

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER NO. 90-11

IN RE:

MOTION OF AUSTIN GARY COOPER FOR
RECUSAL PURSUANT TO TITLE 28
U.S.C. § 455(a)

Upon consideration of the above-styled matter, and pursuant to the traditional random selection process of the Southern District of Florida, the undersigned does hereby appoint as the Chief Judge's designee The Honorable Norman C. Roettger to review the attached pleading of Austin Gary Cooper in Case No. 88-109-Cr-Hoeveler, United States v. Cooper, and the January 23, 1990, memorandum of the judge presiding over that case. Judge Norman C. Roettger is hereby authorized to conduct all hearings that may be necessary, with full authority to compel the attendance of witnesses and to enter a final opinion in the matter.

DONE AND ORDERED in chambers at the United States Courthouse, Federal Courthouse Square, Miami, Florida, this 24th day of January 1990.



JAMES LAWRENCE KING
CHIEF U.S. DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: The Honorable Norman C. Roettger
All Southern District Judges
Mr. Austin Gary Cooper
Keenan G. Casady, District Executive
Robert M. March, Clerk of Court
Barry D. Goldman, AUSA

AUSTIN GARY COOPER
1A Colfax Manor
Roselle Park, New Jersey
(201) 245-2006

IN PROPRIA PERSONA
APPEARING SPECIALLY, NOT GENERALLY
OR VOLUNTARILY

DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA)	89-109-CR-HOEVELER
)	
Plaintiff,)	JUDICIAL NOTICE
)	
v.)	ENFORCEMENT OF TITLE
)	28, U.S.C., §455(a)
AUSTIN GARY COOPER)	UPON U.S.D.C.JUDGE
)	WILLIAM M. HOEVELER
Defendant,)	FOR PREJUDICE

COMES NOW, the Defendant, Austin G. Cooper, giving this court notice that Defendant demands that U.S.D.C.Judge William M. Hoeveler ("Judge Hoeveler"), recuse himself from this action immediately.

The record reflects that Judge Hoeveler has willfully, knowingly and maliciously demonstrated a prejudicial and conspiratorial posture in the above captioned case. Judge Hoeveler has willfully, knowingly and maliciously denied the Defendant the exculpatory discovery as enumerated in the Defendant's ADDENDUM To Notice And Demand For Discovery and Judicial Determination. Judge Hoeveler, an Administrative Judge, knows the significance of the

exculpatory discovery, infra, mandated by the Defendant, which he arbitrarily denied, to wit:

- (1) Precisely what return was the defendant allegedly required to file as per the indictment in the instant case?
- (2) Precisely what return did the defendant fail to file as per the indictment in the instant case?
- (3) Precisely what law was the grand jury referring to in the indictment when the grand jury foreperson stated "as required by law?"
- (4) Precisely where in Title 26, USC, section 7201, does this section require the defendant to file anything?
- (5) Precisely where in Title 26, USC, section 7201 does this section describe how an "Employee's Withholding Allowance Certificate" is supposed to be filled out pursuant to defendant's status?
- (6) Precisely where in Title 26, USC, section 7201 is the "Employee's Withholding Allowance Certificate" addressed?
- (7) Precisely which tax class does the "Employee's Withholding Allowance Certificate" pertain to?
- (8) Precisely which tax class is the defendant being charged with evading?
- (9) Precisely which procedures were followed to determine the venue in the instant case?

(10) Precisely what procedures were used to determine the defendant's present address?

(11) Precisely what procedures were used in mailing the conference offering to the defendant?

Moreover, by denying the exculpatory discovery, supra, with NO oppositional argument having been filed or presented orally by the Plaintiff, Judge Hoeveler has demonstrated and is demonstrating a conspiratorial posture by acting as the Hearsay Plaintiff, Judge, Prosecutor and Jury. Further, Judge Hoeveler has entered a blanket denial of ALL of the Defendant's Petitions in the above captioned case (with exception of the Defendant's Petitions for Continuance). When the Defendant filed a Petition for Clarification regarding the blanket denial Judge Hoeveler entered on September 1, 1989, Judge Hoeveler denied the Defendant any clarification.

The record reflects that the Defendant has requested the disposition of the Judicial Notice and Petitions filed by the Defendant; and, subsequently, Judge Hoeveler, without probable cause, threatened the Defendant with having the U.S. Marshal arrest the Defendant and place the Defendant in irons¹ (in the pre-trial status conference hearings held by telephone on July 17, 1989 and again on September 11, 1989).

¹ Defendant having suffered assault and battery from 5 (five) Internal Revenue Agents and 1 (one) local Police Officer while 2 (two) other local Police Officers looked on, the Defendant fears for his life.

Judge Hoeveler has further demonstrated his prejudicial and conspiratorial posture by DENYING the Defendant the jury panel information as Petitioned for under Title 26, U.S.C., §6103(h)(5) (filed with this court August 9, 1989), at the pre-trial status conference hearing held by telephone on the 11th day of September, 1989. This voir dire jury panel information is a right as Congress has defined and upheld by the United States Court of Appeals, Ninth Circuit, U.S. v. Hashimoto, 878 F.2d 1126 (9th Cir. 1989).

Judge Hoeveler, an Administrative Judge, is NOT an Article III Judge, see Evans v. Gore, 253 U.S. 245; 40 S.Ct. 550; Northern Pipeline Construction Co. v. Marathon Pipe Line Co. et. al., 458 U.S. 50; 102 S.Ct. 2858; 73 L.Ed.2d 598; O'Donoghue v. United States, 289 U.S. 516; 58 S.Ct. 740, and is therefore, actively engaged in a Bill of Pains and Penalties against the Defendant which is prohibited by the Constitution of the United States under Article I, Section 9 Clause [3] - "No Bill of Attainder ... shall be passed."

By Judge Hoeveler's prejudicial and conspiratorial posture, courtroom sophistry, his open participation with the Plaintiff in this prosecutorial misconduct, malicious prosecution and malicious abuse of legal process (as such has NEVER been denied by the Plaintiff), Judge Hoeveler has demonstrated his active participation in the Plaintiff's criminal activities as reflected under Title 18, U.S.C., §2 and §3. Defendant reported the criminal activities of the Plaintiff to Judge Hoeveler as required pursuant to Title 18, U.S.C., §4, and Judge Hoeveler failed to act, thereby

placing himself as a principal and co-conspirator. Further, the record reflects that Judge Hoeverler's prejudicial and conspiratorial posture demonstrates willful, knowing and malicious violations of Title 18, U.S.C., §241 - Conspiracy against rights of citizens, §242 - Deprivation of rights under color of law, §1001 - Statements or entries generally, §1512(b)(1) - Tampering with a witness ..., §1623 - False declarations before grand jury or court, and §2383 - Rebellion or insurrection (against the authority of the United States, WE THE PEOPLE).

Judge Hoeverler has denied the Defendant any semblance of due process of law in order that Judge Hoeverler and the Plaintiff obtain an illegal and unlawful conviction of the Defendant. Further, Judge Hoeverler informed the Defendant in the pre-trial status conference hearing held by telephone on September 11, 1989, that he has done more for Defendant than he has for any other Defendant. This being so, the record would appear to reflect that Judge Hoeverler admits racketeering, demonstrating a purely prejudicial posture towards all people he encounters described as Defendants and denying them due process of law as a common practice.

CONCLUSION

IN CONCLUSION, the Defendant demands that Judge Hoeverler recuse himself from this action and cease and desist his prejudicial and conspiratorial posture.

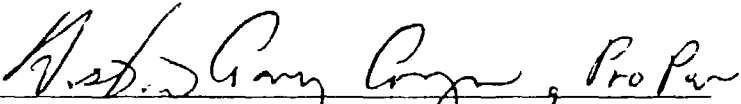
In the event that this case should go the trial, the Defendant demands that this case be heard by a court with competent

jurisdiction, that is to say an Article III court, an Article III Judge and by a jury of Defendant's peers. Defendant is a belligerent claimant of ALL of his rights at ALL times and waives NONE of his rights at ANY time.

OR IN THE ALTERNATIVE, this case be dismissed with prejudice and costs being awarded to the Defendant.

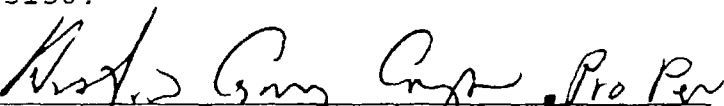
DATED: October 2, 1989

Respectfully submitted,


Austin Gary Cooper, Pro Per
Austin Gary Cooper, In Propria Persona

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Judicial Notice, Enforcement of Title 28, U.S.C., §455(a) Upon U.S.D.C. Judge William M. Hoeweler For Prejudice was mailed this 2nd day of October, 1989, to United States Attorney Dexter Lehtinen, 155 S. Miami Ave., Miami, Florida 33130.


Austin Gary Cooper, Pro Per
Austin Gary Cooper, In Propria Persona