

Katherine Kealoha, Pro 97691

Honolulu FDC Inmate 06014122

PO Box 30080

Honolulu, HI 96820

FILED IN THE UNITED STATES DISTRICT COURT DISTRICT OF HAWAII

AUG 23 2022

at 1 o'clock and 05 min. P.M. CLERK, U.S. District Court w

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

United States of America

vs.

Katherine Kealoha, et. al

CR.No. 17-00582 JMS-RLP

CR.No. 18-00068 JMS-WRP<sup>W</sup>

CR.No. 19-00015 JMS-RLP

CV.No. 22-00335 JMS-KJM

CV.No. 22-00336 JMS-KJM

CV.No. 22-00337 JMS-KJM

Supplemental filing to Motion to Dismiss filed on July 27, 2022; Motion to correct pleadings; Motion to Recuse Prosecutor Michael Wheat; Declaration of Earle Partington as Exhibit A.

1. Today is August 17, 2022, and I still have not received a copy of the Government's motion that was addressed at the August 16, 2022 status.

2. I would request that a correction be allowed to my previous filings, and the record be made clear that my previous attorney was Cynthia Kagiwada, incorrectly identified in some of my prior pleadings as Cynthia Kajiwara.

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3. This Motion is being made pursuant to Federal Rules of Criminal Procedure; I do not have access to the Rules right now but it will be provided.

4. This Supplemental Motion is brought within the Jurisdiction of the Federal Court of the United States, District of Hawaii, under the United States Constitution.

5. I am proceeding Pro Se, therefore my pleadings should be liberally construed. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Circuit, 2010).

6. I assert that the 7<sup>th</sup> Amendment of the United States Constitution guarantees that no fact tried by a jury shall be otherwise re-examined in any Court of the United States except according to the rules of the Common law. Therefore no other case should have been "re-examined" in our Criminal trial i.e. the underlying civil case jury verdict.

7. Webster's College House (Random House) Dictionary "re-examine" means "to examine again." This is exactly what the Government did our Criminal trial, calling into question the basis of the trial and jury verdict.

8. Pursuant to Federal Rules of Evidence 201, the Court should have been asked to take judicial

notice of relevant records available electronically. See *United States v. Raygoza-Garcia*, 902 F.3d 994, 1001 (9th Circuit 2018). "A Court may take judicial notice of undisputed matters of public record, which may include court records available through [the Public Access to Court Electronic Records]." In this case, the civil jury verdict / case outcome.

9. Motion to recuse Prosecutor Michael Wheat pursuant to Federal Rules of Criminal Procedure (also to be provided to supplement this filing.

10. In July of 2019, after I was convicted of Federal Conspiracy (or shortly thereafter), the Prosecutor assigned to our case AUSA Michael Wheat told Louis Kealoha (my husband and Co-Defendant) and his attorney Rustam Barbee, that he had a picture of me doing cocaine on Louis' desk at the Honolulu Police Department. That statement was a lie, it was slander.

11. This statement was not a part of the case but it showed up in media articles. (with Louis)

12. AUSA Michael Wheat made this statement after our conviction, but prior to our plea negotiations. Mr. Wheat should be required to produce such a picture or be recused from the case for prosecutorial misconduct, intentional interference with co-defendants

defense agreement, intentional interference with our marital status and in violation of my Constitutional Rights.

13. That lie that Mr. Wheat told directly impacted our defense agreement, and intentionally in bad faith induced the plea agreements.

14. This lie was a major contributing factor in Louis turning his back on me and refusing to fight along side of me anymore.

15. Louis was able to forgive me for poor judgments, my opioid addiction, and even having my previous affair embarrassingly blasted all over the media.

16. The one thing that Louis would never forgive me for was disgracing his Beloved office. His loyalty and duty to the Honolulu Police Department was his life, for over 30 years. Louis chose his position of Chief of Police over everything, including himself or often his own family.

17. They say a Sailor's first and true love is the sea; well the Honolulu Police Department is and always will be Louis' first and true love. That is why he was a Great Chief. In every decision he made, he thought of the Honolulu Police Department first.

18. The Government investigated us since 2016, and knew exactly what made Louis tick. When AUSA Michael Wheat lied about that picture, he ended my marriage, destroyed my family and all to ensure the plea agreements. "Divide and Conquer."
19. It was not the conviction that broke Louis' emeritus status, because just as our co-defendants felt, we knew we had a fighting chance on the appeals. It was the guilty pleas that changed everything.
20. I respectfully ask the Court to hold Mr. Wheat accountable for his actions as an officer of the Court, and either produce a picture now of me doing cocaine on Louis' desk (which never happened) or recuse himself from the case.
21. I contend that the Prosecutors intentionally put this statement that I posed in a picture with a line of cocaine on Louis' desk to spark outrage with Louis and use the filing to purposely incite the media. The media was used extensively throughout this case, which I outlined in the motion to dismiss the Grand Jury. (See transcripts before Judge Watson).

22. In that motion I have actual proof that the news media had inside information before the governmental filings were made. Clear evidence of the government using the media to convict us in the court of public opinion before trial started. Making sure that we could not get a fair trial.

23. Between July 20-24, 2021, HAWAII NEWS NOW reported ... " In a stunning revelation included in a newly filed court documents, federal prosecutors say former city Prosecutor Katherine Kealoha won a bet by taking a photo with a line of cocaine on her husband's desk while he was the Honolulu Police Chief."

24. Jennifer Sinco Kelleher, Associated Press, July 22, 2021. Reprinted in Star Advertiser: " Former Honolulu deputy prosecutor Katherine Kealoha allegedly posed with cocaine."

25. By Nick Grube, Honolulu Civil Beat July 20, 2021. "The Kealohas, Cocaine Parties and Oxycodone."

26. It is outrageous how it (the allegations) went from Katherine Kealoha "posing" with a line of cocaine on Louis' desk to attributing any part of the story to Louis' or the expansion to "Cocaine parties."

27. It is not just irresponsible journalism here, it is intentional conduct made to ruin and slander people's reputations. It is Libel.
28. If I was allowed to communicate with Louis I would tell him that he should pursue the issue of this matter legally. We don't have access to Civil Beat or their "stories" in prison so it is difficult to address these matters. I only found out about the extent of that expanded story because of staff members here who are addicted to civil beat.
29. AUSA Michael Wheat told Louis and his attorney that he had a picture of me doing cocaine on Louis' desk, and although I don't have the actual filings described in the media articles, it is clear that the filings indicate that same notion.
30. I renew my request to have AUSA Michael Wheat produce a picture of me posing with cocaine anywhere, including posing with it on Louis' desk or recuse himself from this case.
31. As I prepare for my response to the Government's response to my original motion, I would respectfully request to be appointed stand-by

counsel to assist me in my response which will be due after the Government's response.

32. I Repeat my concern for the mail problems we have been experiencing here at Honolulu FD-C, and want to be sure that I actually Receive the Government's response timely in order to be able to file my response by the Court's given deadlines.

33. Being that I am engaging in legal filings and arguments directly about a § 2255, I believe it is accurate to state that I am in effect in the Appeal process. As a Pro Se defendant, I Respectfully request an order stating that my communications with outside parties, (as I gather information and materials to submit for this appeal) be deemed attorney-client protected and not to be Reviewed by the Government.

I make these statements and requests in good faith, under penalty of perjury.

August 18<sup>th</sup>, 2022

Honolulu, HI

Jenni Jenni

Katherine Kealoha

Pro Se Inmate

06014122




TYG

1. I, Earle Partington, agree that the last communication that I had with Katherine Kealoha we were working on an Appeal ~~and~~ <sup>and/OR</sup> an Ineffective Assistance of Counsel against Cynthia Kagiwada. I was Katherine Kealoha's attorney at the end of her trial. ♡
2. PRIOR to sentencing, we were unable to speak at length about this because of the Covid lockdown. The lockdown prohibited communication. ♡
3. Immediately after sentencing Katherine Kealoha and I discussed filing the 2255 Ineffective Assistance of Counsel and the Appeal. We never further discussed the 2255 or Appeal because of the Covid lockdown. ♡
4. Immediately upon return to the Honolulu FDC, Katherine Kealoha was in custody and remanded to Quarantine for several months and we were unable to communicate. ♡

I hereby state that the above is true under penalty of perjury.

Dated: August 17, 2022

  
EARLE A. PARTINGTON

WITNESSES: Officer Holani and Officer Chan.

Name: Katherine Kealoha  
Number: 06014122  
Federal Detention Center, Honolulu  
P.O. Box 30080  
Honolulu, HI 96820

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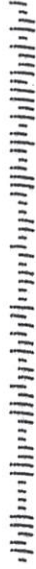
AUG 23 2022

DISTRICT OF HAWAII

*Legal Mail*

*US District Court  
Attn: Clerk of the Court  
300 Ala Moana Blvd C-332  
Honolulu, HI 96850*

96850-497199



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