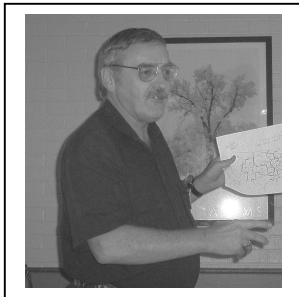


Rogue Judge Falsely Imprisons Man for Eight Months

by John Cobin, Ph.D. for *The Times Examiner*
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On December 1, 2003, David “Bud” Erskine Cummings thought he was simply exercising his constitutionally-protected freedom of speech. He was passing out literature on the sidewalk in front of the federal courthouse in Anderson, South Carolina. Instead, he found himself straightaway subjected to false arrest and imprisonment, without ever being formally or properly charged with any crime. A Writ of Habeas Corpus was quickly filed on his behalf by Robert Clarkson but it was ignored and Clarkson was arrested (but soon released) for “intimidating a federal prosecutor”. Cummings was finally released on August 11, 2004, over eight months after the ordeal began, but not before being moved through several maximum security prisons.

Cummings (pictured below) is a painter, an interior designer, and an army veteran from Oregon. He may not strike you as the most articulate or well-focused person but, even so, why should average people be harassed and thrown into prison for months without being charged? Well, U.S. District Court Judge Ross Anderson, the only federal judge in Anderson County, thought such harassment was just fine and dandy. Anderson seems to be one of those judges who is willing to use his power to slam people with whom he does not agree. In an “emergency order” (docket number 6:03-MC-179) dated December 3, 2003, Anderson ordered a psychiatric exam of Cummings “immediately”, although none took place for many months. In the order, Anderson listed “potential criminal contempt” (allegedly per rule 42 of the Federal Rules of Criminal Procedure) as justification for the action, although this fault is at best only a petty offense (cf. 18 USC 1). But, curiously, Cummings never disobeyed any court order or even entered the courtroom—essential criteria for a charge of contempt!



As a matter of fact, Cummings was never charged with any real crime during his better than eight months in federal prison. He never disobeyed a court order because he was never given one and he never went into a courthouse prior to being railroaded. So there is no way he could have been in “potential criminal contempt”, whatever that means. Think about it. By the same logic a liberal activist judge could have any young man incarcerated for being a “potential rapist” too. Just think, any employee is a “potential thief” and every woman is a “potential prostitute”. The list of “potential” criminals is endless, and such appalling reasoning leads to the abuse suffered by Cummings. How would you like to be forcibly taken away from your home and employment just because some rogue judge believes you are a “potential” criminal? It sounds more like something we would hear about on the sci-fi channel rather than experience in a free society!

Cummings was ushered into Judge Anderson’s courtroom without prior warning or notice. He had no time to prepare, gather witnesses, or seek counsel. Upon hearing Cummings speak, Anderson decided to appoint an attorney for him without Cummings’ consent. (Anderson apparently thought Cummings was outspoken and acting strangely, which may have been true but cannot be taken as grounds for imprisonment or persecution.) Cummings did not want an attorney but Anderson did not care. In addition to assigning an attorney, title 18 of the United States Code (section 4241, etc.) allowed Anderson to detain Cummings for 45 days (up to 70 days) to perform psychiatric tests, in order to see if indeed the accused was “competent to assist his attorney”. However, when a judge does exercise this option, as Anderson did, he must provide the accused with a hearing. Cummings was never given a hearing. He just went to prison.

Consider the hellish circuit that Cummings was forced to travel. Bear in mind that each change in venue required him to endure a full, humiliating strip-search. During transit, which is very uncomfortable, Cummings was allowed limited food (other than a stale sandwich), no letters,

no toothbrush, and had his hands and feet shackled. Also note that he rarely had any access to legal books, paper, a writing instrument, or use of the phone, because nearly all the time he was incarcerated was in a maximum security facility. Each of the ten times he was in transit, Cummings was subjected to so-called “diesel therapy” (something one step short of torture) because of his transitory status, and thus excepted from constitutional prohibitions against cruel and unusual punishment. Diesel therapy is defined as the needless transport of political prisoners for presumed purposes of wearing them down and cutting them off from contact with the rest of the world. He was literally lost in the system with no way to reach out for help! Dates are approximate:

- December 1-17, 2003—Anderson, SC City Jail, maximum security, in jail space profitably rented to the federal government for holding its inmates. Clothing and heat were inadequate for anyone, and extra-inappropriate treatment for the innocent.
- December 17-23, 2003—Atlanta Federal Penitentiary (called a “hell-hole”) where he was forced—against the law—to be locked up in the same cell with a convicted murderer. On the way to Atlanta he was stopped and strip-searched in Greenville, SC.
- December 23, 2003 to February 13, 2004—Miami Federal Detention Center (via a transit plane ride on Con Air through the Oklahoma City convict hub, a.k.a. the “Federal Gulag” hub), where he underwent a small part of the psychiatric exam finally. He was found to be unable to assist his attorney because he kept saying that he did not want one. (This is one of only two places Cummings stayed where he had access to a limited law library.)
- February 13-23, 2004—Atlanta Federal Penitentiary “hell-hole” for the second time via a stop and strip-search in Tuscaloosa, AL where he was again incarcerated with dangerous convicts.
- February 24, 2004 to March 1, 2004—Petersburg, VA (via bus in shackles) Special Housing Unit maximum security “hell-hole”, the worst conditions of any federal prison he endured, where transients and accused people are mingled with those being punished for crimes.
- March 1, 2004 to April 5, 2004—Spartanburg, SC County Jail, maximum security, in space profitably rented to the federal government for holding its inmates. Here Cummings suffered even more since his accumulated federal prison scrip had no value and his appeals to county officials fell on deaf ears (“We just manage the space for the feds; we do not care why you are here”).
- April 5, 2004 to May 11, 2004—Atlanta Federal Penitentiary “hell-hole” for the third time, where Cummings was subjected to similar horrible treatment.
- May 11, 2004 to August 2, 2004—Butner, NC Federal Penitentiary, medium security, where Cummings finally received the rest of the required psychiatric examination, and was found to be competent. (This is the only other place Cummings stayed where he had access to a limited law library.)
- August 2-9, 2004—Petersburg, VA “hell-hole” for the second time, for a week of misery.
- August 9-10, 2004—Spartanburg, SC County Jail for the second time until he was released.

At the Butner, North Carolina federal prison (near Durham), Cummings saw psychiatrist Dr. Ralph Newman. Even though Anderson had rescinded his order on March 11th, and the U.S. Attorney had withdrawn his petition, Cummings could still be detained for up to two more months of “treatment”. However, this procedure would first require a hearing, which never materialized. Moreover, if detainment for contempt of court (or, one would think, even “potential” contempt of court) exceeds six months, the law says that Cummings is entitled to a jury trial. But he was denied this right too. No hearing or jury trial—and Cummings was still not set free.

Cummings was released only after friends from the ACLU and the Fully Informed Jury Association of South Carolina began writing letters of complaint. Also leading the charge to help was local Anderson county attorney Hugh Welborn, who was very concerned about the suffering, injus-

tice, and violation of constitutional rights that Cummings had experienced. Cummings labeled Judge Anderson as “hypocritical” and a “hater of our constitutional freedoms”. With the help of a local attorney, Cummings plans to sue the U.S. government for false arrest, false imprisonment, abuse of the legal process, and violation of civil and constitutional rights.

Anyone who believes that the federal judiciary is *not* out of control needs to have his head examined! We should all write a letter to our elected officials (i.e., federal senators and congressmen especially) complaining about Judge Anderson and demanding his impeachment and removal. Please do so today, attaching a copy of this article if necessary as factual backup. Cummings would very much appreciate your cards and letters of sympathy and support. Please address all correspondence to him at P.O. Box 4415, Anderson, SC 29622.