The Honorable Paul Maloney

U.S. District Court

410 West Michigan Avenue

Kalamazoo, MI. 49007

Date: 10-18-2021

Dear Judge Maloney,

If you choose to ignore this letter, you are as guilty of miscarriage of justice and due process denial as your predecessor, the not-so-honorable Richard Alan Enslen. Enslen's misconduct, bias and denial of my rights were myriad in this case.

This letter pertains to your Order of 19 February, 2021. On page 3 of that order, you cite a case history which worsens with each successive telling. The accusations of the prosecutor, AUSA Lloyd K. Meyer, were ludicrous. Three guys starting a civil war? Really? We were 3 schlubs, not Navy SEALs. I can understand a charge of conspiracy when a crime has actually been committed and persons conspired to do it. But crimes were lacking.

FBI Agent Robert Allen Jones admitted at trial that the FBI had spent over a million dollars tapping phones and bugging the coffee shop where the militia met for open meetings- with NO evidence of a crime. This was purely a fishing expedition. Rather than cut their losses, they pressed on to tap the phone of the recently elected new commander, Ken Carter. Every word Carter or others spoke, was considered to be in furtherance of criminal activity, regardless of how innocuous. So much for the presumption of innocence.

Proof of an improperly pressed prosecution? AUSA Lloyd K. Meyer was interviewed by MSNBC for its special report, **The Fifty Caliber Militia**. He confessed that Attorney General Janet Reno had put him up to prosecuting a militia group. There was even a photo of Lloyd and Reno shaking hands cementing the conspiracy. This prosecution was purely political.

Any and ALL conversations that were accused to be plots, were covered under the First Amendment's Freedom of Speech - even Carter's plots with a BATF undercover agent (see the U.S. Supreme Court's ruling in the case of Brandenburg v. Ohio, 23L. Ed2d 430 (1969) "...it was held that the constitutional guarantees of free speech and free press did not permit a state to forbid or proscribe advocacy of the use of force or of law violation, except where such advocacy was directed to inciting or producing imminent lawless action and was likely to incite or produce such action...").

The alleged bomb-making chemicals were actually smokeless powders which I legally procured and used for reloading ammunition. These powders are not

particularly suitable for making an effective explosive.

The "narcotics" was marijuana, allegedly grown by my codefendant Randy Graham. I never even knew about him growing until after my arrest and Meyer's accusation was made. There was **NO** financing of anything. We each procured our own property, just like the militia at the founding of our country.

Graham's growing partner, who was under indictment for narcotics, went and planted a batch of marijuana plants, harvested them and then brought them to the prosecution to accuse Graham of producing it. The problem was, Graham was arrested on March 18, BEFORE the growing season. Manufacturing evidence is a denial of due process. And also a felony.

BTW, the militia is a constitutionally mandated organization, as required in Article 1, Section 8... "To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions." The General Defense Act of 1916 describes the Militia.

You have stated that the only reason the "conspiracy was stopped was because it was disrupted before any plans were carried out." This is more of Lloyd's drivel. Lloyd K. Meyer was an artist at obfuscation, hyperbole, innuendo, accusation, fabrication and just plain falsification. He took a number of actual facts and wove them into a fantasy around it. If I had had the desire to commit any of the crimes he alleged, I would have done them - and done them alone. There **WAS** no intent.

The misconduct of all the involved government parties in this case, is astounding. Read the following and tell me I received due process.

1.) Repeated **EX PARTE** communications between the investigating FBI agents and Judge Enslen where the FBI agents "briefed" Judge Enslen several times (see Grand Jury transcript excerpt of Jones' testimony). This continued through to at least the final Pre-Trial Conference. This was my first revelation of due process denial.

2.) It should also be noted in the same excerpt that a Grand Juror had attended a Law Day luncheon where Judge Enslen was the featured speaker. What are the chances of one luncheon attendee being on the Grand Jury out of tens of thousands of possible jurors? That is unless Judge Enslen was programming his attendees to sit in my juries to ensure the indictment and conviction. How many other attendees were on my juries? This is jury tampering - a felony, and another denial of due process.

3.) The indictment's conspiracy (Count 1) was a total sham. There were four objects of the conspiracy, the first was to possess machine guns (which were not machine guns at all, see **#4**, below). No evidence was produced that I conspired with anyone to possess anything.

The second and third objects were a nebulous accusation which was based on Count 2 - Threatening a federal agent. **Count 2 was dismissed at trial**, negating objects 2 and 3. There was no testimony or evidence that any of us conspired to threaten federal agents.

Object 4 was to conspire to destroy instrumentalities of interstate commerce. After our arrests, Graham kept getting asked by federal agents, where he hid the explosives. Graham told me he had no idea what they were talking about, the agents' plan to "discover" the ammo cans full of dynamite down by the river, was foiled when a homeless man discovered a bunch of empty dynamite cases in a dumpster behind Battle Creek's Masonic Lodge. He reported it to the Sheriff's department across the street. The incident was reported in the local paper. This dumpster had been emptied after our arrest, so it was impossible for it to have come from us. Graham was never again asked about where he had hidden the explosives. Manufacturing of evidence? Another felony and denial of due process.

Interestingly, when Enslen instructed the jury, he told them that they must be unanimous as to the object, to vote guilty. Then Enslen gave them a verdict form which only allowed for a guilty/not guilty verdict for the conspiracy. I still have no idea of what I was convicted. Due process again denied.

4.) Machine guns. My case's centerpiece was the possession of illegal weapons, specifically three Browning machine guns. Except they were no longer machine guns. They were demilitarized according to Department of Defense standards, of which the BATF abides. The parts sets were, and still are, available through the mail, without license, because the Right Hand Sideplates, have been destroyed. My parts sets had no R.H. Sideplates. BTW, about **five million** of these machine guns have been destroyed and sold to the public over the last 30-40 years.

AUSA Meyer gave me government documents which showed that parts sets without a R.H. Sideplate were not regulated, i.e. they were not subject to BATF purview. And Meyer knew it. The rest of the so-called illegal weapons were just as bogus. I requested video of the one parts set which they said fired four shots "reliably" before it shook itself apart. The video was not forthcoming. There was no proof of illegal function by the government - only a BATF paid liar who makes a living at saying everything he examines is illegal. Even if they did get four shots out of it, the U.S. Supreme Court has weighed in: **Staples v. United States, 128 L. Ed2d 608 (1994) "Conviction under 26 USCS§5861 (d)** for unlawful possession of unregistered firearm held to require proof beyond reasonable doubt that accused knew of rifle's automatic firing ability." Staples

requires that I knew of the illegal function. Well, I have always stated that only a moron would try to fire a Browning without a side plate. I am not even sure it could happen without special jigs or fixtures to support it.
Enslen disallowed **ALL** my attempts to introduce the government's and my evidence; that I had no criminal intent to possess illegal weapons.
5.) At the end of the government's case I entered a Rule 29 motion to dismiss for lack of evidence. It was not apparent to Judge Enslen how I conspired to threaten federal agents or how I used a firearm in a violent crime.
Enslen: "How did he threaten a federal agent?"
Meyer: "Uh... he suggested that the confidential informant should be killed" [to my knowledge, nobody testified to this and confidential informants are NOT federal agents]. And no overt act.
Enslen: "How did he use a firearm in a violent crime?"
Meyer: "Uhh... during the [21month] course of the conspiracy, he carried them around his house." One must ask whatever happened to the "Keep and bear" section of the Second Amendment?

Again, really? No use, just carry. In my house. Again, no testimony to this. No violence. The U.S. Supreme Court had something to say about this; **Bailey v. United States, 133 L.Ed2d 472 (1995)** "Conviction of use of firearm, for purposes of mandatory sentencing provision of **18 USCS§924 (c)(i)**, held to require showing of active employment of firearm such that firearm is operative factor in relation to predicate offense. "No active use or carry in relation to anything. I told Enslen that, considering **Bailey and Staples**, my whole case falls apart like a house of cards. He was uninterested.

Both of these conversations are mysteriously A.W.O.L. When I asked Stenographer Reinardy what happened to these conversations, he told me that everything that was said in the courtroom was in his transcripts. Except they didn't make it into my set of transcripts. This happened to be Reinardy's last job for Enslen. Government tampering with evidence is yet another felony and more due process denial. It appears government actors may commit unlimited felonies, knowingly and willingly, while they prosecute some poor schlub for a few.
6.) While we went over the jury instructions, Enslen had used the word, "firearm" in the **924(c)** instruction, a 5 year consecutive sentence. I told him that if I was to be convicted for a "semi-automatic assault weapon," a ten year consecutive hit, I wanted the jury instructed as such. He said, "That would only confuse the jury." Well, yes - because there was no evidence for either. The jury verdict form had provision only for a "firearm," but Enslen sentenced me for the longer semi-auto sentence. More denied due process.

At my sentencing, Enslen ignored the sentencing law, **Rule 32**, which states in part, that for each controverted issue, the judge must make a finding of fact, or state for the record that the issue will not be considered in the sentencing. I objected to every entry in the PSIR, except for the spelling of my name. When I asked Enslen about my objections, he told me that I had had my chance to have input into the PSIR. That is **NOT** how **Rule 32** reads.

One of my objections was to the terrorism enhancement. I told him I was not indicted, tried nor convicted of terrorism. My charges were not predicate offenses to justify the enhancement. That single enhancement added 12 points to my score and took me from criminal history category 1 to a category 6. That took me from a guideline range of a maximum of 106 months to 480 months - 4½ times more - without the benefit of a jury determination. Every **Rule 32** violation I have found in case law required a resentencing, except for mine.

During my sentencing allocution, I spent about 40 minutes explaining how the federal government had no jurisdiction. I cited U.S. Supreme Court case law which stated that, "Jurisdiction may be challenged at any point in the proceeding and if shown to be lacking, the case must be dismissed." When I finished my jurisdictional challenge, I looked at AUSA Meyer for an answer and for the first time ever, he was speechless - his mouth moving like a fish out of water, but no noise. Enslen saved Meyer's bacon by telling me to proceed with my allocution. At the end, Enslen "suggested" to Meyer that my challenge was "untimely" -- even after I explained the Supreme Court's view on the matter. No jurisdiction, no case. No due process. The entire sentencing was one long due process violation.

Randy Graham also received bad treatment. During Graham's jury deliberations, a person entered the deliberation room and instructed the jurors to, "Just convict him." One of his jurors later hunted down Graham's mother and relayed the story. He refused to sign an affidavit because he was afraid of what would happen to him. Jury tampering? More due process denial. And more government felonies.

I motioned Enslen numerous times about recusing himself for bias, which he totally blew off. Ex parte communications create an automatic presumption of produced bias. Not only did Enslen ignore my motions for recusal but so did the 6th Circuit COA. But that is no surprise considering that the 6th Circuit uses the same method as is written in a book by the 10th Circuit. A staff attorney or law clerk is assigned pro se petitions and must write synopses of the briefs with a recommended course of action. Naturally, it is much easier to just say, "Affirmed." The 7th Circuit's Judge Posner resigned in disgust over the targeted denial of all those who don't have the tens of thousands of dollars to hire an

attorney. Denial of due process in appeal for pro se defendants has become systemic.

The 13th Amendment to the Constitution of the United States requires that punishment for crime must be because one has been "duly convicted." Neither Graham nor I have been duly convicted. And our punishments are unconstitutional.

After more than 23 years of being run over roughshod by the feds, please do not tell me there is nothing to be done. I have observed first hand that federal players do whatever they want.

Now that you have been informed of [part of] the rest of the story, the question is this; Are you going to follow in crooked Judge Enslen's footsteps or are you going to be a real Judge?

My apologies if my statements are too curt, but I have spent over 23 years in prison for crimes I did **not** commit.

Sincerely,

Bradford Metcalf

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P.S.

More information in A Malicious Prosecution, enclosed.

UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

IN RE: METCALF/GRAHAM

WITNESS: ROBERT ALLEN JONES

PROCEEDINGS BEFORE THE GRAND JURY NUMBER 97-3 before Patricia R. Pritchard, CER, Notary Public in and for the County of Kent, Grand Rapids, Michigan, in the Grand Jury Room, Ford Federal Building, Grand Rapids, MI, on Wednesday, July 8, 1998, commencing at 1:25 p.m.

APPEARANCE:

Mr. Lloyd Meyer
Assistant U.S. Attorney
The Law Building - Fifth Floor
330 Ionia Avenue, NW
Grand Rapids, MI 49503
(616) 456-2404

you about the threats that were made to him by other members of the group that we picked up on the radio. I'm sure there are people out there that don't like him but I have no threats that I know of that have been made towards his life.

GRAND JUROR: Well, you haven't heard of any other things with the militia since their three boys here --

BY MR. MEYER:

Q Has Mr. Carter told you whether anyone's contacted him, threatened him, done anything?

A He said that he's had very little contact. We've been actively hoping that somebody would so he could tell us what's going on but people have been avoiding him.

GRAND JUROR: Didn't he bring this all from the group up north? Didn't he start this down here?

BY MR. MEYER:

Q Did Mr. Carter start the North America Militia?

A Yes. He was court-martialed from the old Michigan Militia and started this group on his own.

GRAND JUROR: I attended a Law Day luncheon in Kalamazoo where Judge Enslen was the speaker and he was in the company of a marshal because supposedly he had been threatened. Is that --

THE WITNESS: I'm not sure if it was a threat directly to Judge Enslen but they have made threats towards judges in particular. In fact, myself and another agent from

Kalamazoo briefed Judge Enslen on two different occasions that they were targeting federal buildings and judges and we just wanted to be safe and let him know what was going on with this case.

GRAND JUROR: I'm one of the new jurors so I wasn't here the first time but this Carter, did he have a -- did you break him down or did he -- and he decided to do the right thing after you offered the plea or before?

THE WITNESS: Mr. Carter seemed anxious to cooperate from the time we arrested him. I've arrested many people and I've listened to their cooperation and we didn't need to talk the him for a long amount of time or, obviously, we can't promise him anything but he seemed from the beginning that he wanted to work with us. He's married and he has several children and he seemed all along that he wanted to help us out.

BY MR. MEYER:

Q Are we allowed to, once a person's arrested and has a defense attorney, are we allowed to talk with the defendant without the attorney being present?

A Absolutely not. When I arrest someone they are under arrest or a situation that could be perceived as arrest and I'm interrogating them, I must give them an advice of rights and the FBI goes above and beyond what most local organizations do. Local police officers are allowed to just read it off of a card-- I'm sure you've seen it on TV.