**~COMMONWEALTH OF KENTUCKY~**

BREATHITT CIRCUIT COURT NO. 13-XX-00001\_\_\_\_\_\_\_\_\_

KELLY MILLER,

Appellant

APPEAL FROM: BREATHITT DISTRICT CASE 12-M-00319

DISTRICT JUDGE KENNETH R. PROFITT

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| vs.  COMMONWEALTH OF KENTUCKY,  JOHN SHAKLEFORD,  SUSAN MARLENE ALLEN,  JUDGE KENNETH R. PROFITT AND  JOHN DOERS  Appelles  STATEMENT OF APPEAL  FROM DISTICT TO CIRCUIT COURT  COMES APPEALANT, KELLY MILLER, IN PRO SE, requesting the Breathitt County Circuit Court for an appeal in the above styled district case 12-M-00319 on Order, Exhibit A, dated June 7, 2013 by Hon Judge Hurt. Attached you will find affidavits and documentation validating malicious official oppression and obstruction of justice preventing Appellant from due process and evoking severe harm to come to Appellant as a direct result.  The above styled case was originally assigned to Hon Judge Kenneth R. Profitt in Breathitt county by Criminal Complaint Exhibit B, and Summons Exhibit C, filed by Appelle Susan Marlene Allen. In Breathitt court August 27, 2012 Hon Judge Profitt Ordered, Exhibit D, Special Prosecutor to be appointed as Original Prosecutor County Attorney Brendon Miller recued stating he was related to Appelle Susan Marlene Allen.  September 20, 2012 and entered into the clerk’s office on September 24, 2012 “Letter”, Exhibit E, acknowledging appointment by the Office of the Attorney General of Special prosecutor Timothy Bates from Knott county. Several things are wrong with this letter. 1st “Letter” was entered on Sept 24, 2012 just 3 days before court was scheduled for September 27, 2012 which makes letter null and void as well as assignment. 2nd Appellant was not copied on Letter which by law any and all correspondence is to be copied to the opposing counsel which was the appellant. 3rd As you can see the special prosecutor was notified of his appointment and acknowledged he agreed to represent the Appelle. 4th Appellant did not reside in Knott county therefore lack of venue resides.  September 27, 2012 Breathitt Court docket, Exhibit F, states special prosecutor appointed but did not appear as well as complaining witness was not present which by law failure for want of prosecution is immediate grounds for granting complete and absolute dismissal without prejudice for the Appellant WHEREAS Judge Profitt failed to comply with judicial laws and follow through with due process for the appellant. Rather Judge Profitt chose to continue maliciously harassing appellant and exhibiting official oppression and obstruction of justice by utilizing smoke and mirror tactics and construct Order, Exhibit G, stating indigence for appellant. A judge with as many years on the bench as Judge Profitt is experienced in the law and is well aware of the proper procedures which shows malicious actions on Judge Profitts part to prevent due process of the appellant.  When special prosecutor Timothy Bates failed to appear a 2nd letter, Exhibit H, was constructed September 27, 2012 by the Office of the County Attorney General AFTER court, which by law dismissed the case without prejudice, reseinding special prosecutor Timothy Bates as appointed counsel. This procedure was an illegal procedure conducted by the Office of the Attorney General’s Office representative Michel T. Denham.  A 3rd letter, Exhibit I, was then constructed by the Office of the Attorney General, 2 letters resending and appointing special prosecutors AFTER THE FACT BY LAW OF LACK OF WANT TO PROSECUTE THE CASE WAS NULL AND VOID the Attorney General’s Office representative Mitchel T Denham appointed Special prosecutor John Shackelford to represent Appelle Susan Marlene Allen. By law any act conducted two or more times constitutes a learned behavior of habit THEREFORE the Office of the Attorney Generals representative as a matter of habit openly, blatantly and illegally disregards appropriate and lawful procedures which a 5th grader would be knowledgeable held no merit. Again Appellant was blatantly disregarded and not copied on this 3rd letter of correspondence sent by the Office of the Attorney General representative Mitchel T Denham.  October 1, 2012 Judge Profitt recuse, Exhibit J, stating Appellant reportedly mention the judge on her facebook page. The judge himself in open court on September 27, 2012 stated that he made an entire courtroom sit for over an hour and a half to go to his quarters and read appellants’ facebook to which Judge Profitt stated “after reading your comments I don’t see any reason not to continue overseeing this case.”Nor did Judge Profitt mention any concern over the comments being inappropriate, objectionable or possibly criminal. In an attempt to intimidate the appellant Judge Profitt states that the appellants posts were increasingly inappropriate, objectionable and possibly “criminal”. The Judge is well aware that by law appellant is lawfully allowed to express her opinion of the justice system and Judge Profitts failure to adhere to the law in his proceedings. Judge Profitts recuse was another attempt at stifling the appellant to be quite about the official oppression and obstruction of justice being position upon the appellant.  On October 17, 2012 Judge Susan Johnson entered order, Exhibit K, validating Judge Profitt recused and appointed Judge Leigh Ann Stephens who had affiliation with U S Coal Corporation a defendant in a civil case the appellant was actively participating in Magoffin County. When appellant mentioned Judge Stephens affiliation on her facebook page Judge Stephens acknowledged her possible bias and recused her appointment, Exhibit L.  On November 5, 2012 Hon Eric D. Hall upon Judge Stephens recuse acknowledged Judge Stephens recuse, Exhibit L, with an Order, Exhibit M, appointing Hon Jimmy R. Marcum as judge to reside over the unmerited case.  December 19, 2012 Breathitt case history, Exhibit N, shows November 5, 2012 entry of Order, Exhibit M, appointing Hon Jimmy R. Marcum as judge to reside over the unmerited case HOWEVER, it doesn’t show entry of any recuse from Hon Judge Jimmy R. Marcum from the unmerited case the next entry is December 17, 2012 with Order, Exhibit O, from the Supreme Court of Kentucky appointing retired Judge Deborah Deweese to reside over the unmerited case. Again this “Order”, Exhibit O, did not have the appellant copied to inform the appellant.  During the erroneous June 7, 2013 court Judge Hurt entered the unmerited court proceeding in Perry County, KY stating that previous Judge Deborah Deweese was unable to be present and that the Perry court did not have a copy of the file to which Appellant offered Judge Hurt a complete copy of the case file which the Perry court had copied and dispersed to the Appellant during the last bogus court hearing on March 22, 2013 to which the Judge stated he may decide to look at the file. Judge Hurt then proceeded to ask the appellant if the appellant would prefer to have the case transferred to Breathitt county for jury trial or be dismissed with prejudice at which time appellant very firmly stated appellant wished to proceed to Breathitt for jury trial. Despite appellants request upon given a choice and despite appellants objection for the erroneous ruling Judge Hurt dismissed the case with prejudice, Exhibit A.  WHEREAS, Appellant states that the Commonwealth of Kentucky, John Shackleford, Susan Marlene Allen, Judge Kenneth R Profitt eta for no other reason than to maliciously and purposefully harass and exhibit bias toward the appellant in favor of the Appelles herein validate all previous court proceedings and rulings illegally carried out hold no merit and were disposed upon the appellant to officially oppresse and obstruct justice and harass the appellant giving way for extreme bias in favor of Appelles’s. Appellant request that the circuit court allow appeal to be heard on behalf of the appellant based upon grounds of malicious obstruction of justice carried out by the Appelles including their various violent criminal acts upon the appellant with evidence not yet heard by the court.  Respectfully submitted,  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Kelly Miller, IN PRO SE  Kelly Miller, IN PRO SE  PO Box 492  Prestonsburg, KY 41653  (606) 233-2165  **CERTIFICATE:**  I hereby affirm copies of the foregoing STATEMENT OF APPEAL with attached affidavits were delivered to the following parties this \_\_\_\_\_day of July 2013.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Kelly Miller  Breathitt Circuit Court Clerk  Breathitt County Justice Center  1131 Maint St  Jackson, KY 41339  Hon John Shackleford  Perry County Attorney  481 Main Street – Suite 2  Hazard, KY 41701  Hon Eric D. Hall  Vice Chief Regional Judge  PO Box 1417  Prestonsburg, KY41653  Office of Attorney General  Hon Attorney General Jack Conway  1024 Capital Center Drive - Suite 200  Frankfort, KY 40601  Hon Judge Kenneth R. Profitt  Powell County District Judge  525 Washington St.  Stanton, KY 40380 | w |