

**Henry-Dale; Goltz**  
U.S.P.O. Box 690126  
San Antonio, Texas

25 April 2006

Charles R. Fulbruge III  
U.S. Court of Appeals  
600 Camp Street – 102  
New Orleans, Louisiana

Dear Mr. Fulbruge:

### **Notice**

This Notice is in the nature of a Judicial Complaint to make you aware of certain events that I believe constitute Judicial Misconduct. The events took place during four occasions over the past five months in the courtroom of Judge W. Royal Furgeson at San Antonio, Texas. The case is styled as: United States of America, Petitioner, v. Henry D. Goltz, Respondent - Case No.: SA05CA1056RF. Here is a summary of the events to the best of my current knowledge.

#### **1. Denial of Due Process**

On or about 21 November 2005, a Deputy United States Marshal arrived at my private dwelling house and served me with a court ORDER from Judge Royal Furgeson directing me to appear at the IRS office on 30 November, followed by an appearance in court on 6 December 2005. Attached to the ORDER were two other documents – a DECLARATION executed by Mr. Vic Dietz, Revenue Officer, on 11 August 2005, and a PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONSES filed in the court by Craig A. Gargotta, Assistant United States Attorney on 27 October 2005. Although I had twice appeared before Mr. Dietz (in July and August), I was not informed of the DECLARATION or the PETITION prior to receiving them with the ORDER from the US Marshal. I filed a MOTION TO VACATE the ORDER with an AFFIDAVIT IN SUPPORT OF MOTION TO VACATE pending a fair opportunity to answer the PETITION, as required by due process. After resetting the 6 December 2005 court date to 6 January 2006, Judge Furgeson issued an ORDER denying my MOTION TO VACATE, and thereby, he denied me due process of law.

#### **2. Disregarded Claim of Lack of Jurisdiction**

At court appearances on 1 February and 9 February 2006, I challenged the Jurisdiction of the IRS, the Department of Justice (DoJ), and the court. Judge Furgeson dismissed the challenge saying that he was satisfied with the statements made by the Assistant US Attorney that Revenue Officer Dietz and the DoJ had jurisdiction over me “or they would not have filed the petition.” I asked Judge Furgeson if he was making a judicial determination. He said: that was correct, and if I wished, I could appeal his decision. He then moved on with the case. In speaking on the question of Jurisdiction, the U.S. Supreme Court said: “However late this objection has been made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause: as any movement is necessarily the exercise of jurisdiction.” *The State of Rhode Island v. The State of Massachusetts*, 37 U.S. 657, 718.

In addition to the above case citation, the Federal Practice and Procedure (FPP) Chapter 1, §3522 contains the following entries:

At page 60 – Courts of limited jurisdiction – “It is a **principle of first importance** that the federal courts are courts of limited jurisdiction.” “**The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded.** Owen Equipment & Erection Co. v. Kroger, 1978, 98 S.Ct. 2396, 437 U.S. 365, 57 L.Ed.2d 274. (**Bold** is mine)

At page 62 – “Burden of **proving** facts necessary to sustain jurisdiction is on the plaintiff.” Escude Cruz v. Ortho Pharmaceutical Corp., C.A. 1<sup>st</sup>, 1980, 619 F.2d 532. (**Bold** is mine)

At page 63 – “... the facts showing the existence of jurisdiction must be affirmatively alleged in the complaint. If these facts are challenged, **the burden is on the party claiming jurisdiction to demonstrate that the court has jurisdiction** over the subject matter.” (**Bold** is mine)

Upon my raising of the question, Judge Furgeson was required by prior Supreme Court decisions on the matter to inquire into the evidence supporting the Petitioner’s claim of jurisdiction, and require the Petitioner to demonstrate that the court has jurisdiction. Mere statements, allegations, or attorney assessments are insufficient to sustain a claim of jurisdiction. Judge Furgeson’s trivializing disregard of my claim of Lack of Jurisdiction was a serious breach of due process. He ignored my challenges to jurisdiction seriously violating my due process rights, and the limits on his jurisdiction.

Note: During the hearing on 9 February, Vic Dietz admitted, in the witness box, under oath, that “Vic Dietz” is a pseudonym - not his name.

### **3. Prejudice and Bias**

At the court appearance on 1 February 2006, before having heard any testimony, Judge Furgeson repeatedly threatened me with “up to eighteen months incarceration” for contempt of court if I did not cooperate with the court and answer the U.S. Attorney’s questions. He did not determine my status; he merely assumed that he had jurisdiction (see above) and proceeded in this Civil action as if I had committed a crime. He ordered me to meet privately with the U.S. Attorney to “resolve this matter” and then scheduled a subsequent hearing for 9 February 2006. When I asked him who I would be permitted to question, he said that I could question any witnesses I wished. I stated that I wished to question Vic Dietz, the IRS Revenue Officer. Judge Furgeson stated that Vic Dietz was not a party to this matter any more. I then said that I wish to question Craig Gargotta, the Assistant U.S. Attorney. He said that Mr. Gargotta was representing the Petitioner, and he would not be questioned. All right, I said, I want to question the Petitioner. He said that I would have to contact George Bush. I then said that I would like to question him (Judge Furgeson) about the law. He said he would answer my questions, but not as a witness. Judge Furgeson’s repeated threats of confinement and intimidation, without having heard any testimony, belie his sworn oath to be a fair, unbiased, and a neutral judge of law and facts. I met with Gargotta on 6 February in his office.

### **4. Character Assassination**

After the court hearing on 9 February - during which Judge Furgeson again repeated his threats of incarceration - and additional meetings with “Vic Dietz” on 10 February and 6 March 2006 as ORDERED by the court, I then prepared a Judicial Notice, summarizing the activities that had occurred after 9 February, and a Memorandum of Law containing a chronology of Supreme Court cases and Congressional acts relevant to the income tax matters under examination. I thought the matter was settled with respect to the court. That thought I found was not correct. Apparently with no request from the Petitioner, Judge Furgeson proceeded to ORDER a STATUS CONFERENCE to be held on 30 March 2006. I sent him a letter asking a few questions, and in his reply to me, he stated: “I requested the status conference so that we may discuss any issues that remain pending ... and determine if any further action needs to be taken in this case. Your attendance is expected at this status conference.” His statement indicates his personal interest, a trait unbecoming of a neutral, unbiased judge of the law and

facts.

I attended the Status Conference at which Gargotta stated his dissatisfaction with my decision not to voluntarily sign "Amended Returns". Judge Furgeson asked Gargotta "(H)ow does the Government look at ... enforcing ... filing suit to enforce a penalty or filing a criminal action" - continuing to intimidate and demonstrate his bias and prejudice against me in this civil action. The U.S. Attorney, Craig Gargotta then made statements regarding assessments and liens to which Judge Furgeson offered support to Gargotta by saying on the record that the assessment "has priority over homestead laws" and that the liens "can attach requirement benefits and things like that." "So you can attach everything." Judge Furgeson's on the record questions and comments indicated strong and unmistakable bias in favor of the Petitioner and against me. They appeared to be designed to intimidate and instill fear and anxiety in me as I sat awaiting my turn to address the court. As if that were not sufficient, Judge Furgeson proceeded to bring up a new subject by saying: "(W)ell, actually, you now have the sworn testimony of Mr. Goltz where he says what his income is." Judge Furgeson does not notice the record that - that is his characterization only, and that my testimony was given under duress, intimidation and threat of incarceration if I did not testify. One would expect that such testimony would be ruled inadmissible by a judge in a lawful court. But in Judge Furgeson's court, Judge Furgeson himself puts it in the record. And later, he proceeds to a new idea: The Court: "And you, if you decided, you could also charge him with tax fraud and prosecute him criminally. I mean, that's also an alternative." And a bit later, The Court: "Okay. So, what you're going to be asking me to do is if Mr. Goltz refuses to amend the return is to incarcerate him under a contempt citation?" Is it prudent and proper for a judge to lead the prosecutor? I was now convinced that my adversary in this action was sitting behind the bench. Judge Furgeson's questions and comments, and his leading of the prosecutor to agree with suggestions for criminal charges were far beyond bias and bordering on character assassination and libel.

Near the closing of the hearing, I asked Judge Furgeson: "Could you direct the Petitioner to identify for me the law that makes me liable for income tax?" I wished to have my adversary on the record with the law and issue underlying his entire case against me. It was a simple question to the judge, requiring a simple yes or no answer. Judge Furgeson, in open court with many witnesses, went into a rage, and began to rant at me. "I gave it to you last time. I have given it to you. And you ... you may do this semantical dance on the head of needles all you want, but it is so clear to me that what you're doing is violating all the laws of the United States and you're doing it ... and, you know, and there's going to be a price to pay and you don't want to follow the law, and don't want to be susceptible ... to the rule of law. We operate under the rule of law and we operate because people pay their taxes and if people didn't pay their taxes their would be anarchy and you, Mr. Goltz, would be squashed by somebody bigger and tougher than you are, and that's ... that's the kind of ... you want anarchy in this world ... and you're ... and if you want it ... you're not going to get it. But these gentlemen are going to follow the law and they're going to take it a step at a time and you're going to end up having to comply and you're also chancing criminal prosecution. You may chance that if you wish and you will get a chance to have a jury if you wish that, too. But I ... I your act of defiance or whatever you say is an act of a lawless person and that's all I have to say. These gentlemen want to proceed in a way that will be in accordance with the law. But if your ... if your example were to be followed, there would be no United States of America. There would be no freedom and there would be no liberty and there would be no law. So, that's where we are. Thank you, gentlemen." He then abruptly exited the court room. The entire rant about rule of law was in response to a simple question that he direct Gargotta to identify the law, which neither one bothered to identify.

Judge Furgeson's obviously biased attitude and behavior in leading the U.S. Attorney, his allegations of criminal behavior, his repeated threats of incarceration and his assassination of my character in open court in front of many witnesses during each and every court appearance was designed to destroy my good name and to instill fear in the minds and hearts of all present.

The court of law is a place where justice must prevail, and the judge has a duty to be a fair and impartial arbiter of disputes. My personal experience in Judge Furgeson's court was anything but fair and impartial. I was attacked by the very person appointed to administer fair and impartial justice. I believe Judge W. Royal Furgeson demonstrated outrageous and egregious behavior in court and exhibited flagrant disregard for justice and due process. Such prejudiced and biased behavior should not be sanctioned or tolerated by the justice system. Otherwise, constitutionally-guaranteed rights are violated by the same person charged with the duty to protect those rights. Moreover, if it is tolerated and allowed to be repeated, the reputation of the court as a fair and impartial arbiter of disputes will continue its downward trek.

Witnesses are available to attest to these matters. The unedited court transcript will provide solid evidence of their occurrence as I have characterized them. I declare, under the penalty of perjury without the United States, that the foregoing is true, and correct to the best of my knowledge, and belief.

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Affirmed By: \_\_\_\_\_  
Henry-Dale; Goltz  
Aggrieved Texian American