IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-CV-01469-CMA-KLM

DAVID E. WILKENSON,

Plaintiff,

v.

STATE OF COLORADO, et al.,

MESA COUNTY, COLORADO, et al.

Defendants.

VERIFIED MOTIONS 1) FOR CLARIFICATION OF THE COURT'S 1/10/14 FINAL JUDGMENT; 2) FOR FINDING OF SPECIFIC FACTS; and 3) FOR COURT TO REFER THE DEFENDANTS' CRIMES TO THE OFFICE OF THE UNITED STATES ATTORNEY FOR COLORADO FOR INVESTIGATION.

COMES NOW the Plaintiff, DAVID E. WILKENSON, pro se[1] — pursuant to Fed R. Civ. P. 12, Fed R. Civ. P. 52(b), Fed R. Civ. P. 59(e), 18 U.S.C §4 and the Court's inherent equity powers — and on the following grounds hereby requests the Court to amend its 1/10/14 Final Judgment.

[1] *Haines v. Kerner*, 404 US 519 (1972), *Puckett v. Cox*, 456 F2d 233 (1972), *Pickering v. Pennslvania* Railway, 151 F2d 24 (3d Cir. 1945), *Hall v. Bellmon*, 935F.2d 1106, 1110 (10th Cir. 1991): Liberally construing a pro se plaintiff's complaint means that "if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements."

BRIEF STATEMENT OF FACT REGARDING THE COURT'S LACK OF FINDING OF FACTS RELATED TO JUDICIAL CRIMES

1. The Court has not addressed the factual issue of the existence of Defendants' crimes perpetrated against the Plaintiff, nor does its 1/10/14 Final Judgment address those facts and their outcome-determinative effects on the state cases No. 96-DR-372 and No. 96-JV180 even though they were the direct cause of the profound damage and deprivation of fundamental constitutional rights perpetrated against the Plaintiff, and even though they are thus far undisputed by the Defendants.

LAW REGARDING THE COURT'S LACK OF FINDING OF FACTS RELATED TO JUDICIAL CRIMES

> 2. "Federal Rules of Evidence
> Rule 201. Judicial Notice of Adjudicative Facts
> (c) TAKING NOTICE. The court:
> (2) must take judicial notice if a party requests it and the court is supplied with the necessary information.
> (d) TIMING. The court may take judicial notice at any stage of the proceeding.
> (e) OPPORTUNITY TO BE H EARD. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard."

ARGUMENT REGARDING THE COURT'S LACK OF FINDING OF FACTS RELATED TO JUDICIAL CRIMES

3. Refusal to discuss the existence of judicial crimes committed against litigants appearing before judges has the same effect as willful destruction of evidence. Were crimes committed against Plaintiff during the litigation of the state cases No. 96-DR-372 and No. 96-JV180, yes or no? With all due respect, it is Plaintiff's sincere belief that the Court is required by Fed. R. Civ. P. Rule 52 and F.R.E. Rule 201(c)(2) to make a specific finding of fact regarding whether or not crimes were committed by various known/named

and unknown/unnamed Defendants against the Plaintiff, and whether or not it is reasonable to presume those crimes substantively affected the outcome of the state cases No. 96-DR-372 and No. 96-JV180. Neither the Court nor the Defendants have addressed that issue.

4. Plaintiff requests the Court to take judicial notice of the facts of the crimes perpetrated by various known/named and unknown/unnamed Defendants. It is Plaintiff's contention that there exist genuinely substantive and relevant facts in dispute[2]. It is Plaintiff's contention that even if disputed facts could somehow be magically turned into undisputed facts by not talking about them, those "undisputed" facts would then be deemed admitted[3]. On the other hand, if it is admitted that judicial crimes were committed against Plaintiff by various known/named and unknown/unnamed Defendants, the Court's 1/10/14 Final Judgment does not address the issue of whether or not that had a prejudicial and outcome-determinative effect on the state cases. By not making such a finding of facts, and by ignoring the Plaintiff's specific offer of proof and request for admissions, the Court is, in effect, making a "summary judgment[4]" ruling on evidence without allowing evidence to be introduced, without taking Judicial Notice of the

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[2] See, e.g., *Matsushita v. Zenith Ratio Corp.* - 475 U.S. 574 (1986),

[3] See such as Fed.R.Civ.P Rule 56(e) and *Beard v. Banks,* 04-1739, 548 U.S. 521 (2006)

[4] Anderson v. Liberty Lobby, Inc. - 477 U.S. 242 (1986): "Summary judgment will not lie if the dispute about a material fact is 'genuine,' that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. At the summary judgment stage, the trial judge's function is not himself to weigh the evidence and determine the truth of the matter, but to determine whether there is a genuine issue for trial." It is Plaintiff's contention that the willful criminal deprivation of his fundamental rights is a genuine issue for trial.

evidence, and without even requiring the Defendants to answer requests for admissions regarding the de-facto-sub-rosa-disputed but de-jure-unmentioned facts.

5. It is Plaintiff's contention that ignoring his specific offer of proof and refusing to talk about the facts of the crimes perpetrated by various known/named and unknown/unnamed Defendants which were the direct cause of the profound damage and deprivation of fundamental constitutional rights perpetrated against the Plaintiff constitutes a plain[5] and appealable error.

6. The judicial crimes[6] and their inextricable accessory-after-the-fact effects are ongoing and continuous. Precisely because parenting is a fundamental[7] constitutional right, the

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[5] The U.S. Supreme Court's "plain error" standard is discussed at *Henderson v. United States*, 568 U.S. 11-9307 (2013), *United States v. Olano* (91-1306), 507 U.S. 725 (1993) and *Puckett v. United States* - 07-9712 (2009)
"'Plain error review' involves four prongs: (1) there must be an error or defect that the appellant has not affirmatively waived, *United States v. Olano*, 507 U.S. 725, 732-733; (2) it must be clear or obvious, *see id.* at 734; (3) it must have affected the appellants substantial rights, i.e., 'affected the outcome of the district court proceedings' , *ibid.*; and (4) if the other three prongs are satisfied, the court of appeals has the *discretion* to remedy the error if it 'seriously affect[s] the fairness, integrity, or the public reputation of judicial proceedings, *id.*, at 736." Plaintiff's case squarely meets all four prongs.

[6] 18 U.S.C. §242

[7] See *Troxel v. Granville*, 530 U.S. 57 (2000), *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Bartles v. Iowa*, 262 U.S. 404 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Farrington v. Tokushige*, 273 U.S. 284 (1927); *Prince v. Massachussetts*, 321 U.S. 158 (1944); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Wisconsin v. Yoder*, 406 U.S. 205, 232, 32 L. Ed. 2d 15, 92 S. Ct. 1526 (1972); *Paris Adult Theater v. Slaton*, 413 US 49, 65 (1973); *Carey v. Population Services International,* 431 US 678, 684-686 (1977); *Quilloin v. Walcott*, 434 U.S. 246, 255, 54 L. Ed. 2d 511, 98 S. Ct. 549 (1978) *Maher v. Roe*, 432 US 464, 476-479 (1977); *Parham v. J.R.*, 442 US 584, 602-606 (1979); *Santosky v. Kramer*, 455 US 745, 753 (1982); *City of Akron v. Akron Center for Reproductive Health Inc.*, 462 US 416, 461 (1983); *Lehr v. Robertson*, 463 US 248, 257-258 (1983); *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 US 747 (1986); *Board of Directors of Rotary International v. Rotary Club of Duarte,* 481 US 537 (1987); *Michael H. v. Gerald*, 491 U.S. 110 (1989); *Employment Division of Oregon v. Smith*, 494 U.S. 872 (1990); *Hodgson v. Minnesota*, 497 U.S. 417 (1990); *H.L.*

Defendants' illegal seizure of Plaintiff's passport and driver's license — in violation of *Kane v. Kane*, 154 Colo. 440, 391 P.2d 361 (1964) for fraudulently[8] alleged child support arrearages — prevents him from visiting his sons Ben and Toby Wilkenson in England, even though he was awarded parenting time by the Mesa County District Court's final order in the state dissolution of marriage case No. 96-DR-372.

7. The instant Court's Final Judgment unacceptably and inequitably causes the letter of 11th Amendment and the doctrine of Judicial Immunity jurisprudence to be irreconcilable with, and completely negate, the history, spirit and intent of the 1st, 4th, 5th 14th Amendments. Yet, the Court's 1/10/14 Final Judgment fails to even determine whether or not the judicial crimes perpetrated against Plaintiff (and then covered up) constitute a so-called "political[9]" question, when such a finding might at least be of some value in working toward political remedies and corrections of these types of unacceptably immoral and unjust situations.

ARGUMENT IN SUPPORT OF PLAINTIFF'S MOTION TO REFER THE JUDICIAL CRIMES TO THE OFFICE OF THE U.S. ATTORNEY FOR COLORADO FOR INVESTIGATION

8. Based on Plaintiff's verified pleadings and the relevant portions of the record of the state case referenced by Plaintiff, it is Plaintiff's sincere belief that both lawful probable

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v. Matheson, 450 US 398, 410 (1991); *Vernonia School District 47J* v. Acton, 515 U.S. 646, 132 L.Ed.2d 564, 115 S.Ct. 2386 (1995).

[8] Over the years, Plaintiff has paid some $10,000 more in child support than was required by controlling Colorado law — if that law had been obeyed by the Defendants.

[9] See *Luther v Borden*, 48 U.S. (7 Howard) 1 (1849) and progeny.