

Eugene W. Alpern
P.O. Box 672
Morton Grove, IL 60053-0672

May 14, 2001

Judge Frank H. Easterbrook
Seventh Circuit Court of Appeals
Dirksen Federal Building
219 S. Dearborn St.
Chicago, IL 60604

Dear Judge Easterbrook:

I am pleased to read that some of the Judges of the 7th Circuit Court of Appeals appear to know the law, and to respect the law.

In Case No. 00-4267, **In re Brand Name Prescription Drugs Antitrust Litigation, Appeal of: William Mack Price, et al.**, a panel of this court, of which you were a member, stated that:

“Napoleon at his coronation took the imperial crown out of the hands of the Pope and crowned himself. Federal judges do not have a similar prerogative. A court that does not have jurisdiction cannot assume it, however worthy the cause.”

I presume that you are familiar with the Supreme Court cases that stated that a judge who acts where he does not have jurisdiction is engaged in treason. **U.S. v. Will**, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); **Cohens v. Virginia**, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821). Presumably the Judges of the above panel did not want to engage in treason, whether deliberately or not deliberately.

I should also like to call your attention to the **Vallely** case where the Supreme Court stated that:

"Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply **VOID, AND THIS EVEN PRIOR TO REVERSAL.**" [Emphasis added]. **Vallely v. Northern Fire & Marine Ins. Co.**, 254 U.S. 348, 41 S.Ct. 116 (1920). See also **Old Wayne Mut. I. Assoc. v. McDonough**, 204 U.S. 8, 27 S.Ct. 236 (1907); **Williamson v. Berry**, 8 How. 495, 540, 12 L.Ed. 1170, 1189 (1850); **Rose v. Himely**, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808).

There are many cases that hold that a judge has no lawful authority to make a void order valid. An order issued based on a void order is itself void.

Having stated the above, I would like to call your attention to another case wherein you were the lead Judge, i.e., **Eugene W. Alpern v. Philip S. Lieb**, 38 F.3d 933 (7th Cir. 1994). This case was an outgrowth of case no. 91-D-7122 (Cook County) where the judge acted entirely without jurisdiction. Since he held no jurisdiction, all actions derived from the void orders of

the 91-D-7122 court are also void.

An inspection of the original trial court record has shown, and does show, a finding that the order issued therein was void, and therefore the purported decision made by the panel was also void, as none of the judges, held jurisdiction.

Under Illinois law, in a statutory proceeding, such as a divorce proceeding, a court of limited jurisdiction, there is no presumption that the court held jurisdiction, and that a valid Petition for Dissolution of Marriage had to be filed in case no. 91-D-7122 (Cook County) and a part of the record of the case.

Brown v. VanKeuren, 340 Ill. 118, 122 (1930):

"The petition required to put the court in motion and give it jurisdiction must be in conformity with the statute granting the right and must show all the facts necessary to authorize it to act, -i.e., it must contain all the statements which the statute says the petition shall state, - and if the petition fails to contain all of these essential elements the court is without jurisdiction."

"Where a court is exercising special statutory jurisdiction the record must show upon its face that the case is one where the courts have authority to act. Before a decree can have vitality the court must have jurisdiction not only of the person but of the subject matter."

"Whatever the rank of the court exercising a special statutory jurisdiction, it is governed by the same rules as courts of limited jurisdiction."

In re Gebis, 186 Ill.2d 188 (1999)

"When the circuit court's power to act is controlled by statute, the circuit court is governed by the rules of limited jurisdiction and must proceed within the statute's strictures. **M.M.**, 156 Ill. 2d at 66. Any action taken by the circuit court that exceeds its jurisdiction is void and may be attacked at any time. **In re Estate of Steinfeld**, 158 Ill. 2d 1, 12 (1994)."

Inspection of the record of case no. 91-D-7122 evidences the uncontroverted fact that a valid Petition for Dissolution of Marriage is not a part of the record of the case, and further that no lawful service of process was ever made. Jurisdiction, subject-matter or in personam, was never conferred upon the trial court by law. When the action was brought before the District Court, the District Judge had no jurisdiction to make the Cook County case valid.

As stated above, since jurisdiction was never conferred upon the divorce court, I could not bring a divorce action before your court. Your inference that I "attempt to enlist the federal courts on his side of a matrimonial dispute" is false, since there was no lawful matrimonial dispute taking place in the Circuit Court of Cook County, or any other court.

Further, the officers of the court, the opposing counsel, committed a "fraud upon the court" by their failure to inform the Federal court that Philip Lieb was acting without any jurisdiction, and therefore he could not issue a valid order. By committing a "fraud upon the court", they deprived the Federal court of jurisdiction and that fact is also an additional reason why the District Court Judge had no jurisdiction. The District Judge's order to Magistrate Judge Bobrick was issued without jurisdiction, and was void. I agree with your decision that Magistrate Bobrick's order was issued without lawful authority, but for different reasons.

It is a judge's responsibility to affirmatively seek out the facts that determine whether the court has jurisdiction or not. You violated your duty to the court to determine if the court has

jurisdiction before acting, and wrongfully assumed a fact that was never true.

While a court without jurisdiction has no lawful authority to hear and act in a case, all courts have the lawful authority to vacate any and all void orders.

Since under the principle of law established in **Vallely**, the orders being void ab initio, there was no reason for me to have the void orders reversed, as they had no legal force or effect. Your order to the District Judge was then, and is today, a void order. The only valid order you could have issued, and had a duty to issue, was an order vacating all the void orders, including the orders of the 91-D-7122 case.

Courts have no lawful authority to enforce void orders, as you attempted to do. No judge should be indifferent to the evils of tyranny to enforce a void order. No judge has lawful authority to spread a void order upon the records of the court.

Also where any "fraud upon the court" occurs, the orders of that court are void. **U.S. v. Throckmorton**, 98 U.S. 61, 25 L.Ed. 93 (1878); **Hazel-Atlas Glass Co. v. Hartford-Empire Co.**, 322 U.S. 238, 64 S.Ct. 997 (1943).

Just as you found that Magistrate Bobrick did not have lawful authority, you did not have lawful authority to do anything but to vacate all void orders.

And what will you tell the Maker when you appear before Him, and He inquires why you anointed yourself, when the law did not give you any lawful authority to act?

And why, without any lawful authority, did you belittled Alpern for his complying with the law? And your attempting to prevent him from vacating the void orders of the courts by your slander of him?

As long as the void order issued in **Eugene W. Alpern v. Philip S. Lieb**, 38 F.3d 933 (7th Cir. 1994) is on the books, and that this court has not vacated all the void orders that it is a product of, you have been, and are currently, committing a "fraud upon the court".

Under law, the ink is never dry in a void order. Courts have held that a void order is nothing but a blank piece of paper.

This letter does not include the many violations of the U.S. Constitution by the Federal judges in Alpern's actions, which further vitiates all actions taken by this court.

You have the lawful authority even at this date to *sua sponte* vacate the void orders. As long as the void orders remain, you have made a mockery of the judiciary. As a judge, you have a duty to protect the sanctity of, and the integrity of, the court.

Unless the void orders are acknowledged as void, you have taken the place of Napoleon.

You have a choice. Will you be forever known as a Napoleon, or a Judge of the Seventh Circuit Court of Appeals?

Yours truly,

Eugene Alpern

bcc: