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No. 03-6244

UNITED STATES COURT OF APPEALS

For the Southern District of New York

RODNEY F. STICH, Plaintiff—Appellant

v.

UNITED STATES GOVERNMENT, Defendant--Appellee

APPELLANT’S OPENING BRIEF

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1. CERTIFICATE AS TO INTERESTED PARTIES

Although no other parties are defendants in this action, the facts and issues involved in Appellant’s attempts to report criminal matters have a major bearing on determining the deep-seated misconduct that enabled hijackers to seize four airliners on September 11, 2001. Until there is a meaningful disclosure of this information, the long history of misconduct and the catastrophic consequences will continue.

These matters are important, not only to address the misconduct harming national security, but also of major concern to the Plaintiffs and the Defendants in the lawsuits filed in the court where Appellant filed his Complaint.

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1 **JURISDICTIONAL STATEMENT**

2 The district court’s jurisdiction arose pursuant to Title 18 U.S.C. § 4 (reporting federal
3 crimes to a federal judge) as part of the judge’s mandatory *administrative* duties; Title 28 U.S.C.
4 § 1331 on basis of civil actions arising under the laws and Constitution of the United States; Title
5 28 U.S.C. § 1343 on the basis of massive civil rights violations occurring in the California courts;
6 Federal Tort Claims Act (42 U.S.C. §§ 2671-2274, on the basis of torts perpetrated against
7 Appellant by government employees; RICO (42 U.S.C. §§ 1961-1965) on the basis of multiple
8 predicate acts, in a conspiracy, inflicting great personal and financial harm upon Appellant, and
9 inflicting great harm upon interstate commerce; the Declaratory Judgment Act (28 U.S.C. §§
10 2201, 2202, FRCivP 57), to declare Appellant’s legal rights and obligations established in five
11 judgments that have been violated and remain in controversy; the void judgment doctrine, to
12 rescind orders seizing Appellant’s life assets in gross violations of due process, including
13 violating requirement for a hearing, notice of hearing, legal cause, and orders barring Appellant
14 from objecting to the seizure and liquidation; void order doctrine, to regain civil and
15 constitutional rights taken from Appellant by series of unlawful and unconstitutional orders
16 intended to block Appellant’s reporting of criminal activities and deprive him of the federal
17 defenses against the concurrent civil rights violations; the Civil Rights Act (42 U.S.C. §§n 1983-
18 1986), for massive violations perpetrated under color of state law as part of a scheme to halt
19 Appellant’s exposure activities; *Bivens*; for violations of civil rights under color of federal law;
20 and the due process and equal protection rights guaranteed by the laws and Constitution of the
21 United States to defend against all of these violations.

22 The Court of Appeals jurisdiction arises pursuant to Title 28 U.S.C. § 1291, as well as its
23 responsibility to receive reports of federal crimes under Title 18 U.S.C. § 4.

24 This appeal is from the final order of Judge Michael Mukasey filed on September 22, 2003,
25 dismissing the lawsuit that had been received a year earlier and which was delayed filing for 13
26 months until the day the five-page dismissal order was filed.

27 A timely notice of appeal was filed on October 20, 2003.
28

1 **STANDARD OF REVIEW**

2 The standard of review for the court of appeals is *de novo*. A dismissal under Rule 12 or Rule
3 56 is reviewed *de novo*. *Bose Corp. v. Consumers Union of United States.*, 466 U.S. 485 (1984).

4 **STATEMENT OF ISSUES PRESENTED FOR REVIEW**

5 The issues raised by this appeal of the sua sponte dismissal of Appellant’s Complaint include
6 the following:

- 7
- 8 • Violated the statutory responsibility requiring *any* federal judge to receive, as part of his
9 administrative duties, reports of federal crimes against the United States, under Title 18
10 U.S.C. § 4 being reported by anyone knowing of such crime. The district judge blocked
11 Appellant, a former federal agent, from reporting criminal activities that he initially
12 discovered as a federal agent, and the criminal activities that he later discovered through
13 dozens of other former government agents who provided him with information of
14 criminal activities in other government offices.
 - 15 • The dismissal violated multiple due process rights guaranteed by the laws and
16 Constitution of the United States, including:
 - 17 ○ Bar to sua sponte dismissal.
 - 18 ○ Requirement for a jury trial on factual matters.
 - 19 ○ Right to discovery.
 - 20 ○ Requirement to recognize the facts stated in the complaint as true in opposing
21 dismissal.
 - 22 ○ Requirement for adjudication of rights under the void judgment doctrine to address
23 the judgments seizing and liquidating Appellant’s life assets that violated the
24 requirement for a hearing, notice of hearing, legal cause, and which were seized to
25 halt Appellant’s reporting and exposure of criminal activities by people in key
26 government positions.
 - 27 ○ Requirement for adjudication of rights under the void judgment doctrine to return to
28 Appellant the due process and equal protection rights to federal court access and the
protections guaranteed by the laws and Constitution of the United States. These

1 orders were part of the tactics to block the reporting of criminal and even subversive
2 activities and to block Appellant's federal defenses against the massive civil rights
3 violations that played an integral role in the obstruction of justice activities.

- 4 ○ Requirement for adjudicating rights under the Federal Tort Claims Act for tortious
5 acts perpetrated by federal employees acting in their government positions, whose
6 torts were part of the actions taken to block Appellant from reporting the criminal
7 activities.
- 8 ○ Requirement for adjudication of rights under RICO for multiple predicate acts in
9 conspiracies that inflicted great personal and financial harm upon Appellant, and
10 enabled great harm to occur in interstate commerce—the latest being the aviation
11 disasters of September 11, 2001.
- 12 ○ Violated defenses arising under the Civil Rights Act for multiple violations occurring
13 under color of state law, which were initiated by a CIA-front law firm seeking to strip
14 Plaintiff of the \$10 million in assets that funded his exposure activities.
- 15 ○ Violated due process rights and protections arising under Bivens for civil rights
16 violations occurring under color of federal law. These violations occurred in federal
17 court and were an extension of the actions initiated in the California courts by the
18 CIA-front law firm to halt the reporting of criminal activities—including those that
19 enabled the events of 9-11 to occur.

20 **STATEMENT OF THE CASE**

21 The district court received Appellant's complaint (CT: 1) for filing on August 15, 2002. (CT:
22 pg 1) Although the filing fee was paid and the papers in order, the complaint was blocked from
23 being filed for over 12 months. Many days before the Complaint was finally filed a five-page sua
24 sponte dismissal order was prepared. The Complaint was finally filed on September 23, 2003,
25 along with the dismissal order.

26 The complaint stated facts raising multiple federal causes of actions (claims) for which
27 federal remedies existed, all of which were related to attempts made to halt the exposure of
28 criminal activities implicating people in key government positions.

1 The primary cause of action was Appellant's latest attempt to report criminal activities to a
2 federal judge pursuant to the mandatory requirement of the federal crime reporting statute, Title
3 18 U.S.C. § 4. In addition to trying to report the criminal activities which had enabled 3,000
4 deaths to occur in a single morning, the Complaint exercised federal remedies arising from a
5 multitude of civil, constitutional, tortious, and RICO violations that had been inflicted upon
6 Appellant in attempts to block his exposure activities.

7 The effect—and the intent—of these violations were to halt Appellant's reporting and
8 exposure of the criminal activities that he and a group of other government agents had
9 discovered. Some of these federal crimes implicated people in control of government aviation
10 and intelligence offices, and people in government who misused their offices and positions to
11 block these reports. These federal offenses had for many years inflicted, and enabled great harm
12 to be inflicted, upon national security and other major national interests—the latest and most
13 publicized being the aviation disasters involving the hijackings of four airliners. Appellant had
14 addressed this matter and sought to have initiated the simple and inexpensive means to prevent
15 the last 40 years of airliner hijackings—but which were prevented due to corrupt activities in
16 certain government offices which Appellant discovered as part of his official duties.

17 Appellant filed a notice of appeal (C.T. 2) of the sua sponte dismissal on October 20, 2003.

18 **STATEMENT OF FACTS**

19 The following facts were stated in Appellant's complaint. Appellant, with six decades
20 experience in sophisticated aviation matters,¹ is a former federal aviation safety agent for the
21 Federal Aviation Administration (FAA). During this period the federal government gave him the
22 assignment to correct the conditions responsible for the worst series of airline crashes in the
23 nation's history. In this assignment Appellant discovered deep-seated corruption in the
24 government's aviation safety offices that caused and enabled numerous specific airline disasters

25
26 1 Appellant Rodney Stich has been in sophisticated aviation activities for over a half century. He was a navy pilot in
27 World War II; an international airline captain for many years flying virtually every piston and several of the jet
28 aircraft used by the airlines; a federal aviation safety inspector-investigator, given the assignment to correct the
conditions responsible for the worst series of airline crashes in the nation's history; writer of numerous books on
aviation safety and misconduct in government offices. He is a confidant to many former government agents. In
addition, he was a successful businessman, having acquired over \$10 million in real estate assets, which he used to
fund his attempts to expose and try to halt misconduct in government offices.

1 to occur, and conduct that prevented the federal government from carrying out its aviation safety
2 responsibilities.

3 To circumvent the standard coverup in government offices Appellant exercised various legal
4 remedies seeking to halt this misconduct. Using the law in a creative manner, Appellant acted as
5 an independent counsel in that FAA assignment. He conducted a hearing that lasted
6 approximately six months, during which he obtained testimony from government officials and
7 additional evidence showing the ties between the deep-seated misconduct and a series of major
8 airline crashes. Four thousand pages of hearing transcript documented the misconduct related to
9 numerous airline disasters.

10 During the hearings three additional major crashes occurred due to the same safety problems
11 that Appellant had previously reported for which preventative measures were blocked by the
12 misconduct that Appellant and other inspectors had discovered. The hearing was followed by the
13 standard coverup. Appellant refused to work under the corrupt conditions and left government
14 service.

15 The continuation of these conditions and the resulting aviation disasters caused Appellant to
16 exercise other efforts seeking to correct the deadly problems. These included using his assets to
17 publish informational books, appear as guest and expert on over 3,000 radio and television
18 shows, and give lectures. These activities named people in government responsible for the
19 corrupt activities, and the people in government who blocked exposure of these criminal
20 activities—including federal judges.

21 The publicity resulting from these activities caused other government agents to provide
22 Appellant with information and evidence of corrupt activities² that they had discovered during
23 their official duties. These sources included agents from the FBI, DEA, FAA, CIA, Secret
24 Service, and other government offices.

25
26
27 2 Among the most notable of the criminal activities that Appellant and his group of other former government agents
28 discovered involved corruption in the government's aviation safety and other offices that enabled a long series of
aviation disasters; criminal activities by personnel of the CIA, including drug smuggling and financial fraud
schemes; corruption in the federal courts and especially within the bankruptcy courts; and other areas which he
describes in his various books (*Unfriendly Skies*, *Defrauding America*, *Drugging America*, *Terrorism Against
America*).

1 Appellant's attempts to report these federal crimes to people in the executive and legislative
2 branches of government resulted in occasional admission of the gravity of the charges, but none
3 would receive the evidence or take required action. Seeking to circumvent the coverups and
4 obstruction of justice, Appellant filed papers in federal courts to *report* the federal crime to a
5 federal judge under the *mandatory responsibility* of the federal crime reporting statute, 18 U.S.C.
6 § 4 and the *right* of any citizen to seek a court order for federal officials to perform a mandatory
7 duty and halt unlawful conduct that is provided by 28 U.S.C. § 1361.³

8 The first of several lawsuits⁴ were filed in the U.S. District courts at San Francisco. Several
9 district and appellate judges stated during court hearings that the charges were very serious but
10 that these were matters for Congress to *investigate*.⁵ In every instance, Justice Department
11 lawyers argued to block the reports being received by the court, which federal judges honored.
12 Appellant filed petitions in each of these cases for writ of certiorari to the U.S. Supreme Court.
13 Supreme Court justices refused to hear the cases, despite the gravity of the judicial misconduct or
14 the deadly consequences in aviation areas affecting national security.

15 As Appellant's exposure activities increased—funded by his considerable real estate
16 holdings—a CIA-front law firm⁶ filed a lawsuit⁷ against Appellant in the California courts,
17 targeting the assets that funded his exposure activities. That lawsuit was barred by dozens of

18
19 3 Title 28 U.S.C. § 1361. Action to compel an officer of the United States to perform his duty. The district courts shall
20 have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States
21 or any agency thereof to perform a duty owed to the plaintiff.

22 4 *Stich v. United States, et al.*, 554 F.2d 1070 (9th Cir.) (table), *cert. denied*, 434 U.S. 920 (1977)(addressed hard-core air safety
23 misconduct, violations of federal air safety laws, threats against government inspectors not to report safety violations and
24 misconduct); *Stich v. National Transportation Safety Board*, 685 F.2d 446 (9th Cir.) (table), *cert. denied*, 459 U.S. 861
(1982)(addressed repeated criminal falsification of official airline accident reports, omitting highly sensitive air safety
25 misconduct, making possible repeated crashes from the same sequestered problems); Amicus curiae brief filed on July 17, 1975,
26 in the Paris DC-10 multi-district litigation, *Flanagan v. McDonnell Douglas Corporation and United States of America*, Civil
27 Action 74-808-PH, MDL 172, Central District California.(addressing the long standing FAA misconduct, of which the cover-up
28 of the DC-10 cargo door problem was one of repeated instances of tragedy related misconduct); *Stich v. U.S. and Department of
Justice*, District of Columbia, Nos. 86-2523, 87-2214, and other actions filed by Stich seeking to expose and correct the powerful
and covert air disaster misconduct.

5 Although those early statements about the responsibility of Congress were true, federal judges had statutory
responsibilities under 18 U.S.C. § 4 to receive the reports, and the statutory responsibility under 28 U.S.C. § 1361 to
receive the evidence and make a judicial decision whether an order should be made for a federal official to perform
a mandatory duty and halt unlawful conduct.

6 Friedman, Sloan and Ross, San Francisco, California.

7 The lawsuit was given a dissolution of marriage label although Appellant had been legally divorced for nearly 20
years, as shown by a 1966 judgment and its entry as a local judgment in the states of California, Nevada, Texas,
Oklahoma, and Colorado. By placing a dissolution of marriage label on the lawsuit, orders could be rendered
mislabeling the assets as community property, and taken from Appellant.

1 state and federal laws and constitutional protections,⁸ which California judges repeatedly
2 violated as they aided and abetted the sham action filed by the CIA-related law firm.

3 Despite their absence of personal and subject matter jurisdiction that was clearly stated in
4 California law, and despite the dozens of state and federal laws barring the lawsuit, California
5 judges continued to issue orders for six years that inflicted great and irreparable personal and
6 financial harm inflicted upon Appellant.⁹ As a result of the combined actions of the CIA-front
7 law firm and actions by California judges, Appellant started losing valuable properties due to the
8 filing of lis pendens and the inability to refinance loans as they came due.

9 Every exercise of procedural due process defenses specifically provided by state law was
10 called a frivolous action, reversing the legal criteria for the term. That judicial tactic would then
11 be repeated over and over again as by California and federal judges. It was as if some powerful
12 source in government initiated and then ensured that the scheme would succeed.

13 **Exercising Federal Defenses for the Repeated Violation of Federally Protected Rights**

14 These actions by the CIA-front law firm and California judges violated federally protected
15 rights for which several federal remedies existed. Appellant exercised the first of these remedies

16
17 8 Included in the substantive California and federal California laws violated, initially by a CIA-front law firm and
18 then California and federal judges were the following: CC §§ 4351, 4554, 5004, 5102, 5103, 5108, 5110.720, 5118,
19 5164; California CCP §§1699(b), 1713.1, 1713.3, 1908, 1910, 1913, 915; California Rules of court Rules 1201(c);
20 1211, 1212, 1215, 1222, 1229(a), 1230(a)(2), 1234, 1239(a)(2), 1281, and Rule 1282; absence of personal
21 jurisdiction arising from Rule 1230 Motion to quash, 1230(a)(2), 1234, and 1239(a)(2); absence of personal and
22 subject matter jurisdiction under the California Family Law Act: Rules 1201(c), 1211, 1212, 1281, 1282, 1215,
23 1222, 1229, 1230(a)(2), 1234, 1239(a)(2); Civil Code §§ 4351, 4503; California Supreme Court Decisions,
24 including *Rediker v. Rediker* (1950) 35 Cal.2d 796.; *Scott v. Scott* (1958) 51 C.2d 249]; *Spellens v. Spellens* (1957)
25 498 C.2d 210; *Whealton v. Whealton* (1967) 67 C.2d 656; Res judicata and collateral estoppel doctrines.; Title 28
U.S.C. § 1738, full faith and credit statute; Article IV, § 1, providing for full faith and credit; Article IV, § 2, against
26 taking of previously adjudicated and previously acquired personal and property rights upon changing residence to
27 another state; Fourteenth Amendment due process clause; Fourteenth Amendment equal protection clause;
28 Fourteenth Amendment property rights; Fourteenth Amendment liberty interests; landmark U.S. Supreme Court
decisions: *Williams v. North Carolina* (1945) 325 US 226, 65 S Ct 1092, 89 L ed 1577; *Coe v. Coe* (1948) 334 U.S.
378; *Sherrer v. Sherrer* (1948) 334 U.S. 43; *Vanderbilt v. Vanderbilt* (1957) 354 U.S. 416; *Estin v. Estin* (1948) 334
U.S. 541; *Perrin v. Perrin*, 408 F.2d 107 (3rd Cir. 1969).

25 These violations of substantive laws were then followed by violations of every procedural due process defense
26 by a series of California and federal judges. Appellant's exercise of these defenses were given a frivolous label to
27 support the judicial dismissals, without ever addressing the issues raised. The procedural due process violations
28 included dismissing every opposition or appeal without a hearing or addressing the issues; refusal to render findings
of facts and conclusions of law; blocking the filing of appeal briefs; blocking discovery; denying jury trials; calling
Appellant a vexatious litigant for exercising state and federal defenses; and other violations.

9 Years of great personal and financial harm was inflicted upon Appellant by the same California and federal judges
perpetrating the violations. These serial due process violations caused Appellant to lose \$10 million in assets,
including his home and sole source of income, the loss of credit, and the loss of earning capability.

1 in federal court at Sacramento, California, seeking a court order to halt the civil rights violations
2 and an order requiring recognition of the personal and property rights adjudicated 20 years
3 earlier and established in five judgments from the states of Oklahoma, Colorado, Texas, Nevada,
4 and California. To this day, every federal judge who had a mandatory duty to adjudicate the
5 matter blocked the federal remedies, just as they blocked the reporting of the criminal activities
6 that Appellant and his group of other government agents had sought to report. The facts would
7 eventually show that the federal judges blocking these reports were also aiding and abetting the
8 scheme by the CIA-front law firm using various obvious tactics that are proven in court records.

9 Instead of performing their duty, federal judges dismissed that and every other lawsuit almost
10 as soon as they were filed, often sua sponte. They continued the practice of California judges that
11 reversed the legal definition of frivolous and placed a frivolous label on every filing in an
12 attempt to support their repeated violations and protect the CIA-front law firm.

13 In every federal court filing the dismissals were accompanied by violating the right to
14 discovery, to a jury trial on factual matters, to findings of fact and law addressing the issues.

15 In addition, federal judges repeatedly ordered Appellant to pay thousands of dollars in
16 financial sanctions to the CIA-front law firm initiating the violations that were inflicting great
17 and irreparable personal and financial harm upon Appellant. This retaliation violated Title 18
18 U.S.C. § 241,¹⁰ which makes it a felony to inflict harm upon a person for exercising due process
19 rights.

20 **Receiving Evidence of Criminal Activities From Other Government Agents**

21 As these violations continued, Appellant continued to receive reports and evidence of
22 criminal activities in government offices from an increasing number of former and current
23 government agents. In 1986, Appellant sought to report the federal crimes that he himself had
24 discovered, along with reporting the additional criminal activities.

25 Even though federal judges had the mandatory responsibility to receive this information as
26

27
28 10 Title 18 U.S.C. § 241. Conspiracy against rights of citizens. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; ... They shall be fined ... or imprisoned ... or both.

1 part of their administrative duties—as clearly stated in 18 U.S.C. § 4—Appellant encountered the
2 same block that he encountered while trying to report the criminal activities related solely to the
3 nation’s aviation area. The attempt to report these criminal activities was combined with
4 attempting to halt the escalating civil rights violations that were inflicting enormous harm upon
5 him.

6 The first filing raising the dual issues was in the U.S. district court at Sacramento, California,
7 where it was assigned to district judge Milton Schwartz. During the first court appearance, Judge
8 Schwartz admitted the gravity of the charges and encouraged Appellant to obtain additional legal
9 help in presenting the material. That position promptly changed. A week later, Judge Schwartz
10 issued a sua sponte order dismissing the lawsuit and combining it with an injunction permanently
11 barring Appellant from filing any papers in the federal courts addressing the matters raised in the
12 lawsuit. In other words, Appellant had to become complicit in obstruction of justice and forfeit
13 all federal defenses against the massive violations of federally protected rights for which
14 legislation and the Constitution provided to every citizen protection against such outrages.

15 Appellant appealed those issues, and encountered the same aiding and abetting as he had
16 earlier encountered from judges in the appellate courts and the U.S. Supreme Court. This pattern
17 suggested that the source of these massive criminal and civil rights violations involved sources
18 high in the federal judiciary.

19 As Appellant learned of other criminal activities in government offices from the increasing
20 numbers of government insiders, he again exercised his responsibilities under Title 18 U.S.C. §
21 4, and his rights as a citizen under 28 U.S.C. § 1361, seeking to report these criminal activities.

22 **Charged with Criminal Contempt of Court for Reporting Federal Crimes,**
23 **Including Those Playing Key Roles in the Events of September 11, 2001**

24 In response to that filing, Judge Schwartz refused to receive the report of criminal activities
25 or to halt the escalating violations committed by California judges. Further, U.S. Attorney David
26 Levi (now a federal judge in Sacramento) and Judge Schwartz charged Appellant with criminal
27
28

1 contempt of court for having filed papers in federal courts when Schwartz’s prior (void) order¹¹
2 permanently barred Appellant from federal court access.

3 Federal statutes¹² make it a crime to inflict harm upon a former federal agent or witness for
4 attempting to report a crime or to block that person from making such reports. Title 18 U.S.C. §
5 241 make it a federal crime¹³ to inflict harm upon a person for exercising due process rights
6 guaranteed by the laws and Constitution of the United States. These felonies are even worse
7 when perpetrated by people in positions of trust. And when deaths occur—as in the series of
8 airline disasters arising from the misconduct Appellant sought to report and which numerous
9 people sought to block, the felonies become capital offenses under 18 U.S.C. § 34.

10 **Denied a Jury Trial and Sent to Prison by Unindicted Felons**

11 Appellant was denied a jury trial and sentenced to six months in federal prison. As he
12 approached 70 years of age and shortly after enduring open-heart surgery, he was imprisoned
13 under particularly difficult conditions, which included solitary confinement for eight weeks.

14 **Corruptly and Unconstitutionally Seizing Appellant’s Assets While in Prison**

15 While Appellant was in prison, federal judge Robert Jones (Las Vegas) ordered the seizure
16 and liquidation of Appellant’s assets—which had funded Appellant’s exposure activities. The
17

18
19 11 Stich had considered that order void on the basis of massive violations of federal laws and the U.S. constitution
and a felony on the basis it blocked reporting of federal crimes.

20 12 Title 18 U.S.C. § 111. Assaulting, resisting, or impeding certain officers or employees. (a) In general.—Whoever—
21 (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 114
of this title [federal agent] while engaged in or on account of the performance of official duties; or (2) forcibly
22 assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the
performance of official duties during such person’s term of service, shall, where the acts in violation of this section
constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all
23 other cases, be fined under this title or imprisoned not more than three years, or both.

24 Title 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant—(b) Whoever knowingly uses
intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct
toward another person, with intent to — (1) influence, delay or prevent the testimony of any person in an official
proceeding; shall be fined ... or imprisoned ... or both. [1988 amended reading]

25 Title 18 U.S.C. § 1513. Retaliating against a witness, victim, or an informant. (a) Whoever knowingly engages in
any conduct and thereby causes bodily injury to another person or damages the tangible property of another person,
or threatens to do so, with intent to retaliate against any person for—(1) the attendance of a witness or party at an
official proceeding, or any testimony given or any record, document, or other object produced by a witness in an
official proceeding; or (2) any information relating to the commission or possible commission of a Federal offense .

26
27 13 Title 18 U.S.C. § 241. Conspiracy against rights of citizens. If two or more persons conspire to injure, oppress,
threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the
Constitution or laws of the United States, or because of his having so exercised the same; ... They shall be fined ... or
28 imprisoned ... or both;

1 orders seizing his assets violated the legal and constitutional requirements for a hearing, notice of
2 hearing, legally required cause, and due process. Enlarging upon prior similar orders, Judge
3 Edward Jellen (Oakland, California) rendered orders barring Appellant from filing objections to
4 the seizure and liquidation of his assets, just as federal judges barred him from reporting the
5 criminal activities. When Appellant filed objections, Judge Jellen ordered them unfiled and
6 charged Appellant with criminal contempt of court for having exercised federal defenses against
7 the fraudulent judicial taking of his life assets. The massive number of violations and denial of
8 every due process protection, and the retaliation, eventually converted Appellant from a multi-
9 millionaire to a state of poverty.

10 Appeals to the court of appeals and petitions to the U.S. Supreme Court justices upheld this
11 multitude of criminal and civil rights violations.

12 The same federal judges who blocked reports of criminal activities and who aided and
13 abetted the massive violations of federally protected rights, again labeled Appellant a vexatious
14 litigant for exercising these responsibilities and these federal defenses.

15 **The Last Attempt to Report Corrupt Activities That Would Enable 9-11 to Occur**

16 The last lawsuit seeking to report the misconduct in the government's aviation safety offices
17 and in several of the intelligence gathering offices—prior to the events of September 11, 2001—
18 was filed by Appellant in the U.S. district court at Reno, Nevada.¹⁴ Again, the same judicial
19 tactics occurred: Judge Edward C. Reed blocked the reports of criminal activities; blocked the
20 protection guaranteed by the laws and Constitution of the United States; protected the
21 misconduct of the lawyers with the CIA-front law firm; placed a frivolous label on the attempt to
22 report the criminal activities and attempt to halt the great harm he was experiencing, and ordered
23 Appellant to pay thousands of dollars in sanctions for filing the action seeking to report the
24 criminal activities and exercising federal defenses.

25 **Another in the Long Series of Blowback Consequences: 9-11**

26 Following the successful hijackings of four airliners on September 11, 2001, which were

27
28 ¹⁴ Lawsuits filed by Appellant in the U.S. District Court, Reno, Nevada, CV-N-152-ECR (PHA), seeking to report criminal activities in government offices—including those that created the conditions subsequently responsible for the hijackings of four airliners on September 11, 2001.

1 made possible by the conditions associated with the corruption that Appellant and other
2 government agents had discovered, Appellant *again* sought to report the federal crimes to a
3 federal judge. He submitted a lawsuit to the U.S. District Court for the Southern District of New
4 York, seeking to report the deeply entrenched corruption that made the 9-11 catastrophic events
5 possible, and which would continue if the coverups continued.

6 That lawsuit was received by the court on August 15, 2002, (CT: 2, fn pg 1) along with the
7 filing fee and all required documents. The pattern of obstruction of justice by federal judges
8 continued. The lawsuit, attempting to report the criminal activities, was blocked from being filed.
9 Despite several letters Appellant sent to the court, it remained unfiled for 13 months, violating
10 court rules, criminal obstruction of justice statutes, and continued civil rights violations.

11 During this period, Chief Judge Michael Mukasey prepared a five-page dismissal order.
12 Almost 13 months later, Appellant's lawsuit was finally filed, along with Judge Mukasey's sua
13 sponte dismissal order, being filed on October 20, 2003.

14 **SUMMARY OF ARGUMENT**

15 The dismissal order directly violated the federal crime reporting statute, 18 U.S.C. § 4 and
16 related , and probably Title 18 U.S.C. §§ 2, 3, 371, 1505, 1512, 1513, 1951.

17 The dismissal order also violated numerous federal substantive and procedural due process
18 rights and protections, duplicating the documented pattern of earlier federal violations. Despite
19 the latest catastrophic death toll, the coverups continued as before.

20 The dismissal order contained a multitude of false and deceptive statements, omissions of
21 material facts and issues, conclusionary statements, and violated numerous federal substantive
22 and procedural laws, and criminal statutes. The sua sponte dismissal order:

- 23 • Violated the responsibilities of federal judges to receive reports and evidence of federal
24 crimes as part of their administrative duties under 18 U.S.C. § 4.
- 25 • Violated major substantive due process protections, including the rights guaranteed by
26 the Civil Rights Act, *Bivens*, RICO, Declaratory Judgment Act, and the Supreme Court's
27 void judgment doctrine.
- 28 • Violated multiple procedural due process rights, including the (a) right against sua sponte

1 dismissal; (b) right against dismissal when facts showing federal causes of actions are
2 stated for which federal relief exists; (c) right to discovery; (d) right to a jury trial; and (e)
3 right to a honest adjudication of major federal causes of actions.

- 4 • Appellant seeks an honest court proceeding at which he and his group of other former
5 government agents can provide testimony and evidence of crimes against the United
6 States; and remedies provided by the laws and Constitution of the United States against
7 the great and irreparable harm corruptly inflicted upon Appellant to halt his exposure of
8 corrupt and criminal activities. At his age, there is no possibility of compensating for the
9 harm inflicted upon him through a literal Trojan horse subversion of major U.S. interests
10 by people in positions of trust.

11 ARGUMENT

12 I

13 The Dismissal Order Blocked Reports of Criminal Activities in Government Offices, 14 Some of Which Related to Events of September 11, 2001

15 The *sua sponte* dismissal knowingly blocked Appellant and his group of former and present
16 government agents from reporting criminal activities against the United States that they had
17 discovered during their official duties. The federal crime reporting statute *requires all* federal
18 judges, as part of their *administrative* duties to receive information of a federal crime offered by
19 *any person*, and certainly by former government agents who discovered the crimes as part of
20 their official duties.

21 *Title 18 U.S.C. § 4. Misprision of felony. Whoever, having knowledge of the actual*
22 *commission of a felony cognizable by a court of the United States, conceals and does not as*
23 *soon as possible make known the same to some judge or other person in civil or military*
authority under the United States, shall be fined under this title or imprisoned not more than
three years, or both.

24 **Misstating Attempts to Report Criminal Activities in Government Offices**

25 The dismissal order misstated (CT: 2:pgs.12-16) Appellant's attempt to *report* criminal
26 activities under 18 U.S.C. § 4:

27 *Appellant lacks right to interfere with prosecutor's determination to dismiss criminal*
28 *action. ... Criminal prosecutions are within the province of the United States Attorney*
who has complete discretion over the decision to continue or cease prosecution. Thus,

1 **A) Violated Due Process Rights Barring Sua Sponte Dismissals**

2 The dismissal order violated the clear and settled law that requires a hearing, discovery,
3 opportunity to defend, and a meaningful and honest opportunity to be heard. In *Wolff v.*
4 *McDonnell* (1974) 418 U.S. 539, the Court stated:

5 “The Court has consistently held that some kind of hearing is required before a person is
6 finally deprived of his property interests; In *Anderson National Bank v. Lueckett* (1944) 321
7 U.S. 233, 246, the court held: “It is error to dismiss a claim on the merits without notice, a
8 hearing, and an opportunity to respond.” FRcivP Rule 12(b)(6). “[T]he court must give notice
9 of its sua sponte intention to invoke Rule 12(b)(6), and afford Appellants 'an opportunity to at
10 least submit a written memorandum in opposition to such motion,” *Crawford v. Bell*, 599 F.2d
11 890, 893 (9th Cir. 1979), quoting *Potter v. McCall*, 433 F.2d 1087, 1088 (9th Cir. 1970);
12 *Harmon v. Superior Court*, 307 F.2d 796, 796 (9th Cir. 1962) “the right to a hearing on the
13 merits of a claim over which the court has jurisdiction is of the essence of our judicial
14 system, and the judge's feeling that the case is probably frivolous does not justify by-passing
15 that right. Appellant is entitled to have process issued and served, and to be heard.”

12 **B) Violated Bar to Dismissal Arising From Any One of the**
13 **Multiple Federal Causes of Actions Stated in the Complaint**

14 A Rule 12 dismissal based on failure to state a claim upon which relief can be granted
15 requires that the factual allegations of the complaint must be taken as true, and any ambiguities
16 or doubts concerning the sufficiency of the claim must be resolved in favor of the pleader. See
17 *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 (1979); *Conley v. Gibson*, 355 U.S. 41, 45-46, 78.

18 *Dennis v. Sparks* 449 U.S. 24 (1980)(“a section 1983 complaint should not be dismissed unless
19 it appears that the Appellant can prove no set of facts which would entitle him to relief ... For
20 the purposes of testing sufficiency of the complaint, the allegations of the complaint must be
21 accepted as true. ... If Appellant's allegations state a claim for which federal courts can grant
22 relief, the court must accept jurisdiction.”); *Gardener v. Toilet Goods Assn.*, 387 U.S. 167, 172
23 (1967). (An action, “especially under the Civil Rights Act, should not be dismissed at the
24 pleadings stage unless it appears to a certainty that Appellants are entitled to no relief under any
25 state of the facts, which *could be proved in support of their claims.*” *Escalera v. N.Y. Housing*
26 *Auth.*, 425 F.2d 853, 857 (2nd Cir. 1970). See also *Conley v. Gibson*, 355 U.S. 41, 45-7) 1957).

24 The Complaint stated facts constituting multiple federal causes of actions for which federal
25 judges had a duty to provide a court forum, some semblance of due process, and relief.

26 Dismissals under Fed.R.Civ.P.12(b)(6). “are permitted on a motion if the
27 Complaint “fails to state a claim upon which relief can be granted.” “The
28 court cannot subject even undisputed evidence to interpretation, unless it is
only subject to one possible interpretation; it cannot weight conflicting
inferences or interpretations that can be put on the evidence. *U.S. v. Diebold*,

1 *Inc.*, 369 U.S. 654; “The district court may dismiss the complaint “only if it is
2 certain that no relief can be granted under any set of facts which could be
3 proved.” *General Refractories Co. v. Fireman’s Fund Ins. Co.*, 337 F.3d 297,
4 303 n.1 (3d Cir. 2003), quoting *Steamfitters Local Union No. 420 Welfare*
5 *Fund v. Philip Morris, Inc.*, 171 F.3d 912, 919 (3d Cir. 1999). “An appeal [or
6 complaint] is not frivolous if any of the legal points [are] arguable on their
7 merits.” *Anders v. California* (1967) 386 U.S. 738; The requirement for “no
8 genuine issue of material fact” standard provides that the court cannot try the
9 case on a summary judgment motion. *National Assn. of Gov’t Employees v.*
10 *Campbell*, 593 F.2d 1023, 1027-29 (D.C. Cir. 1978). See also 6 Moore’s
11 Federal Practice ¶ 56.15[1.--0], [3].

8 **C) Violated Due Process Right to Discovery**

9 The dismissal order violated federal laws and constitutional due process, and Appellant’s
10 right to discovery, which is specifically required by Federal Rules of Civil Procedure rules 26,
11 36, and 37 and by Rules 12 and Rule 56.

12 For the purposes of a Rule 12 motion, failure to state a claim upon which relief can be
13 granted, the factual allegations of the complaint must be taken as true and any ambiguities or
14 doubts concerning the sufficiency of the claim must be resolved in favor of the pleader. See
15 *Scheuer v. Rhodes*, 416 U.S. 232, 236; *Conley v. Gibson*, 355 U.S. 41, 45-46.

16 Summary judgment can only be granted in three circumstances: (1) Where the only issues in
17 the case are legal issues; (2) Where the opposing party concedes all relevant facts, making the
18 only issues in the case legal issues; or (3) Where there has been a well-planned and executed
19 discovery effort which has succeeded in tying down the opponent, by its own admissions, so that
20 there is a set of facts which cannot be disputed and which will thus support summary judgment.

21 Rule 56(c). The judgment [for summary judgment] sought shall be rendered forthwith if the
22 pleadings, depositions, answers to interrogatories, and admissions on file, together with the
23 affidavits, if any, show that there is no genuine issue as to any material fact and that the
24 moving party is entitled to a judgment as a matter of law.

24 **Using Material Outside of the Pleading Converted Dismissal from Rule 12 to Rule 54**

25 The dismissal order used material outside of the pleading, including statements that the issues
26 had been previously adjudicated, that Appellant’s filings were frivolous, and that he was a
27 vexatious litigant. Appellant had a due process rights to disprove the conclusionary false
28

1 allegations. Rule 12(b) states:

2 “If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to
3 state a claim upon which relief can be granted, matters outside the pleading are presented to
4 and not excluded by the court, the motion shall be treated as one for summary judgment and
5 disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to
present all material made pertinent to such a motion by Rule 56.”

6 *In Doe v. United States Dept. of Justice*, 753 F.2d 1092 (1985) the court held: “Rule 12 provides
7 that if “matters outside the pleadings are presented to the court, the motion shall be treated as one
8 for summary judgment and disposed of as provided in Rule 56...” See Fed.R.Civ.P. 12(b)(noting
9 that, if a Rule 12 motion is converted into a summary judgment proceeding, “all parties shall be
10 given reasonable opportunity to present all material made pertinent to such a motion by Rule
11 56.” Appellant’s due process right to be heard and to present evidence contradicting the false
12 conclusionary statements in the dismissal order continued the history of due process violations.

13 **Rule 56 Dismissal Raised Another Bar to Dismissal**

14 The due process right to discovery was also required under FRCivP 56:

15 Rule 56(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days
16 before the time fixed for the hearing. The adverse party prior to the day of hearing may
17 serve opposing affidavits. The judgment sought shall be rendered forthwith if the
18 pleadings, depositions, answers to interrogatories, and admissions on file, together with
19 the affidavits, if any, show that there is no genuine issue as to any material fact and that
20 the moving party is entitled to a judgment as a matter of law. A summary judgment,
interlocutory in character, may be rendered on the issue of liability alone although there
is a genuine issue as to the amount of damages.

21 **D) Violated Due Process Right to Have Federal Claims Adjudicated and** 22 **To Correct False Conclusionary Statements in Dismissal Order**

23 The dismissal order made conclusionary statements, without any support, referring to matters
24 outside of the record, that Appellate could have contradicted with evidence from other court
25 filings. The dismissal order falsely stated that every issue raised in Appellant’s Complaint had
26 been previously adjudicated and found without merit. (CT:3:13-15)

27 *The Court notes that Appellant has brought numerous actions in the United States*
28 *District Court for the Northern District of California and other Federal Courts*
containing similar allegations. All the actions were deemed to be without merit and all
actions were summarily dismissed. After finding that Appellant “has overwhelmingly

1 *demonstrated that he is a vexatious litigant,” the United States District Court for the*
2 *Northern District of California enjoined him “from filing any civil actions in federal*
3 *court without leave of court. ... all the actions were deemed to be without merit.*

4 Judicial records, that Appellant was blocked from providing, prove that not a single issue was
5 ever adjudicated in the federal courts, and that federal judges blocked every attempt to report the
6 criminal activities that Appellant and his group of other former government agents sought to
7 report. The two issues were interrelated.

8 Appellant was denied the right to contradict with judicial evidence the frivolous and
9 vexatious litigant label stated in the dismissal order. Every action filed by Appellant stated major
10 violations of federally protected rights for which Appellant sought federal relief.

11 **E) Violated Due Process Right to Jury Trial on Factual Matters, Including Conspiracy**
12 **to Obstruct Justice Combined with Massive Civil Rights Violations**

13 Appellant’s Complaint (CT 1:pg 1) demanded a jury trial that was required by law. The
14 dismissal order violated that right.

15 FRCivP 38. Jury Trial of Right. (a) Right Preserved. The right of trial by jury as declared by
16 the Seventh Amendment to the Constitution or as given by a statute of the United States shall
17 be preserved to the parties inviolate.

18 The right to a jury trial is further stated in FRCivP Rule 57 as it relates to Appellant’s claim
19 under the Declaratory Judgment Act:

20 Declaratory Judgments. The procedure for obtaining a declaratory judgment pursuant to Title
21 28 U.S.C. § 2201 shall be in accordance with these rules, and the right to trial by jury may be
22 demanded under the circumstances and in the manner provided in Rules 38 and 39. The
23 existence of another adequate remedy does not preclude a judgment for declaratory relief in
24 cases where it is appropriate. The court may order a speedy hearing of an action for a
25 declaratory judgment and may advance it on the calendar.

26 In *City of Morgantown, W.Va. v. Royal Insurance Co*, 337 U.S. 254 (1949), the Court held:

27 Trial by jury is a vital and cherished right, integral in our judicial system. It is argued that the
28 importance of an interlocutory order denying or granting jury trial is such that it should be
appealable. Many interlocutory orders are equally important, and may determine the outcome
of the litigation, but they are not for that reason converted into injunctions. The Constitution
guarantees to litigants in the federal courts the right to have their case tried by a jury, and
Rule 38 of the Rules of Civil Procedure explicitly implements that guarantee. Denial of the
right in a case where the demanding party is entitled to it is of course error. The rulings of the
district courts granting or denying jury trial are subject to the most exacting scrutiny on

1 appeal.

2 **A Jury Decides Whether a Conspiracy Exists, Not the Judge**

3 The law provides that a jury decides whether a conspiracy existed to block the reporting of
4 the criminal activities and whether a conspiracy existed to violate Appellant’s civil rights, and
5 whether a conspiracy existed to block every federal defense related to these matters. Certainly
6 not a judge who may be protecting the series of federal judges implicated in these offenses.

7 **F) Violated Due Process by Reversing the Legal Definition of “Meritorious Issue”**

8 The dismissal order stated:

9
10 “Appellant presents no arguably meritorious issue. ... Section 1915 ... authorizes courts to
11 dismiss a frivolous or malicious action.” (CT 2:4)

12 Twenty-one pages of facts showing massive violations of state and federal laws for which
13 federal defenses exist, and attempts to report criminal activities under 18 U.S.C. § 4, contradicts
14 the blatant false statement of no meritorious issue.

15 Further, a section 1915 dismissals pertain to proceedings in forma pauperis, where the filing
16 fee is not paid. Appellant paid the filing fee.

17 **G) Violated Due Process by Reversing the Legal Definition of “Frivolous” and Placing**
18 **a Frivolous Label on Attempts to Report Criminal Activities and for Defending**
19 **Against Related Civil Rights Violations**

20 The dismissal order stated (CT 1: pg 3):

21 *“All the actions filed by Appellant between 1984 and 1991 were deemed to be without*
22 *merit and all actions were summarily dismissed. After finding that Appellant “has*
23 *overwhelmingly demonstrated that he is a vexatious litigant,” the United States District*
Court for the Northern District of California enjoined him “from filing any civil actions
in federal court without leave of court.”

24 *“Section 1915 ... authorizes courts to dismiss a ‘frivolous or malicious’ action, but there*
25 *is little doubt they would have power to do so even in the absence of this statutory*
26 *provision. ... A district court in the Second Circuit may sua sponte dismiss a complaint*
27 *even if the Appellant has paid the filing fee. ... The law in this circuit is that a district*
28 *court may sua sponte dismiss a frivolous complaint even if the Appellant has paid the*
filing fee. ... although pro se litigants must be afforded special solicitude, court may
dismiss “claims describing fantastic or delusional scenarios. [a]uthorizes a district court
to dismiss sua sponte a fee-paid complaint that is fantastic or delusional. ... discussing
appellant court’s inherent authority to dismiss meritless and/or frivolous fee-paid

1 cases.” “ Accordingly, the instant complaint is *DISMISSED* because it fails to state a
2 claim on which relief may be granted and seeks monetary relief against defendants who
3 are immune from such relief. *Fed.R.Civ.P.12(b)(6)*. [Dismissal order, pg 4]

4 The law is clear as to what is frivolous, or without merit:

5 “An appeal [or complaint] is not frivolous if any of the legal points [are] arguable on their
6 merits ...” *Anders v. California* (1967) 386 U.S. 738; “The objective standard looks at the
7 merits of the appeal [or complaint] from a reasonable person's perspective. ... whether
8 any reasonable person would agree that the point is totally and completely devoid of
9 merit, and therefore, frivolous. ... an appeal is not frivolous if “any of the legal points
10 [are] arguable on their merits.

11 Ironically, or revealing, the term “frivolous” was never applied to the CIA-front law firm filing
12 the sham lawsuit against Appellant that violated dozens of state and federal laws and constitutional
13 safeguards—and which played a key role in blocking the reporting of corrupt and criminal activities
14 that played major roles in the events occurring on September 11, 2001.

15 **H) Violated Due Process by Reversing the Legal Definition of “Vexatious Litigant”**

16 The dismissal order charged Appellant with being a vexatious litigant. (CT 2: pgs 3,4)

17 “[P]laintiff has overwhelmingly demonstrated that he is a vexatious litigant, ... Section
18 1915 ... authorizes courts to dismiss a frivolous or malicious action ...”

19 To be guilty of being a vexatious litigant the person must be guilty of filing numerous
20 lawsuits that meet the definition of a frivolous action having no arguable merit in law. The legal
21 definition of a frivolous or vexatious filing contradicts that charge:

22 Vexatious suit. Litigation for the purpose of harassing, annoying and vexing an opponent,
23 rather than for the adjudication of rights, being invoked, not for the attainment of justice, but
24 to further or satisfy a malicious motive. 28 Am J Rev ed Inj § 210; Proceeding instituted
25 maliciously and without probable cause. *Paramount Pictures v. Blumenthal*, 256 App.Div.
26 756, 11 N.Y.S.2d 768, 772. When the party bringing proceeding merely wishes to annoy or
27 embarrass his opponent, or when it is not calculated to lead to any practical result. Such a
28 proceeding is often described as "frivolous and vexatious," and the court may dismiss it on
that ground.

Every filing by Appellant in California and federal courts was in response to massive violations
of state and federal laws and constitutional safeguards that sought to halt the great and
irreparable personal and financial harm being inflicted. The exercise of due process under these
conditions has been fraudulently labeled “frivolous” and the acts of a vexatious litigant, making
a mockery of the rule of law in the United States.

1
2 **I) Violated Due Process by Misstating Attempts to Report Criminal Activities and**
3 **Defend Against Massive Civil Rights Violations as “Failure To State a Claim”**

4 The dismissal order stated (CT 2:pg 5):

5 [T]he instant complaint is DISMISSED because it fails to state a claim on which
6 relief may be granted and seeks monetary relief against defendants who are immune
7 from such relief. Fed.R.Civ.P.12(b)(6).

8 The complaint (a) sought to report criminal activities to a federal judge as required by federal
9 criminal statute (CT 1: pgs 1,2,4,5,6,7,13,14,19); (b) stated a claim under the Federal Tort
10 Claims Act. (CT 1: pgs 2, 9,12,17,20,21); (c) stated a claim under the void judgment doctrine to
11 address the unlawful and unconstitutional seizure of Appellant’s assets. (CT 1: pgs
12 1,9,12,15,20); (d) stated a claim under the void judgment doctrine to address the unlawful and
13 unconstitutional orders terminating Appellant’s due process and equal protection right to federal
14 court access and related rights and protections guaranteed by the laws and Constitution of the
15 United States. (CT 1: pgs 10,12,13,14,19,20); (e) stated a claim under the Declaratory Judgment
16 Act to declare disputed legal rights established in five prior judgments (CT 1: pgs 1, 2, 12, 13,
17 16, 20); (f) stated a claim under the Federal Tort Claims Act; and (f) reserved the right to filed a
18 claim under the Civil Rights Act and *Bivens*¹⁵ for civil rights violations occurring under color
19 of state law and under color of federal law. (CT 1: pgs 9,10,18)
20
21

22 **J) Violated Due Process by Upholding Unlawful and Unconstitutional Orders That**
23 **Permanently Terminated Appellant’s Civil Rights Through Denying Him Access to**
24 **Federal Courts**

25 The dismissal order violated Appellant’s right to an order returning to him the civil and
26 constitutional rights that were corruptly terminated¹⁶ through a series of orders permanently
27

28

¹⁵ *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

¹⁶ The equal protection rights stated in the Fourteenth Amendment, Section 1 have been held to apply in federal courts also. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of

1 terminating his rights and protections guaranteed by the laws and Constitution of the United
2 States. Judge Mukasey’s dismissal order made reference to one of several such orders:

3 “After finding that Appellant “has overwhelmingly demonstrated that he is a vexatious
4 litigant,” the United States District Court for the Northern District of California enjoined him
5 “from filing any civil actions in federal court without leave of the court.” *Stich v. Patel et al.*,
6 No. 86-0384 (N.D. Cal. June 6, 1986). [CT 2: pg 3] [underlining added]

7 “The instant action, also brought without seeking leave of the Court, marks yet another
8 attempt by Appellant to ignore previous warnings and Orders of the Court. Appellant is
9 advised that the June 6, 1986 Order of the United States District Court for the Northern
10 District of California, enjoining him from filing any civil actions in federal court without
11 leave of court, remains in effect.” (CT 1:pg 4)

12 No federal judge has the authority to terminate the fundamental rights guaranteed to all
13 citizens, as Judge Mukasey decided.

14 **Requiring Leave of Court for Court Access Constitutes a Permanent Bar to**
15 **Reporting Criminal Activities and Denial of Legal and Constitutional Protections**

16 The injunctive orders required off-the-record approval before Appellant could exercise the
17 protections guaranteed by the laws and Constitution of the United States. If the repeated
18 wholesale violations of state and federal laws and constitutional rights did not permit court
19 access, there could never be a federal cause of action that federal judges would allow Appellant
20 to have his day in court.

21 If, for argument, the denial to court access was decided in an honest manner, and decided
22 incorrectly, Appellant is denied appellate remedies.

23 Ironically—with catastrophic consequences on September 11, 2001—Appellant’s attempts to
24 report the criminal activities that he discovered as a federal agent, that made many prior aviation
25 disasters possible, did not meet the approval of either Judge Mukasey or any of the prior federal
26 judges. This certainly was not simply judicial error! It is probable that 3,000 deaths on 9-11
27 would not have occurred if federal judges had not engaged in their *documented* misconduct.

28 Further, title 18 U.S.C. § 4, does not require, or permit, federal judges to grant approval
before federal crimes can be reported to a federal court—especially when federal judges are
included in the federal criminal activities being reported.

the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

1 sufficient to call for the opportunity to offer supporting evidence. We cannot say with
2 assurance that under the allegations of the pro se complaint, which we hold to less stringent
3 standards than formal pleadings drafted by lawyers, it appears “beyond doubt that the
4 plaintiff can prove no set of facts in support of his claim which would entitle him to relief.
Accordingly, ... we conclude that he is entitled to an opportunity to offer proof.” Also, see
Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

5 Appellant’s complaint referred to a series of hardcore civil rights violations, proven by judicial
6 records, and combined with parallel efforts to halt Appellant’s reporting and exposure of
7 criminal activities that continues—at this very date—to inflict great harm upon national security
8 and the lives of many people. Other citations in Judge Mukasey’s dismissal order were of a
9 similar non-related and contradicted nature.

10 In contrast to these cases, Appellant’s complaint stated facts, most of them documented, of
11 massive violations of specific state and federal laws and constitutional protections, that were
12 clearly major federal causes of actions for which specific remedies existed. For instance, the
13 right to a declaratory judgment upholding Appellant’s legal rights and obligations in five
14 judgments continue to constitute a federal cause of action; the right to return of Appellant’s \$10
15 million in assets that were taken in gross violations of legal and constitutional due process; the
16 right to reinstatement of his civil and constitutional rights; and the other federal causes of actions
17 stated in Appellant’s Complaint.

18 **Impending Obstruction of Justice and Total Due Process Denial**
19 **Shown by Blocking Filing of Appellant’s Lawsuit**

20 An indication of the long documented pattern of judicial obstruction of justice and due
21 process violations occurred even before Appellant’s lawsuit was filed. The court received
22 Appellant’s lawsuit and filing fee on August 15, 2002. (CT 2: pg 1) Federal rules require that
23 Complaints be filed when received if the filing fee is paid. But Appellant’s Complaint was
24 blocked from being filed for over 13 months, despite the serious allegations affecting national
25 security, that allegedly played key roles in the success of terrorist attacks on September 11, 2001.

26 Not until September 22, 2003, over a year after being received, was that lawsuit filed. Long
27 before it was filed, Judge Mukasey fabricated a five-page sua sponte dismissal order that was
28 filed simultaneously with the filing of the Complaint; an unprecedented judicial chicanery.

1 Judge Mukasey knew that he was blocking the reports of deep-seated criminal activities that
2 played key roles in the events of September 11, 2001, and that these federal crimes in
3 government offices would continue in effect—as before—with the continuation of the deadly
4 consequences. He also knew he was protecting the people perpetrating the crimes against the
5 United States. The fact that 3,000 people died on 9-11, made possible by the corruption that
6 Appellant discovered and sought to report, and the conversion of federal courts into a criminal
7 enterprise, arguably makes his conduct impeachable.

8 III

9 **Continued Multiple Violations of Substantive Due Process Rights**

10 In the instant action, multiple violations of substantive laws and constitutional protections
11 occurred, including the following:

12 A) **Violated Declaratory Judgment Act Defenses to Declare Legal Rights** 13 **Established in Five Judgments That are in Controversy.**

14 The right to a declaratory judgment in the federal district courts, declaring Appellant’s legal
15 rights and obligations previously adjudicated that are in dispute, was denied to Appellant. This
16 federal cause of action is provided by the Declaratory Judgment Act (28 U.S.C. § 2201, 2202,
17 FRCivP 57) and related case law. The rights that have been violated were established in a 1966
18 judgment, and the entry of that judgment as a local judgment in the states of Oklahoma, Texas,
19 Colorado, Nevada, and California. These rights were violated in the California and federal
20 courts—resulted in massive personal and financial harm to Appellant. However, if this right was
21 not denied, the entire scheme concocted at some high government office, and initiated by the
22 CIA-front law firm and its lawyers, would be exposed, along with the criminal activities that
23 Appellant and his group of other government agents had discovered in their official duties. And
24 of course, the California and federal judges who became complicit in the federal offenses.

1 B) **Violated Void Judgment Remedies to Rescind Orders Seizing Appellant’s Assets**
2 **That Violated Due Process Right to a Hearing, Notice of Hearing, and Absence of**
3 **Legal Basis for Seizure, As Part of Scheme to Halt Appellant’s Exposure of**
4 **Criminal Activities**

5 The right under the Supreme Court’s void judgment doctrine¹⁷ to declare as void the orders
6 seizing and liquidating Appellant’s assets was violated. These orders violated the legal and
7 constitutional requirement of a hearing, notice of hearing, and legally recognized cause, the
8 intent of which was to convert Appellant from a multimillionaire to a state of poverty, and
9 thereby halt his expensive activities seeking to report the criminal activities subverting major
10 national interests.

11 In addition to violating major due process rights in seizing Appellant’s life assets, judge
12 Edward Jellen (Oakland) rendered void orders barring Appellant from filing objections to the
13 seizure and liquidation of his assets. When Appellant did exercise this due process right, judge
14 Jellen charged Appellant with criminal contempt of court and sentenced him to federal prison. It
15 was the exercise of gross violations like these that Judge Mukasey—and a long line of other
16 federal judges—called frivolous acts of a vexatious litigant!

17 C) **Violated Void Judgment Remedies to Regain Civil Rights That Were**
18 **Terminated Through Series of Unlawful and Unconstitutional Orders**
19 **That Terminated Appellant’s Right to Federal Court Access**

20 The rights under the void judgment doctrine, and the declaratory judgment act, were violated,
21 to address the orders permanently barring Appellant access to district and appellate courts.
22 Federal judges issuing these orders, and those who supported them, knew that Appellant could
23 not report the criminal activities in government offices that were continuing to inflict great harm
24 upon national security and resulting in a long line of preventable deaths. (CT 1: pgs
25 10,12,13,14,19,20)

26 D) **Violated FTCA Remedies Against Torts Perpetrated by Government**
27 **Employees That Were Related to Obstruction of Justice Offenses**

28 17 An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in
29 any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed
30 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; A judgment may not be rendered in violation of constitutional
31 protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process
32 notice. *Earle v. McVeigh*, 91 US 503, 23 L Ed 398.

1 The dismissal order violated rights under the Federal Tort Claims Act (FTCA) to obtain
2 financial damages against the United States arising from the tortuous acts of federal employees
3 as they committed torts to block Appellant from reporting and exposing the corrupt and criminal
4 activities. These federal employees included Justice Department employees, federal judges, and
5 lawyers who acted with them to carry out the schemes. The dismissal order relating to the FTCA
6 deceptively claimed the U.S. government was totally immune on the basis of sovereign
7 immunity, despite the law and long series of similar lawsuits contradicting that statement.

8 “Appellant’s claim against the United States Government must be dismissed because the
9 doctrine of sovereign immunity bars from federal court all suits grounded in tort against
10 the United States absent its express consent.”

11 Congress legislated, through the Federal Court Claims Act, the right of people to sue the
12 federal government for torts perpetrated by government employees. Appellant’s Complaint
13 stated facts showing the tortuous acts perpetrated against Appellant. (CT 1: pgs
14 1,2,9,12,17,20,21)

15 The dismissal order stated and implied that Appellant had not exhausted his administrative
16 remedies under the FTCA claim by filing an administrative claim. (CT 1: pg 2) Appellant *did file*
17 administrative claims, only to be blocked by federal judges from court access. The sua sponte
18 dismissal prevented Appellant from contradicting that false statement.

19 **E) Violated RICO Remedies for Criminal Acts That Have a History of Catastrophic**
20 **Effects Upon Interstate Commerce**

21 Facts stating a RICO claim (Title 42 U.S.C. §§ 1961-1965) were stated in the Complaint.
22 (CT 1: pg 18) The Complaint stated defendants engaged in multiple predicate acts, in a
23 racketeering enterprise, that affected and inflicted great harm upon interstate and international
24 commerce, and inflicted great harm upon Appellant, all associated with the schemes to block
25 Appellant’s exposure of criminal activities in the three branches of government.

26 **F) Violated Due Process, and Obstructed Justice, by Placing Delusional Label on**
27 **Efforts to Report Criminal Activities and Defend Against Related Civil Rights**
28 **Violations**

The dismissal order stated:

“Although pro se litigants must be afforded special solicitude, court may dismiss “claims

1 describing fantastic or delusional scenario. ... Fed.R.Civ.P. 12(b)(6) authorizes a district
2 court to dismiss sua sponte a fee-paid complaint that is fantastic or delusional.”

3 The relatives of those who perished on September 11, 2001, may have some strong words to
4 say against Judge Mukasey for that statement. The corruption that Appellant and his other
5 sources sought to report, which they discovered as part of their official duties, didn't meet the
6 legal definition of “fantastic or delusional.”

7 The great and irreparable personal and financial harm suffered by Appellant for responding
8 to his legal and moral responsibilities, and the documented record-setting pattern of legal and
9 constitutional violations, certainly could not meet the definition of “fantastic or delusional.” If
10 the resulting harm upon national security and the many resulting deaths from that type of
11 deception did not exist, Judge Mukasey's actions would be simply impeachable.

12 **Further Contempt for Past and Future Victims**

13 Determined to prevent the criminal activities from being reported, or the guilty prosecuted,
14 despite the history of catastrophic consequences, Judge Mukasey stated (CT 2: pg 5):

15 Although Appellant paid the requisite filing fee to bring this action, I certify pursuant to 28
16 U.S.C. § that any appeal from this Order would not be taken in good faith. See *Coppedge v.*
United States, 369 U.S. 438, 444-45 (1962).

17 **IV**

18 **Dismissal Violated Multiple Criminal Statutes**

19 **A) Violated Mandatory Ministerial Duty to Receive Evidence of Federal Crimes**

20 The clear language of Title 18 U.S.C. § 4 requires that *anyone* who knows of a federal crime
21 must promptly report it to a federal judge (or other federal officer), or that person is guilty of a
22 crime:

23 Title 18 U.S.C. § 4. Misprision of felony. Whoever, having knowledge of the actual
24 commission of a felony cognizable by a court of the United States, conceals and does not as
25 soon as possible make known the same to some judge or other person in civil or military
26 authority under the United States, shall be fined under this title or imprisoned not more than
three years, or both.

27 Blocking the reports of major criminal activities against the United States by government
28 insiders violates other criminal statutes, including Title 18 U.S.C. 2, 3, 4, among others.

1 Judge Mukasey, who surely lacks the aviation competency and background possessed by
2 Appellant, stated in his dismissal order: “[T]he court may dismiss claims describing fantastic or
3 delusional scenarios.” Fortunately for him, he will not have to respond to questioning by the
4 relatives of those killed on 9-11 concerning that statement and his conduct.

5 **B) Approved Felony Retaliation Against Former Federal Agent and**
6 **Witness For Seeking to Report Federal Crimes**

7 The dismissal order stated [CT 1:pg 3]:

8 *“Appellant has also been convicted of criminal contempt for violating a 1986 Order by*
9 *Hon. Milton L. Schwartz of the United States District Court for the Eastern District of*
10 *California. Stich v. Friedman, Sloan and Ross, P.C., et al., No. 90 C 2396, 1990 WL*
11 *159397, 2 (N.D. Ill. 1990).”*

12 Instead of providing relief from the unlawful and unconstitutional orders, which blocked
13 Appellant from reporting criminal activities, Judge Mukasey supported the unlawful,
14 unconstitutional, and felonious retaliation for seeking to report the federal crimes under the
15 federal crime reporting statute, 18 U.S.C. § 4. Appellant, for attempting to report criminal
16 activities that caused or enabled a number of fatal aviation disasters to occur—and other crimes
17 against the United States—federal judges, working with Justice Department lawyers—sent
18 Appellant to federal prison. One blowback example of these federal crimes was the catastrophic
19 date of September 11, 2001.

20 Ironically, it was that law firm and its lawyers, Friedman, Sloan and Ross, a CIA-front, that
21 repeatedly violated massive numbers of state and federal laws to strip Appellant of the assets that
22 funded Appellant’s attempts to report and expose the literal Trojan horse corruption responsible
23 for numerous American tragedies.

24 **C) Threatening a Former Federal Agent Against Reporting Criminal**
25 **Activities and Against Exercising Federal Defenses Are Federal Crimes**

26 In his dismissal order, Judge Mukasey threatened Appellant (CT 2:pg 4) if Appellant
27 continued to attempt reporting criminal activities or continued exercising legal and constitutional
28 defenses:

“Appellant is strongly cautioned that his continued abuse of the Court’s resources will
result in monetary sanctions.”

1
2 It is a felony to threaten a former federal agent or witness seeking to report federal crimes¹⁸
3 or exercising constitutional due process. (8 U. S.C. § 241)

4 **SUMMARY**

5 This court should reverse the dismissal order, provide for another judge and a fair and
6 impartial trial, with provisions for a jury on matters where the law provides for a jury. Also, to
7 consider providing for Appellant and his group of other former government agents to provide
8 information and evidence of criminal activities to this Appellate court..

9 Dated: January 3, 2004.

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11 _____
12 Rodney Stich
13 Appellant in pro se
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22 18 Title 18 U.S.C. § 111. Assaulting, resisting, or impeding certain officers or employees. (a) In general.—Whoever—
23 (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 114
24 of this title [federal agent] while engaged in or on account of the performance of official duties; or (2) forcibly
25 assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the
26 performance of official duties during such person’s term of service, shall, where the acts in violation of this section
27 constitute only simply assault, be fined under this title or imprisoned not more than one year, or both, and in all
28 other cases, be fined under this title or imprisoned not more than three years, or both.

25 Title 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant—(b) Whoever knowingly uses
26 intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct
27 toward another person, with intent to — (1) influence, delay or prevent the testimony of any person in an official
28 proceeding; shall be fined ... or imprisoned ... or both. [1988 amended reading]

27 Title 18 U.S.C. § 1513. Retaliating against a witness, victim, or an informant. (a) Whoever knowingly engages
28 in any conduct and thereby causes bodily injury to another person or damages the tangible property of another
person, or threatens to do so, with intent to retaliate against any person for—(1) the attendance of a witness or party at
an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official
proceeding; or (2) any information relating to the commission or possible commission of a Federal offense.

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