on the whole rotten mess, lock, stock, and barrel, taking care of it one fell swoop, and making sure that there could be no whitewashing or sweeping under the rug, it made no difference<sup>5</sup>. I told her that a bench trial would be fine.

We then trudged back to judge Gallahue's courtroom, where Ms. Matulka informed him that the appeal had been noted. Judge Gallahue, who mentioned nothing about what the sentence being appealed from entailed, told me that I was free to go. Soon as we were out of the courtroom, Ms. Matulka, seeing me getting ready to say something, all but bolted into another courtroom, hurriedly telling me that she could not talk right now, but that we would talk again soon -- "give me a call sometime" or something to that effect were her words. As I had already worked out plans for navigating through this case fixing mess and ensuring that somebody is held accountable, I had no intention of doing that. I figured she would call me in due course.

A few days later, I received a letter from judge McWeeny, chief judge of the Fairfax County court, dated August 26, 2003. Judge McWeeny informed me that, regarding what complaint I had against judge Gallahue, I "may" file an official complaint with the Judicial Inquiry Review Commission. I already knew that, and that I did not need judge McWeeny's permission to file a complaint with the JIRC. However, it was good to receive confirmation that the chief judge of the Circuit was aware of what had gone on in one of his courtrooms.

On Friday, October 10<sup>th</sup>, 2003, Ms. Matulka left me a voice message, asking me to call her so we could discuss my "appeal." We spoke on Wednesday, October 15<sup>th</sup>. Ms. Matulka still acted as if she was unaware of the letters describing the case fixing and misconduct that had taken place in judge Gallahue's courtroom and her own participation in that. Instead, she launched into a presentation of the best strategy and tactics to adopt during the appeal, the risk of jail time, etc. I had no intention of going along with that pretend-play, and decided to bring

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<sup>5</sup> By then, at least two Fairfax County Circuit Court judges, judge Klein and the Fairfax County Circuit's chief judge, McWeeny, had received letters similar to the one addressed to CJ Hassell, describing the case fixing and judicial misconduct that had already taken place in their courthouse.

things to a head. When she asked what I thought about my options, I told her that I did not think those were the only options I had, and because of that, we had a problem.

I (1) iterated what I had told her in late May or early June of 2003, to the effect that I was aware that the case before judge Gallahue was fixed. (2) That I was aware that she herself had been a willing participant in that case fixing. (3) That she was aware that I was aware of her knowing participation in that fixed case. (4) That she was aware of the fact that I had already informed a few judges of the fixed case before judge Gallahue describing the misconduct that had taken place therein, including her own. (5) That the sudden hearing before judge Gallahue of August 21, 2003, the ostensible reason for the "appeal" we were now discussing, stemmed directly from her and judge Gallahue's awareness of what I had told those other judges about the fixed case over which he had presided and in which she had assisted<sup>6</sup>. (6) That I did not think my best option was to rely on the possibility of fixing this on appeal, using a lawyer who had been a willing participant in the earlier case fixing and attendant obstruction of justice. (7) That I had no faith in the possibility of impartial justice in the Fairfax County courthouse, considering what had already taken place there. (8) That what took place in judge Gallahue's courtroom was an attempt at coverup and damage control that backfired, and whatever was to take place in Circuit Court on October 23<sup>rd</sup> would amount to little more than an attempt to coverup the initial coverup, and contain or control the damage flowing from the initial damage control and containment attempt<sup>7</sup>. (9) That, rather than rely on Ms. Matulka's dubious efforts, I thought my best option was to take things in hand and simply blow the whistle on the entire obstruction of justice mess, and take care of everything, lock, stock and barrel. (10) that I did not know why she had involved herself in this sordid business in the first place, but that this was simply "not good."

Ms. Matulka told me that she knew nothing about case fixing, that this was the first she

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<sup>6</sup> At this point, she interrupted me and tried her hand at sophistry and playing semantics - some combination of a Clintonesque "define 'is' " coupled with something having to do with juxtaposing dates in the chronology of events surrounding the case before judge Gallahue. I had no intention of playing games, and so simply iterated point (4), and marched on to state the subsequent points.

<sup>7</sup> The temptation to bury this under the rug would be awfully strong: what had already taken place makes those judges' courthouse look bad. And when one considers that judge Gallahue is one of their brethren, with whom they work and interact daily...

had heard about it<sup>8</sup>, and emphasized that if asked about it, she would deny any knowledge of that. I told her that went without saying, and that I would simply have to go about it in a manner that did not depend upon her denial or affirmation<sup>9</sup>.

She then shifted tack, and started talking about the trust necessary for an attorney-client relationship. She concluded her comments on that topic by pointing out that if the relationship of trust between me and her broke down, she would have no choice under the rules of ethics but to withdraw as my attorney. Considering what she had already done as my attorney, I thought it was somewhat late in the game for this newly-discovered respect for the Rules of Professional Conduct. Odder yet, from her tone and how she phrased it, it seemed as if she thought that her withdrawal from representing me as my attorney was a bargaining chip or threat I might wish to avoid. It would be amazing were that so, considering how things stood at the time, what I knew, what she knew I knew, and what she knew I planned on doing with what I knew<sup>10</sup>. I told her that was not a problem. She came at the withdrawal of representation issue from different angles. If the intent was to dissuade me, it did not work.

She then shifted tack again, and told me that she was trying to help me, and that she wanted to continue to represent me because she was trying to help me. I told her that, considering how she had been a willing participant in a fixed case intended to intimidate me and

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<sup>8</sup> Setting the rest aside for a moment, the first-I-heard-about-it part was particularly incongruous, considering that, as described in the CJ Hassell letter, I had told her in late May or early June of 2003 that I was aware that the case before judge Gallahue had been a fixed case. To add to the incongruity of the first-I-heard-about-it part, in order to believe that one would have to assume that the chief judge of the Fairfax County courthouse, judge McWeeny, who had received a letter similar to the CJ Hassell letter describing the shenanigans that had taken place in judge McWeeny's courthouse, had taken the time to write me back on August 26<sup>th</sup> and yet did not bother to mention that to Ms. Matulka. To me, it was a moot point: she had been a willing participant, who knew what she was doing since January of 2003, when she first agreed to take part in this sordid business.

<sup>9</sup> I.e.; I would have to factor in her Fifth Amendment right not to incriminate herself.

<sup>10</sup> Perhaps not too amazing. I found out from declassified CIA documents of standard operating procedures when attempting to break down a target, that a target/ victim subjected to systemic and prolonged stress as was the case here, often, due to dependency dynamics that tend to develop in such circumstances, perversely ends up "liking" the very people wronging him, ala Patty Hearst. Perhaps whoever had put Ms. Matulka up to this was hoping that ten months of being pressured with that fixed case (plus the previous six months of stressors that led to that fixed case) sufficed to bring that about. Not quite.

otherwise serve as leverage to dissuade me from seeking redress in federal court for wrongs done by the officials who had arranged for the fixed case before judge Gallahue, I doubted that she had ever been trying to help me. Doubly so now, because as things now stood, she was far from being a disinterested party.

She then came back to the withdrawal of representation issue one more time, and told me that it "seemed" as if the relationship of trust between us had broken, and as such, she would have no choice but to file a motion on Friday, October 17<sup>th</sup>, informing the court of her withdrawal of representation as my attorney. Insofar as breakdown of trust went, there was no "seem" about it. Ms. Matulka again phrased the withdrawal from representation as if that were a bargaining chip or threat I might wish to avoid: in addition to filing a motion to withdraw, she added, she would have to notify the Commonwealth Attorney of her withdrawal, and then I would be assigned a new attorney, and have to work things out with him or her, etc. For my purposes, it was irrelevant what she did, as I was not concerned in the least with the procedural aspects of the case: the case was rotten in its entirety and stank to high heaven, rendering it a nullity and void *ab initio*, and so I planned on unraveling it from the beginning by blowing the whistle on the whole sordid mess. I had no intention of attempting to resolve this within the narrow parameters she was describing, nor was I about to let her define the rules of the game, outcome-determinative and contrary to my interests as they were<sup>11</sup>.

Ms. Matulka then told me that she would file the motion noticing her withdrawal from representation on Friday, October 17<sup>th</sup>, to be heard on Thursday, October 23<sup>rd</sup>, 10AM. I told her that was not a problem, that I would see her then, and prepared to end the conversation on that note. She stopped me by hurriedly qualifying that she would *try* and schedule it for the 23<sup>rd</sup>, and if she did, she would send me a letter confirming the date and time, as well as give me a phone call confirming the same. She emphasized, more than once, that I should *not* go to the Fairfax courthouse on the 23<sup>rd</sup> of October unless I received a letter followed by a phone call, confirming

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<sup>11</sup> As is true with most con jobs, successful flim-flam requires a mark willing to accept the flim-flam artist's yardstick or definition of the parameters within which the game is to be played, as well as the rules to be followed. Such parameters and rules are bound to be outcome-determinative, in the flim-flam artist's favor. I was never a flim-flam artist, but I was a used car salesman years ago, and while doing that I came across and got to know quite a few flim-flam artists. This "appeal" from a fixed case business was classic flim-flam artistry.

that the hearing on the motion for withdrawal from representation was to take place on October 23<sup>rd</sup>. She iterated a few times that she would send me a letter, then call me, to confirm if the withdrawal of representation motion was to be heard on the 23<sup>rd</sup> – but that I should not go to court on the 23<sup>rd</sup> unless I heard from her.

I had the distinct impression that Ms. Matulka did not want me in that courtroom on the 23<sup>rd</sup>, which was a good reason for me to be there at the dot of 10AM. After all, and as I had just mentioned to her moments earlier, Ms. Matulka was not a disinterested party, let alone an attorney zealously advocating and looking out for her client's best interests. And after this conversation, in which I expressed what I thought of her involvement in this sordid mess, and more importantly, what I planned to do along the lines of blowing the whistle, not only was she not a disinterested party, she was now a party whose personal interests were adverse to my own. She had taken part in a harebrained damage control and coverup effort, and now that things were threatening to backfire, she had an understandable stake in covering up the initial coverup and her personal involvement therein<sup>12</sup>.

After she emphasized one more time that I should not go to the courtroom on the 23<sup>rd</sup> of October unless I heard from her, I told her I would await a letter or telephone call confirming the 23<sup>rd</sup> as the date and time of the hearing on the motion for withdrawal from representation. I did not add that I would go even if I did not receive such confirmation – just in case. Seemed the prudent thing to do in light of our now-divergent interests.

The above-described conversation took place on Wednesday, October 15<sup>th</sup>, 2003.

I received no telephone call from Ms. Matulka, nor a letter confirming 10AM of the 23<sup>rd</sup> as the time and date of the scheduled hearing on the motion for withdrawal from representation. However, on the 22<sup>nd</sup> of October, I received a delayed-in-the-mail letter from Ms. Matulka, dated

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<sup>12</sup> After all, judge Gallahue is not the only one who ran afoul of the rules regulating legal ethics and thus stood to suffer from this fixed case and obstruction of justice business. Ms. Matulka's role offers sufficient material for a lengthy and interesting laws school or bar exam question on professional responsibility, in which students or applicants for admission to the bar are asked to identify and discuss the ethical violations committed by a criminal defense attorney who did what Ms. Matulka did during the course of this unfortunate representation.

10 October<sup>13</sup> – five days before our conversation of the 15<sup>th</sup>. It read:

This is to inform you that your case has been appealed and set for trial in the Circuit Court of Fairfax County for Thursday, October 23, 2003 at 10:00 a.m.  
Please contact me immediately at the number above. We need to discuss what will happen at trial and review your testimony.

Under normal circumstances, the above letter would have been mooted and superseded by the conversation of October 15<sup>th</sup>, in which Ms. Matulka informed me that she would file a motion for withdrawal from representation on the 17<sup>th</sup>, to be heard on the 23<sup>rd</sup>. The case and circumstances were anything but normal. I intended to be in court at 10AM of the 23<sup>rd</sup>, notwithstanding that I had received neither the phone call nor letter without which, as Ms. Matulka emphasized repeatedly during our conversation of the 15<sup>th</sup>, I should not go to court on the 23<sup>rd</sup>. In light of our now-divergent interests, the very fact that she did not want me in court on that date was compelling reason for me to make sure that I was there. After all, in order to serve her own interests, especially now that she was aware that I intended to blow the whistle on the case-fixing before judge Gallahue, she might be tempted to go ahead and “represent” me in my absence. Considering all that had taken place to date, the prospect of Ms. Matulka representing me in my absence, especially after our conversation of October 15<sup>th</sup> in which I informed her that I thought my best course of action was to blow the whistle on the case fixing and obstruction of justice in which she had cheerfully participated, was a prospect to be avoided. As it turned out, representing me in my absence was exactly what she had in mind and what she did.

On the 23<sup>rd</sup>, I went to court. In the lobby was posted that day’s Circuit Court docket, including:

Case M26694. Khalid Elhassan. Commonwealth (Murray). Courtroom 5-F.

I went to courtroom 5-F. As soon as Ms. Matulka noticed that I had entered the courtroom, she hurriedly gestured for me to talk to her outside. Once we were outside the courtroom, Ms. Matulka proceeded as if our conversation of October 15<sup>th</sup> had never taken place.

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<sup>13</sup> It had presumably been mailed to the wrong address, hence the 12 days it took to travel the 15 miles from Fairfax County to my address in the City of Alexandria.

“Good news!” she blurted, and before I could get a word in edgewise, she proceeded to tell me that, a minute or so before I had entered the courtroom, my case had been nol-prossed – prosecution’s witness had failed to show up, and so the case was dismissed. Then she congratulated me on “our” win.

Noticing that I was about to say something, she abruptly bolted back to the courtroom, asking me to give her two minutes to “double-check” that it had actually been dismissed. She was back fifteen seconds later, nodding and telling me that it had, indeed, been dismissed. She congratulated me again, kept up a steady stream of chatter for a minute or so at machine gun rapidity to prevent me from getting in a word edgewise, then bolted back to the courtroom.

Whether that is what actually happened with the case, I do not know – considering that the whole thing was permeated with deception and corruption from the start. What I do know is that some genius in the CIA had the bright of idea of resorting to case-fixing and obstruction of justice to solve what would otherwise have been a (comparatively) small problem, found a sitting judge and a licensed attorney willing to lend a hand in implementing a Rube Goldstein-convoluted and harebrained coverup scheme, and when it fell apart as it was bound to, there was a mad scramble to coverup the initial coverup. It would be comic were it not for the fact that, as a result, I had to endure ten months of having this hanging over my head. Not the best situation in which to find oneself. Downright ugly as a matter of fact, and I feel quite violated as a result.

Assuming that the case had actually been disposed of as Ms. Matulka told me, it was still troubling that she had deliberately sought to “represent” me in my absence: (1) she had gone out of her to emphasize that I should not go to court on the 23<sup>rd</sup> unless I heard from her. (2) I had not heard from her by the 23<sup>rd</sup>. (3) Yet, she had gone ahead and represented me on the 23<sup>rd</sup> as if our conversation of the 15<sup>th</sup> had not taken place<sup>14</sup>. Nonetheless, compared to what had already taken place, that is but a drop in the bucket.

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<sup>14</sup> The fact that it resulted in a “dismissal” was immaterial. I was not concerned with the end result of a fixed case, since a fixed case is sufficiently corrupt to qualify as a *void ab initio* nullity, but with the very fact that I had to go through a fixed case at all. Dealing with this tawdry business had cost me close to a year of my life, and so I was, and remain, determined to set things right.

-Khalid Elhassan-