

## **Summary and Conclusion of the Report**

**By Fred Bates**

### **Summary**

The report details a criminal conspiracy by the San Jose City Attorney's Office, my attorney Stuart Kirchick, the US District Court in San Jose, and the Ninth Circuit Court of Appeals to obstruct justice during the litigation of a discrimination lawsuit I filed against the City of San Jose and three police officials in August 2006. I am black/African American. The report documents fraud on the court by San Jose city officials and my attorney Stuart Kirchick, and evidence that the US District Court in San Jose and the Ninth Circuit Court of Appeals were complicit in the fraud. It provides evidence that the courts violated the Constitution, federal statutory laws and precedent in their rulings. It provides evidence of intentional bias by the US District Court and the Ninth Circuit Court of Appeals in favor of the City. The report also presents evidence of my many attempts to obtain relief from the courts. It documents my efforts to initiate an investigation by the Supreme Court, Congress, the Department of Justice, as well as state and local authorities in the State of California into the misconduct that occurred during the litigation of my lawsuit, all to no avail.

### **Fraud on the court allegation**

I sued the City of San Jose and three police officials after I was denied a CCW permit upon my medical disability retirement from the San Jose Police Department as a sergeant in April 2004. My lawsuit (complaint for damages) alleges that I was initially denied a CCW permit because a police official, Deputy Chief of Police Adonna Amoroso, claimed she misinterpreted my work restriction to avoid psychological stress to mean that I retired on a psychological disability. Therefore, she denied me a CCW permit based on California law. The report will prove that Amoroso's claim is not credible, and that her decision to deny me a CCW permit was punitive, retaliatory and bigoted. Months later two police officials, Police Captain Tuck Younis and Chief of Police Rob Davis, received clarifying information from my doctor stating that my work restriction did not mean I retired on a psychological disability and that I was a suitable candidate to carry a concealed weapon. The report presents irrefutable evidence that Younis and Davis denied me a CCW permit, without a hearing required by California law, after they received the information from my doctor clarifying that I was qualified to carry a concealed weapon.

The denial of my CCW permit by Younis and Davis, without a hearing, after receiving the information from my doctor that I was qualified to carry a concealed weapon is the most important issue in my lawsuit as it relates to my claims against the involved police officials. Because it is irrefutable evidence that Younis and Davis knowingly and intentionally violated my constitutional rights to a due process hearing required by California law. Therefore, their actions are punishable under federal law.

The report details a scheme by the City's attorney (Michael Dodson) and my attorney (Stuart Kirchick) to obstruct justice by perpetrating fraud on the US District Court in San Jose with the filing of a joint case management statement and a joint stipulation of dismissal of Younis from

my lawsuit. The joint case management statement falsely states that the initial decision by Amoroso to deny me a CCW permit was reversed by Younis shortly after he received the clarifying information from my doctor. Dodson and Kirchick knew with absolute certainty that my CCW permit was denied by Younis and Davis in clear violation of my constitutional rights to a due process hearing mandated by California law. The false claim that Amoroso's initial decision to deny me a CCW permit was reversed by Younis shortly after he received the information from my doctor contradicts allegations Kirchick made in my complaint and admissions to the allegations by Dodson in the City's answer to my complaint.

The fraudulent joint case management statement and stipulation of dismissal of Younis signed by both Dodson and Kirchick formed the basis for a motion for summary judgment by the City of San Jose. The motion for summary judgment also relies on the perjured testimony of police officials Amoroso and Younis in their depositions, and the perjured testimony of Younis in his declaration in support of the City's summary judgment motion. The City's motion for summary judgment restates the false claim by Dodson and Kirchick in their joint case management statement that the initial decision of Amoroso to deny me a CCW permit in April 2004 was reversed by the City shortly after receiving documentation from my doctor stating that I was a suitable candidate to carry a concealed weapon. The report proves that this assertion in the City's motion for summary judgment is completely false. Yet, the District Court granted the City's motion, erroneously ruling that police official Amoroso was entitled to qualified immunity. The report presents evidence that the District Court failed to rule on the decisions of police officials Younis and Davis that violated my constitutional rights to due process because of the fraud perpetrated by the City's attorney (Michael Dodson) and my attorney (Stuart Kirchick).

The report shows with clarity that on my appeal of the District Court's order granting the City's summary judgment motion in the Ninth Circuit Court of Appeals, Dodson continued to push the false narrative that Amoroso's initial decision to deny me a CCW permit in April 2004 was reversed by Younis in August 2004. Dodson knew that this narrative was false and that the decision was not reversed until December 2004 after I filed a complaint with the California Department of Fair Employment and Housing, and that a lawsuit against the City was imminent. Kirchick, my attorney, failed to challenge the City's fraud during litigation of my appeal, making it clear he was complicit in the City's fraudulent scheme. My appeal was denied due to the fraud perpetrated by the City and the complicity of the court.

### **Violations of law by the US District Court and the Ninth Circuit Court of Appeals**

My federal lawsuit makes a separate claim against the City of San Jose distinct from my claims against police officials Deputy Chief Adonna Amoroso, Captain Tuck Younis and Chief of Police Rob Davis. As to my claim against the City, the City claimed a defense of collateral estoppel, also known as issue preclusion. The City argued that collateral estoppel precluded my claim against the City because the issue in my federal lawsuit was litigated in a small claims case I filed against the City in the State of California prior to my federal lawsuit. The issue in my small claims case was that the City violated my constitutional rights when I was denied a CCW permit without a hearing required by California law. The US District Court dismissed my claim against the City based on its defense of collateral estoppel. The report will prove unequivocally that this claim by the City has no credibility whatsoever, and that the decision of the US District Court to dismiss

my claim against the City based on collateral estoppel violates the Constitution, federal statutory law, the precedent of the Supreme Court, and the Ninth Circuit Court of Appeals. The District Court's erroneous and unlawful decision was affirmed by the Ninth Circuit Court of Appeals. The report makes it clear that the decisions of the courts to dismiss my lawsuit based on collateral estoppel are not enforceable by law because they are unconstitutional, and they violate my rights to due process.

### **Bias by the courts in favor of the City of San Jose**

The report documents with clarity, bias by the US District Court in San Jose and the Ninth Circuit Court of Appeals in favor of the City of San Jose throughout the litigation of my lawsuit. An example of the flagrant bias in favor of the City occurred during the hearing in the Ninth Circuit Court of Appeals on my appeal of the judgment of the District Court granting the City's motion for summary judgment. A judge asked my attorney why I was making this a federal case. He repeated the false claim of the City that I received my CCW permit quickly after the City received information from my doctor clarifying that I should have no problems or difficulty carrying a concealed weapon. The judge asked why I didn't drop my lawsuit after my unsuccessful small claims case. This bias or lack of impartiality by the judge is so egregious and unconstitutional that it invalidates the ruling of the court.

Another example of flagrant bias is the decision of the District Court to declare me a vexatious litigant and subject me to a pre-filing screening order based upon a motion by the City of San Jose, even though it was the City that perpetrated fraud on the court in order to receive a favorable ruling in my lawsuit. The pre-filing screening order deprives me of my constitutional right of access to the courts. The pre-filing screening order is malicious and punitive, and is a flagrant abuse of power by the court.

### **My efforts to obtain relief**

My efforts to obtain relief from the clearly erroneous and unconstitutional judgment in my lawsuit are documented extensively in the report. My efforts to obtain relief from judgment discussed in the report is a motion for relief from the stipulation of dismissal of Defendant Tuck Younis, a Rule 60 motion, and an independent action in equity in the US District Court in San Jose. The report presents evidence that District Court officials, including Judge Ronald M. Whyte, staged a fake hearing on my Rule 60 motion with false docket entries, a transcript and civil minutes with the clear intent to obstruct justice. All of my efforts for relief were denied by the District Court, and they were affirmed on appeal. My last effort to obtain relief from judgment was a writ of certiorari in the US Supreme Court, which was denied.

### **Efforts to initiate an investigation into the misconduct that occurred**

The report lists my numerous requests for an investigation into the misconduct, much of it criminal, that occurred during litigation of my lawsuit. Requests for an investigation were made with several local, state and federal authorities. The authorities include the City of San Jose, the County of Santa Clara California, the State of California, the Ninth Circuit Court of Appeals, the

Department of Justice and FBI, the US Congress, and the US Supreme Court. So far, no investigation has been initiated into this egregious and criminal obstruction of justice by San Jose city officials, my attorney, the US District Court in San Jose and the Ninth Circuit Court of Appeals.

### **Conclusion**

The report finds with clear and convincing evidence that San Jose city officials knowingly and intentionally violated my constitutional rights with the specific intent to cause me financial loss and extreme emotional distress. The report finds that the attorney for the City of San Jose (Michael Dodson) and my attorney (Stuart Kirchick) knowingly perpetrated fraud on the US District Court in San Jose and the Ninth Circuit Court of Appeals with the specific intent to obstruct justice. The report finds that the US District Court in San Jose and the Ninth Circuit Court of Appeals were complicit in the fraud on the court and obstruction of justice by Dodson and Kirchick. The report finds that both courts entered intentionally biased judgments in favor of the City of San Jose that are based on fraud; and violates the Constitution, federal statutory law and precedent.

The report finds that there is a lack of oversight of judges in the US District Court in San Jose and the Ninth Circuit Court of Appeals, and that the judges in both courts are accountable to no one. The report presents credible evidence that there is a concerted effort by government officials at every level to cover up this scandal by refusing to initiate an investigation into the misconduct, much of it criminal, that occurred during the litigation of my federal lawsuit against the City of San Jose.