

Affidavit of Facts

03:26:2003

I, Steven-William Sutchiff, a Citizen of one of the United States, hereby State and declare, under the pain and penalty of perjury the following facts.

- 1) In a letter, dated 12:09:2002, my previous court imposed counsel, William Harris, stated "from my observation it does not appear you suffer from a mental defect." Further he states "I do not intend to obtain a psychiatric work-up and assert a diminished incapacity defense."
- 2) On 01:14:2003 Judge Matz held an In Camera hearing on my motion and I motioned to remove Harris as incompetent. He agreed. I had asserted my rights under the Sixth Amendment and on my motion the court, on the record took judicial notice of *Faretta v California*, 422 U.S. 806. Only after my challenge to Mr. Harris and his incompetency did Mr. Harris raise the issue of my [in]competency.
- 3) On 01:17:2003 I was again brought forth to plead on a superseded indictment and Judge Matz attempted to appoint another counsel to "represent" me. I objected and motioned for anyone present to state their authority to speak for me. No one answered.
[see Title 28 § 2072(b)]

4) On 02:12:2003 I met for the first time with a Dr. Backer. We met again on 02:18:2003 and 02:19:2003, at which point I informed him I was finished discussing my issues of my competency. He came to see me on 02:28:2003 to inquire into a meeting where the court appointed counsel had appeared to visit me. As he left he told me "Remember Steve, co-operate!"

5) On 03:13:2003 Dr. Backer again called me upstairs to his office. He stated he had finished his report and wanted me to read it since I had a hearing on it tomorrow. After reading his report he asked me what I thought about it and what I intended to do tomorrow. I told him I agreed I was competent just as the report stated. I told him I intended to protect all of my rights tomorrow at the hearing, including, but not limited to, the right to the Confrontation Clause and Due Process Clause. He then stated "I don't believe it would be wise for you to confront anyone tomorrow." I thanked him for his counsel and returned back to my cell.

6) ON, or around 02:21:2003 Gregory Nicolaysen [my court appointed representative] visited me for the first time at the Metropolitan Detention Center. I had not heard nor seen him since 01.17.2003. He stated he refused to assist me in any challenge to recuse the judge. He stated he refused to assist me in any challenge to the jurisdiction of the court. He stated he would consider a motion for bail, if I proved to him and the judge that we could get along and work together. He went on to state that he had "just received your file from previous counsel, in three un-organized boxes" and was in the process of having his assistant sort and organize them. When asked why he had taken so long to contact me he stated "I have lots of other cases." He stated he would talk to Dr. Backer and tell him he believed we could get along. He stated he would return to visit me ON 02:24:2003.

7) ON 02:24:2003 Gregory Nicolaysen failed to visit.

- 8) On 02:28:2003 Dr Backer came to see me and inquired about my meeting with Mr. Nicolaysev and how we were getting along. As he departed he stated "Remember Steve, cooperate!"
- 9) On 03:03:2003 Mr. Nicolaysev visited me. In his folder I observed a document titled Motion for a hearing related to the issue of my competence set for 03:10:2003, at 1700 hours. At the outset, he stated "The United States is pressuring me to say you are incompetent." I asked which of the United States and he replied "Eleva Duarte." He further stated "Don't worry" since he believed I was "indeed competent" and that "You don't belong in prison here along with drug-dealers and gang members being subjected to eating crappy food and breathing canned-air. I concurred and he departed.
- 10) On 03:14:2003, at 10:00 hours, I was taken from my holding cell to see Mr. Nicolaysev, prior to my competency hearing. He proceeded to state that both he and Dr. Backer found me to be competent. He stated that the judge had set my trial for 03:25:2003, due to my demanded Sixth Amendment Right. He further stated that he wanted me to inform the judge that I would agree to waive time on this date. He further stated that he needed "a month or two" to be prepared for trial. I declined this request.

I told him I wanted him to state, on the record, at the beginning of the hearing, to the judge just what he had told me. Further, I told him I expected him to challenge the timeliness, under 4247(b), of Dr. Backers report, if the judge refused to remove him. Further, I told him to make a motion to recuse the judge for bias under the Due Process Clause of the fifth amendment of the Bill of my Rights. He became upset and stated "This is my case and I will decide what to file and what motions to make. I will not attack Dr. Backer, he's a nice guy. I will not attack the judge either." He then left.

11) ON 03:14:2003, at 10:45 I was brought into the court and seated at the defense table. Gregory Nicolaysev entered and sat next to me. He stated "Have you changed your mind?" I stated NO. The clerk motioned him over to his table and whispered to Mr. Nicolaysev "The judge wants to know if he's going to waive the 25th trial date." Mr Nicolaysev stated NO. Dr. Backer then entered the courtroom. Mr. Nicolaysev proceeded to ask me my position related to our discussion at 10:00. I stated "What part of NO did you not understand?" He then told me to "Take a time out Steven!" and told the Marshal to remove me from the defense table outside of

The Clerk left his table and exited through a door adjacent the judges bench. Mr. Nicolaysen then went over to the prosecutors table and spoke softly to her. On noticing Dr. Backer he exited the bar, they spoke for a minute then exited into the hallway out the front door. I then heard the prosecutor state, "I'm going to join them." She then exits out the same door. At I see the judge peek through the hole in the door as if to enter, he sees me then retreats back into his chambers. About ten minutes later all three of the actors in the hallway enter, take their positions, then the judge takes the bench. The court imposed counsel ignores my instructions and I object. The judge states he received my Habeas writ, I motion he recuse himself from ruling on it and object; he too ignores this demand to protect my rights. He states he will have me removed if I, A) interrupt or B) speak again without first obtaining his permission. When the court failed to halt the proceedings and imposed the aforesaid conditions on me which I would have to break to make a timely objection I simply stood up and removed myself from the charade.

- 12) Later that day I was returned to the courtroom. Mr. Nicolaysen was not present. When I attempted to stand up and make a motion to object to the jurisdiction,

ONE of many I have made in the past to both the court and his imposed counsel, the judge waved his hand and in the middle of my objection the Marshals grabbed me by the chains around my waist and proceeded to drag me out of the court to prevent me from making a record. Just prior to this the judge alluded; I guess in an attempt to convince me I was not a victim of a Star Chamber, that I would personally receive a copy of the transcript. In light of the fact that I have personally witnessed him divulge sealed IN Camera communications, to both Dr. Backer and the prosecutor; and the fact that I witnessed him engage in Ex Parte communications with previous counsel he had "personally" picked [to assist me]; and the fact that as of today's date I have neither seen nor received a copy of said transcript, this Affiant would indeed be nuts to place any honor on the words of the court.

I declare under penalty of perjury that the foregoing is true and correct.
3:27:2003

Stewart Sutchiff