

March 27, 2002

John Gregory Lambros  
Reg. No. 00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000 USA  
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NOTICE TO PERFORM AND/OR  
ACTUAL NOTICE

Robert G. Renner, U.S. Senior District Judge  
748 Warren E. Burger Federal Building  
316 North Robert Street  
St. Paul, Minnesota 55101  
Tel. (651) 848-1180  
U.S. Certified Mail No. 7001-0320-0005-1590-0436  
Return Receipt Requested

AFFIDAVIT MIXM

RE: LAMBROS vs. USA, Civil No. 99-28(DSD), District of Minnesota  
Criminal No. 4-89-82(5) (BSD), District of Minnesota

Dear Honorable Judge Robert G. Renner:

From 1969 to 1977, you held the position of United States Attorney for Minneapolis, Minnesota and indicted me in the following criminal proceedings in the District of Minnesota, Minneapolis/St. Paul:

- a. CR-3-75-128, with judgment entered on June 21, 1976;
- b. CR-3-76-17, with judgment entered on June 21, 1976; and
- c. CR-3-76-54, with judgment entered on March 07, 1977.

Therefore, as U.S. Attorney for the District of Minnesota, you participated and prosecuted John Gregory Lambros on the above three (3) criminal actions, as per your **STATUTORY DUTY**, Title 28 U.S.C. §547, as other attorneys within your office are only assistants, 28 U.S.C. §§ 542 and 543. See, U.S. vs. ARMPRIESTER, 97 P.3d 465, 467 19th Cir. 1994) (Judge should of recused himself from prosecution, where he was responsible United States Attorney at time of investigation which led to defendant's indictment, as his impartiality might reasonably have been questioned, and he had served in government employment as counsel in connection with indictment. Title 28 U.S.C.A. § 455(a), (b)(3)).

In fact, as U.S. Attorney, you personally signed two (2) of the above-entitled criminal **INDICTMENTS**:

- d. CR-3-75-128, filed on February 23, 1976; and
- e. CR-3-76-17, filed on March 24, 1976.

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Lambros' letter to Robert G. Renner, U.S. Senior District Judge

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On February 10, 1997, I was resentenced by you in your capacity as Robert G. Renner, U.S. Senior District Judge, District of Minnesota, in criminal action number 4-89-82(5), as per the ORDER of the the Eighth Circuit Court of Appeals in U.S. vs. LAMBROS, 65 F.3d 698 (8th Cir. 1995). Please note that you used the above-entitled convictions that you indicted me on while U.S. Attorney to INCREASE THE PENALTY you sentenced me to on February 10, 1997.

You also ruled on EVERY Motion I filed with the court from February 10, 1997 thru February 12, 2001. For some strange reason, the docket sheet reflects that Chief Judge James M. Rosenbaum was REASSIGNED to my case on or about February 20, 2001, as per the handwritten entry in the docket sheet and DISQUALIFIED himself on February 22, 2002. Judge David S. Doty has been reassigned to my case currently. See, EXHIBIT A (Docket sheet in U.S. vs. LAMBROS, Cr-4-89-82(5), pages 19 and 20).

On April 20, 2001, I mailed my April 13, 2001, filed April 24, 2001, "MOTION TO VACATE ALL JUDGMENTS AND ORDERS BY UNITED STATES DISTRICT COURT JUDGE ROBERT G. RENNER PURSUANT TO RULE 60(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE FOR VIOLATIONS OF TITLE 28 U.S.C.A. § 455." This motion requested YOUR RECUSAL from all past, current, and future legal action as to John Gregory Lambros and to vacate all judgments and orders you issued/entered in all legal proceedings involving John Gregory Lambros, due to violations of Title 28 U.S.C.A. § 455(a) and § 455(b)(3) by you.

On March 08, 2002, an individual signed an ORDER for U.S. District Court Judge David S. Doty, stating the court dismissed my Rule 60(b)(6) motion due to lack of jurisdiction, stating "Although petitioner purports to bring this motion under Rule 60(b)(6) of the Federal Rules of Civil Procedure, the court concludes that it must be treated as a petition pursuant to 28 U.S.C. § 2255 since Lambros is attempting to collaterally attack his conviction and sentence." See, Page 3, March 08, 2002 ORDER. The U.S. Supreme Court made clear that "[R]elief from final judgment 'for any other reason,' pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure, is neither categorically available nor categorically unavailable for all violations of 28 U.S.C.S. § 455, which defines the circumstances that mandate the disqualification of federal judges; in determining whether a judgment should be VACATED for a violation of § 455, it is appropriate to consider (1) the risk of injustice to the parties in the particular case, (2) the risk that the denial of relief will produce injustice in other cases, and (3) the RISK IN UNDERMINING THE PUBLIC'S CONFIDENCE IN THE JUDICIAL PROCESS; a court, in making such a determination, must continuously bear in mind that, in order to perform its function in the BEST way, JUSTICE MUST SATISFY THE APPEARANCE OF JUSTICE." See, LILJEBERG vs. HEALTH SERVICES CORP., 100 L.Ed.2d 855, 860 (1988)(emphasis added).

In LILJEBERG vs. HEALTH SERVICES CORP., the section 455(a) claim was not raised on appeal from the district court judgment tainted by the appearance of partiality. Rather, the losing party in the district court discovered that basis for the section 455(a) claim TEN (10) MONTHS AFTER THE DISTRICT COURT JUDGMENT HAD BEEN AFFIRMED ON APPEAL AND THE LITIGATION TERMINATED. [Lambros' litigation on Appeal Nos. 99-2763;

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99-2580, Eighth Circuit Court of Appeals in LAMBROS vs. USA, was submitted to the U.S. Supreme Court on May 2, 2001, by Attorney Maureen Williams and denied by the U.S. Supreme Court on June 4, 2001 in LAMBROS vs. U.S.A., No. 00-9751. Therefore, LAMBROS litigation had not terminated as to your ORDERS and JUDGMENTS when I filed my April 13, 2001 RULE 60(b)(6) motion] That party then moved under Fed. Rule Civ.P. 60(b)(6) for relief from the final judgment. See, 108 S.Ct. at 2197. Although the Court's reasoning in LILJEBERG would appear to apply equally to reversal of a final judgment on appeal, the Court noted that Rule 60(b)(6) has traditionally been applied **ONLY IN "EXTRAORDINARY CIRCUMSTANCES."** Id. at 2204 n. 11. . . . See, U.S. vs. KELLY, 888 F.2d 732, 747 n. 27 (11th Cir. 1989)

Foot Note 11 in LILJEBERG, 100 L.Ed.2d 874, clearly states that violations of Title 28 (SCA § 455(a)) are "EXTRAORDINARY" and therefore qualify to bring a motion within the "other reason" language of Federal Rule of Civil Procedure 60(b)(6), thus circumventing the one (1) year limitations period that applies to clause (1). The Supreme Court stated within Foot Note 11, "[C]f particular importance, this is not a case involving neglect or lack of due diligence by respondent. Any such neglect is rather chargeable to Judge Callinan. Had he informed the parties of his association with Loyola and of Loyola's interest in the litigation on March 24, 1982, when his knowledge of the University's interest was renewed, respondent could have raised the issue in a motion for a new trial or on appeal without requiring that the case be reopened."

THE U.S. SUPREME COURT STATES YOU HAVE A DUTY  
TO RECUSE YOURSELF NOW AND TAKE STEPS NECESSARY  
TO MAINTAIN PUBLIC CONFIDENCE IN THE IMPARTIALITY  
OF THE JUDICIARY!!!!

The Tenth Circuit Court of appeals stated in U.S. vs. COOLEY, 1 F.3d 985, 992 (10th Cir. 1993), as to Title 28 U.S.C. § 455(a):

Any justice, judge or magistrate of the United States  
shall disqualify himself in any proceeding in which  
his impartiality might reasonably be questioned.

"The subsection 'applies to the varied and unpredictable situations not subject to reasonable legislative definition in which JUDGES MUST ACT to protect the very appearance of impartiality.' . . . Under it a judge has a CONTINUING DUTY TO RECUSE BEFORE, DURING, OR, IN SOME CIRCUMSTANCES, AFTER A PROCEEDING, IF THE JUDGE CONCLUDES THAT SUFFICIENT FACTUAL GROUNDS EXIST TO CAUSE AN OBJECTIVE OBSERVER REASONABLY TO QUESTION THE JUDGE'S IMPARTIALITY. LILJEBERG, 486 U.S. at 861, 108 S.Ct. at 2203, 100 L.Ed2d at 873:"

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"But to the extent the provision can also, in proper cases, be applied retroactively, the judge is not called upon to perform an impossible feat. Rather, he is called upon to **RECTIFY AN OVERSIGHT AND TO TAKE THE STEPS NECESSARY TO MAINTAIN PUBLIC CONFIDENCE IN THE IMPARTIALITY OF THE JUDICIARY.** If he concludes that "his impartiality might reasonably be questioned," then he should also find that the statute has been violated. This is certainly not an impossible task. No one questions that Judge Collins could have disqualified himself and vacated his judgment when he finally realized that Loyola had an interest in the litigation."

LILJEBERG, 100 L.Ed.2d at 873.

Also see, *ARMSTRONG vs. BROWN*, 14 F.3d 1578, 1581-1582 (Fed.Cir. 1994) ("Section 455 is **"SELF-ENFORCING"** in that it is **SELF-EXECUTING**; that is, a judge may recuse **SUA SPONTE**. As explained in *TAYLOR vs. O'GRADY*, 888 F.2d 1189, 1200 (7th Cir. 1989), reviewing the action of a trial judge, "[r]ecusal under Section 455 is **SELF-EXECUTING**; a party need not file affidavits in support of recusal and the **JUDGE IS OBLIGATED TO RECUSE HIMSELF SUA SPONTE UNDER THE STATED CIRCUMSTANCES.**" See also, e.g. *U.S. vs. STORY*, 716 F.2d 1088, 1091 (6th Cir. 1983) ("section 455 is self-executing, requiring the judge to disqualify himself for personal bias **EVEN IN THE ABSENCE OF A PARTY COMPLAINT.**"); *PARKER vs. CONNORS STEEL CO.*, 855 F.2d 1510, 1513 Fed Note 23 (11th Cir. 1988) (Law clerk, as well as judge, should **STAY INFORMED** of circumstances that may raise appearance of impartiality or impropriety and when such circumstances are present appropriate action should be taken.); *U.S. vs. KELLY*, 888 F.2d 732, 744 (11 Cir. 1989) ("Under the new version of section 455, a judge is under an **AFFIRMATIVE, SELF ENFORCING OBLIGATION TO RECUSE HIMSELF SUA SPONTE** whenever the proper grounds exist. Section 455 does away with the old "duty to sit" doctrine and requires judge to resolve any doubt they may have in favor of disqualification. . . . The duty of recusal applies **EQUALLY** before, during, and **AFTER A JUDICIAL PROCEEDING**, whenever disqualifying circumstances become known to the judge."); *U.S. vs. GARRUDO*, 869 F.Supp. 1574, 1577 (S.D.Fla. 1994) ("Sentencer is not required in order to find a violation of § 455(a). . . . Neither actual partiality, nor knowledge of the disqualifying circumstances on the part of the judge during the affected proceeding, are prerequisites to disqualification under this section.");

Therefore, I am requesting you, as a U.S. Senior District Judge for the District of Minnesota, to take all steps necessary, including an affidavit to me as to your contact with Chief Judge James M. Rosenbaum admitting that you should of recused yourself on February 10, 1997, in the resentencing of John Gregory Lambros.

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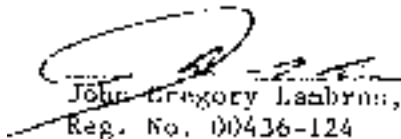
Lambros' letter to Robert G. Renner, U.S. Senior District Judge

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Thanking you in advance for your concern of Canon 3(C)(1) of the Code of Judicial Conduct for United States Judges, which provides that "[a] judge shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned ..." See, U.S. vs. CONCH, 896 F.2d 78, 80 n.5 (5th Cir. 1990), and enforcing the Due Process Clause which requires a judge to step aside when a reasonable judge would find it necessary to do so, and finally Section 455 which requires disqualification when others would have reasonable cause to question your impartiality towards John Gregory Lambros during the February 10, 1997 resentencing and all proceedings thru February 20, 2001, Id. at 82, due to your position as U.S. Attorney for the District of Minnesota from 1969 thru 1977 and the three (3) indictments you were responsible in obtaining from the grand jury in 1975 and 1976 against John Gregory Lambros.

I John Gregory Lambros declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 27, 2002.

  
John Gregory Lambros, Pro Se  
Reg. No. 00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000 USA  
Web site: [www.brazilboycott.org](http://www.brazilboycott.org)

cc:

James M. Rosenbaum, Chief Judge for the U.S. District Court for Minnesota  
United States Senate

Lambros Family

E-Mail release to global Boycott Brazil Supporters

Posting within Boycott Brazil Web site

File

5

DDJ  
 (MGR) (me)

AC 256A

DATE	PROCEEDINGS (continued)	V. EXECUTABLE DELAY
6-3-99	231) REQUEST from Petitioner that the Court issue an Order for the Clerk of the Court to Transfer the District Court's full record to the Eighth Circuit Court of Appeals (1pg)	
6-22-99	232) ORDER (RCR) that Petitioner John Gregory Lambros' request that the Court order the Clerk to transfer the full record to the Eighth Circuit Court of Appeals is DENIED AS MOOT (cc: USA, deft)	
6-17-99	233) NOTICE OF APPEAL by John Gregory Lambros to the Eighth Circuit Court of Appeals from the Order of Judge Renner granting Certificate of Appealability  DELIVERED TWO CERTIFIED COPIES AND ONE UNCERTIFIED COPY OF NOTICE OF APPEAL, ORDER APPEALED FROM AND DOCKET ENTRIES TO THE USCA	←
10-19-99	234) DESIGNATED CLERK'S RECORD DELIVERED TO THE EIGHTH CIRCUIT COURT OF APPEALS as to deft John Gregory Lambros	
2-12-01	235) CERTIFIED COPY OF OPINION FROM EIGHTH CIRCUIT COURT OF APPEALS filed 11/30/00 - J; Willman, Ross, Morris Sheppard Arnold - affirming the decision of the district court as to deft John Gregory Lambros (Appeal Nos 99-2768/2880)	
	236) CERTIFIED COPY OF JUDGMENT FROM THE EIGHTH CIRCUIT COURT OF APPEALS that the judgment of the district court is affirmed in accordance with the opinion of this Court - MANDATE ISSUED 2/9/01 (1pg) (cc: USA, deft. Maureen Williams)	
2/20/01	<i>Reassigned to Judge Rosenbaum from Judge Renner</i>	←
4-24-01	237) MOTION TO VACATE all Judgments and Orders by U. S. District Court Judge Robert G. Renner pursuant to Rule 60(b)(5) of the Federal Rules of Civil Procedure for violations of Title 28 U.S.C.A. 455 by deft John Lambros (17pgs-Exhibits A-F)	
9-18-01	238) ORDER (JMR) that the Court hereby directs the government to respond to petitioner's motion to vacate all judgments and orders (Doc. #237) by Monday, October 22, 2001 (1pg) (Dated: 9/14/01) (cc: USA, deft)	
9-24-01	239) SUPPLEMENTAL INFORMATION to assist the Court and the Government in their Response to Petitioner's Motion to Vacate all Judgments and Orders, as Ordered by Judge Rosenbaum on 9/14/01, filed 9/19/01 (9pgs)	
10-19-01	240) OPPOSITION OF THE U. S. to Petitioner's Motion to Vacate all Judgments and Orders (5pgs-Exhibits 1-5)	
10-29-01	241) MOTION OF DEPT FOR DISCLOSURE of documents filed by U. S. Judge Robert G. Renner in this action from 4/20/01 to present (7pgs)	

AO 256A

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DATE
11-05-01	242) MOTION OF DEFT for Extension of time to respond to government's opposition dated 10/19/01 (3pgs) 243) PETITIONER'S Request for Permission from the Court to Amend this action under Rule 15(a) & 19(a), FRCP (6pgs) 244) MOTION OF DEFT for appointment of counsel (3pgs)	
11-19-01	245) ADDENDUM TO: PETITIONER LAMBROS' Response to October 19, 2001, "Opposition of the United States to Petitioner's Motion to Vacate all Judgments and Orders" (86pgs) 246) PETITIONER LAMBROS' RESPONSE to October 19, 2001, "Opposition of the United States to Petitioner's Motion to Vacate all Judgments and Orders with attached Exhibits A - D (Separate)	
1-07-02	247) MOTION OF DEFT to Disclose Current Investigation by the Minnesota Office of Lawyers Professional Responsibility (34pgs)	
2-26-02	248) DISQUALIFICATION ORDER (JMR) - The Clerk of Court is directed to reassign this action pursuant to this Court's assignment of cases order, filed April 2, 2001. Case Reassigned to Judge David S. Doty, Number 4-89-82(DSD/FLK)	
3-08-02	249) ORDER (DSD) that: 1. Petitioner's motion to vacate all judgments and orders (docket no. 237) is dismissed; 2. Petitioner's motion for disclosure (docket no. 241) is dismissed; 3. Petitioner's motion for extension of time (docket no. 242) is dismissed; 4. Petitioner's motion for appointment of counsel (docket no. 244) is dismissed; and 5. Petitioner's motion to disclose current investigation (docket no. 247) is dismissed. (5pgs) (cc: USA, deft)	
3-18-02	250) MOVANT'S REQUESTS CLARIFICATION OF CAPTION AND CASE NUMBER IN THIS ACTION (2pgs) (copy of docket entries forwarded to movant this date)	

EXHIBIT A.

7.