

FEDERAL DEFENDER SERVICES OF WISCONSIN, INC.

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October 25, 2010

Joseph L. Sommers
Post Office Box 244
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Dear Mr. Sommers:

Michael Lieberman brought your letter of October 13 to my attention and then shared with me the details of your earlier correspondence. Because your most recent letter, in particular, speaks to certain perceptions of the organization for which I am responsible, I am responding in Mike's stead. In particular, I address your request for a "credible explanation" regarding FDSW's perceived refusal to appoint you to any cases over the preceding 15 months. Whether the explanation I provide is credible is something for you to decide, but that which I offer is sincere and based on Mike's input.

If we assign the term "blacklisted" its typical connotation (*i.e.*, an impurely-motivated exclusion), neither you nor any other lawyer has been "blacklisted" from the CJA panel in either of the districts that FDSW serves. Nor does the fact that you have not been receiving appointments have anything to do with your self-described "efforts to expose prosecutorial and judicial misconduct in Wisconsin." The reality is quite different.

Mike has a vision, endorsed by me, for the CJA panel in the Western District. That vision is of a group of private practitioners constituting a "panel" in more than name only. By this I suggest that Mike envisions the panel being comprised of a relatively small group of practitioners who are committed to being professionally tethered to one another and to the group of lawyers within the defender office. This is so for purposes of training; mentoring; keeping current with developments in federal law and procedure, as well as local policy; and, to the extent possible within the limits of conflict-of-interest analysis, brainstorming. It is not, as suggested in one of your earlier letters, cronyism. It is collaboration and a commitment to the honing of our individual and collective federal skills.

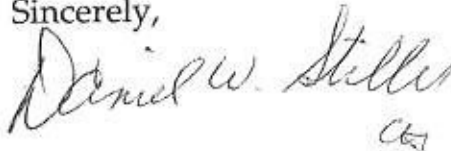
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It is on this basis that you, quite frankly, find yourself on the outside looking in. It is Mike's perception that you have not attended any of the trainings that FDSW has made available during the five years of its presence within the Western District and that you have otherwise presented as a private practitioner hopeful of receiving court-appointed federal cases, rather than as an enthusiastic member of a panel. It is on this basis, and only this basis, that you are not receiving appointments.

You have sought an explanation and I have provided one. Though I imagine my explanation to be unsatisfactory from your perspective, it is my hope that by honoring your fair request for an explanation, the candor of the offered explanation will put the triggering dialog to rest. As I tend to do when fielding complaints from panel lawyers, I state two realities. *First*, the court has vested the responsibility for administering the CJA panel to this office. *Second*, panel membership and the accompanying receipt of appointments is a privilege and not a right. In these regards, lawyers desiring the privilege of receiving court-appointed federal cases are expected to embrace our vision for the development of a first-rate CJA panel. The generally-applicable flip side is that attorneys disinterested for whatever reason in embracing the described vision are, of course, free to forego the attendant privilege. Should you choose to embrace Mike's well-intentioned vision for the Western District panel, I have every reason to believe you would find yourself receiving appointments on an as-needed basis.

Sincerely,

Handwritten signature of Daniel W. Stiller in cursive script.

Daniel W. Stiller

DWS/ch
cc: Michael Lieberman