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Two Wisconsin State Prisoners Seek Sanctions
Against the Same Assistant Attorney General
for Her Misconduct Defending Prison Staff
by Nate A. Lindell

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Nate A. Lindell and Mustaf-El K.A. Ajala, both of whom have been in the Wisconsin state prison system over 18 years and are veteran litigators who've won lawsuits and appeals in state and federal courts (go to wicourts.gov and ca7.uscourts.gov to see some of their cases). Both are being held in solitary confinement in the Wisconsin Secure Program Facility (W.S.P.F.), where they both filed appeals from the dismissals of their separate lawsuits against different prison staff, but in both of their appeals they're seeking sanctions against the same A.A.G. (i.e. Jody J. Schmelzer, schmelzerjj@doj.state.wi.us) for the dirty tactics she used in her defense of prison staff.

All courts have the inherent authority to sanction parties and attorneys who engage in unethical tactics or activity in court, but **Federal Rule of Civil Procedure 11(b)** and **28 U.S.C. § 1927** permit a court to sanction anyone who engages in specific misconduct: makes frivolous arguments, makes claims without evidence to support them, or simply fails to conduct a reasonable investigation into a matter before presenting it to the court.

In Appeal No. 16-1523, Ajala v. Swiekatowski, Ajala seeks sanctions under the court's inherent authority based on A.A.G. Schmelzer presenting affidavits from defendants that falsely swore that a complaint of Ajala's contained threats to staff, which the A.A.G. used to argue that staff were justified in punishing Ajala for his complaint. Ajala also sought sanctions because the A.A.G. denied him some discovery, resulting in Ajala's claims against other defendants being dismissed. The suit that led to the appeal was about staff at the Green Bay Corr. Inst. (G.B.C.I.) punishing Ajala for exercising his First Amendment right to "Petition [government officials] for Redress of Grievances" by drafting a complaint about prison conditions.

In Appeal No. 16-1528, Lindell v. Pollard, Lindell seeks sanctions because the same A.A.G. gave one justification for Waupun Corr. Inst. (W.C.I.) staff's actions in response to Lindell's discovery request and in her opening brief arguing for the dismissal of Lindell's claims, then, after Lindell showed that justification to be inadequate, the A.A.G. presented additional arguments and evidence in her reply brief. Courts forbid such sandbagging/desperation, as A.A.G. Schmelzer had been previously told in another case of Lindell's. (W.D. Wis. Case No. 02-cv-21-c, Lindell v. Frank, page 3 of May 30, 2003 order.) Lindell's underlying suit was about W.C.I. staff throwing away his drawings (of wolves and Celtic designs) and textbooks, contrary to his Free Speech rights.

Despite Ajala and Lindell already seeking sanctions on A.A.G. Schmelzer for her misconduct in the lower courts, Ajala and Lindell contend that she engaged in further dirty tricks on appeal.

Lindell explained in pages 1, 2, 5, 6, 9, 11, 12 and 14 of his appellate reply brief that A.A.G. Schmelzer misrepresented the law and the facts multiple times in her appellate brief, in her effort to have Lindell's appeal dismissed.

Ajala too contends that the A.A.G. misrepresented the law and facts to argue for the dismissal of his appeal.

In non-prison litigation it's extremely rare that a party seeks sanctions. The right to seek sanctions is not well known to the average prisoner litigant, many of whom are barely literate in the law.

A.A.G. Schmelzer could face sanctions from the state supreme court's Office of Lawyer Regulation (O.L.R.), thus lose her license to practice law, be fined, etc. Ajala and Lindell intend to file complaints with the OLR. after their appeals are decided.

This is not the first time one of the attorneys employed by the state's Dept. of Justice faced sanctions. More than a decade ago, in Done County Circuit Court Case No. 02-CV-1272, A.A.G. Richard A. Victor, upon a motion by Lindell, was sanctioned by Judge Michael N. Nowakowski and ordered to pay Lindell — the same Lindell who now seeks sanctions against A.A.G. Schmelzer — over 200 dollars in costs for pursuing a frivolous defense of a prison disciplinary action (that unjusti-

fiably found Lindell guilty of trying to batter staff)

Within a year following the sanctioning of A.A.G. Victor the Republican-dominated state legislature repealed part of the state's sanctions laws (i.e. **Stats. §814.025(3)**), which might suggest that the legislature was trying to protect A.A.G.s from future sanctions, suggesting also that the legislature expects A.A.G.s will persist in using unethical tactics in prisoner litigation.