

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
WESTERN DISTRICT – ASHEVILLE**

Bardes v. Auld (1:15-cv-214)

)	
)	
David A. BARDES, individually, as a taxpayer,)	
)	
Plaintiff,)	INITIAL
)	COMPLAINT
v.)	AND
)	DEMANDS
L. Patrick AULD, Magistrate Judge,)	
Catherine C. EAGLES, District Judge,)	
Patrick Michael DUFFY, Senior U.S. District Judge,)	
Robert CARR, Ex-Magistrate Judge, in their individual)	
and official capacities, The US Courts, The United States)	
of America, The US Department of Justice,)	
John and Jane Does,)	
)	
Defendants.)	
)	
<hr style="width: 50%; margin-left: 0;"/>)	

INITIAL COMPLAINT AND DEMANDS

1. I am a non-prisoner, fee paying, *Pro Se*, non-lawyer, average college educated taxpaying law abiding citizen of the United States with no criminal record. I have never been accused of a crime nor charged with one, I have doctors to testify I am sane. I hereby demand all of my rights be recognized and afforded without delay, including but not limited to those violated under 42 U.S.C. §1983 and 1985.

2. This lawsuit is in regards to the brutal hypothermic torture and my resulting great and serious injuries leaving me permanently disabled, subjected to in the Sheriff Cannon Detention Center in Charleston, South Carolina in April 2006 illegally prosecuted for fabricated child support arrears, by a state attorney fired for his actions, including demanding oral sex from single mothers to prosecute their ex-husbands as he confessed in my case and others, and illegally jailed by a family court judge fired for his conspiracy in the mess and others, his behaviors growing so bizarre he was yanked from the bench. The torture was preceded by the forced liquidation of my business, seizure of every asset, and revocation of ability to earn a living.

During the torture I was shot with a gun, my left hip has a metal joint and my right leg is partially paralyzed from nerve damage from the bullet, and I have board certified medical doctors, surgeons, medical records, x-rays, and scars to prove I am telling the truth.

3. I filed two timely *Pro Se* federal civil rights lawsuits¹ several years apart, the first in 2008, then 2011, both languished for years, failed, and ultimately dismissed.

4. The first two federal judges CARR and DUFFY on the first case concluded hypothermic torture does not exist further brutal hypothermic torture was not a violation of the Constitution, CARR was deemed unstable and disabled, followed by the next two judges AULD and EAGLES on the second case refusing to initially respond for more than two years, setting the record, concluded nothing ever happened and diagnosed me insane and fully consumed in conspiracy theories, putting this defamatory slander in writing affixing signatures and publishing in the public record.

5. Up to, but mostly in 2014, hypothermic torture became common knowledge, by a US Senate Report² on the CIA's horridly too graphically detailed vomit inducing administration of

hypothermic torture and hypothermic murder, including ice baths, and those they killed, a FBI report³ on their widespread use of this torture along with those they sent to the hospital to fight for their life, a string of seven highly reported⁴ bone-chillingly detailed inmate murders using hypothermic torture, the flood of federal lawsuits from their lawyers, one South Carolina State Judge Baxley ruling against his state⁵ ordering the state to pay millions and cease hypothermic torture killing the mentally ill, one jail warden serving 20 years in prison⁶ for his hypothermic torture of his inmate, a federal judge ordering the border patrol (CBC) to release⁶ thousands of women and children from their hypothermic tortures after being sued by their lawyers,⁷ six juveniles fortunate to survive hypothermic torture⁸ as their hands and fingers turned blue, causing national outrage, and fifty protestors marching and banging drums around the Durham, NC jail to protest the hypothermic conditions, as highly reported⁹ the next day.

6. In New York City the non-profit, The Marshall Project, published¹⁰ their summary of many those murdered by hypothermic torture, ironically on the same day the US Senate published their report detailing those dead from hypothermic torture.

7. So everyone knows about hypothermic torture, it is common knowledge because the government told us repeatedly in horrid graphic detail, because prior to 2014 it was vehemently denied, and all federal torture lawsuits dismissed, until it became common knowledge and now the lawsuits are allowed to exist no longer dismissed. I am now seeking my justice, without further delay as my losses compound every day.

8. Judges AULD, EAGLES, DUFFY and CARR all repeatedly denied my multiple motions outlawing hypothermic torture, so all those victims subsequently murdered since, would still be alive today, instead of leaving these judges dripping in their blood. I demand these judges be prosecuted for crimes and imprisoned.

9. The greatest threat to justice is not injustice, rather those whom do the injustice.

Judge AULD and EAGLES

10. Judge's AULD and EAGLES who misdiagnosed me insane, delivered such as defamatory slander, have no medical testimony or medical facts, while I have board certified medical doctors, surgeons, psychiatrists and psychologists who will testify I am sane and telling the truth. These judges made a medical misdiagnosis without a license to practice medicine in North Carolina, affixed signatures and published for all to see, are committing crimes, violating everything in HIPPA, and completely ignoring all the ADA. Injured by their criminal malpractice I demand recompense and award far above my massive damages. I demand these judges be prosecuted, employment immediately terminated forfeited benefits and pension, sued civilly for 300% of their net worth, and imprisoned in one of our many places with hypothermic torture so they can feel the truth. I intend to do to them, what they claimed never happened to me.

11. AULD and EAGLES issued orders denying truth using crime passed off as obeying the law thus making it worse. I demand recompense for my past and ongoing injuries.

Bardes v. MassMutual (1:11-cv-340 CCE-LPA)

12. *Bardes v. MassMutual* is another failed federal *Pro Se* lawsuit before AULD and EAGLES a dispute over a former employment contract MassMutual claimed certain renewal commissions were vested while their contract read they were not. Due to AULD and EAGLES'S previous criminal medical malpractice, the evidence was ignored as I had already been misdiagnosed insane, and agreed with the lawyer. I demand a new trial with law-abiding judges who will read contracts.

Judge Patrick DUFFY

13. Judge Patrick DUFFY in Charleston, South Carolina, issued a fifty-some-page complex opinion concluding brutal hypothermic torture was not a violation of the Constitution, which no one will believe, not today, and certainly not tomorrow, or the day after, or never again. I demand DUFFY explain to me his legal argument concluding the Constitution approves brutal hypothermic torture supported by fifty pages of denying the truth, because I am not a lawyer and unable to understand it. I demand DUFFY be fired, sued civilly for 300% of his net worth, and criminally prosecuted; he is a disgrace to our great nation, not by my words but his.

14. When I received DUFFY'S opinion in the mail after about the third page I was lost and tried my best to decipher, a few more pages it just became nothing to me. No one from the US Courts would explain it to me, claiming they are not allowed to give me legal advice.

15. I gave DUFFY'S opinion to two college educated collogues and asked them to please read to see if they could understand it. They only got as far as I did and stopped. One said it was written in legal ease, and only lawyers can understand such. The other saying it was voodoo talk and they just stuck in a lot of really long pins. Their insights, and my summation as nothing, pretty

much sums up what this secret language means to the taxpaying law abiding educated citizens of this great nation the courts only exist to serve. And no code book exists because it is against the law to write one; no one wants to go to prison.

16. A lawyer and friend of a family member asked me to send DUFFY'S opinion and I did, when I followed up to see if he would explain what the judge was saying as I knew he spoke the voodoo too, he said he was unable to comment only the judge is making a complex legal argument hypothermic torture is not a violation of the Constitution, saying in an apologetic tone he was disappointed with the judge.

17. I paid the courts money, did my utmost effort to try but failed miserably and painfully to be a lawyer for over three years, only lastly mailed a ream of paper of printed words I am not allowed to know. Case closed. I object to being forced to be a lawyer by punishing me because I am not. There is no chance at being fair. I claim my Constitution has been breached.

18. I demand recompense with interest and damages, and a new trial, where I have absolute chance of fairness at every single step of the way, and speak to me in a language I can somehow know. I demand DUFFY explain his ream of paper, so I can finally know.

Ex-Magistrate Robert CARR

19. Judge CARR was ganged up on by the lawyers in his court in a widely reported¹¹ prolonged effort to medically disable him, which was precipitated by a growing list of victims, me included, so I was to learn after the fact, the judge was whacked.

20. CARR denied me access to the jail I was so tortured, I only needed to go in ten feet, and I could have proved my case in five minutes. I was denied even a chance at justice, as a chance is not allowed to exist.

21. Using the truth as a legal argument is prohibited in the US Courts if a US citizen and I have three legal cases to prove it. I demand the courts allow truth to be given some consideration, and not instantly denied.

22. Judges AULD, EAGLES, DUFFY and CARR in both official capacity and individually, are unstable or criminals, or both. If you are a lawyer you can sue the government if not a lawyer you cannot, I demand the same as the lawyers, as is only fair and guaranteed to me in my Constitution. I demand the Constitution be given some consideration.

John and Jane Doe's

23. When granted a new fair trial, before a tribunal of non-disabled, non-crime committed, law abiding and honest federal judges who will give me a chance of fairness and a chance at justice fairly, in every step of the way, I demand my right to name John and Jane Doe's, investigate and enumerate their actions and add claims and damages, to all those in South Carolina who had anything to do with my great, many, and prolonged injuries.

24. The same applies to the employers of the four federal judges. I need to determine if the US Courts hire criminals for judges, or trains them to be criminals on the job, or both. The same applies to the US Department of Justice, whom I have mailed multiple times evidence of their crimes, becoming accomplices by deciding no actions, leaving them complicit in their crimes, which are all civilly actionable.

25. Those subsequent victims whom have been killed from hypothermic torture since they decided no actions, would still be alive today had these criminals not decided for more blood instead. I demand they be prosecuted for crimes and imprisoned.

26. I demand my right to later name John and Jane Doe executives, managers, and support staff of these organizations and investigate and enumerate their actions and add claims and damages.

27. There exists the possibility but not probability there were any forms of communications between anyone in the US Courts, the DOJ, and anyone else, federal state or local, in regards to torture and hypothermic torture in any way shape or form, in regards to my two torture cases, or anyone else's. If there is any forensic evidence or knowledge of such, I demand my rights to expand this lawsuit with more.

Added claims

28. I demand my right to amend this lawsuit and name John and Jane Doe's when the two new judges examine all the other laws these criminals broke. My written contract with all my defendants was signed 228 years ago, and has been badly breached. I demand recompense without delay.

29. The US Courts either need to dumb themselves down to where I can understand, or smarten me up by telling me how the place works, how to have a chance at fairness and a chance at justice, or hire me a lawyer who has the same years of experience and knowledge as those I am pitted against with no way not becoming their prey, or send me to law school so I can understand the conversation too. Or hire everyone a lawyer as is the only way a chance at fairness can even be attempted. Or create a second court, one which serves the citizens, the other serving lawyers.

Doing anything is an improvement. I demand the US Courts do something other than unstoppable injury.

30. My three failed lawsuits are in PACER, so I attach all three as such. I demand a chance at fairness and a chance at justice against all those who had anything to do with either three suits.

The Two New Judges on this Case

31. I demand my right to later name John and Jane Doe's, investigate and enumerate their actions and add claims and damages, against either the two new judges on this case, because if they deny me chance of fairness and chance of justice, I have a civic duty to sue them too. It says in my Constitution I have the right to petition my government for redress of grievances so I demand without delay.

32. I demand the judge's sign an order outlawing the use of hypothermic torture, by anyone anywhere, before any more are maimed or killed. Because if any are, their tortures and or murders will be on the these judges requiring prison to be tortured next, left wishing abolished before. The only person stopping them from becoming me is me. I am doing my civic duty taught in the first grade.

33. I demand the judges not use a single provision of the Prison Reform Litigation Act against me in anyway; else I have a civic duty to require them prove it to a jury of twelve people like me and not like them.

34. I demand the judges not use *res judicata* or anything close, if they issue orders stating my claims have been adjudicated, I have a civic duty to require them to prove it before their jury

after I explain jury nullification to my fellow citizens as our highest civic duty to make us a better union.

35. I demand a jury of twelve.

36. I demand the judges no longer demand I practice law same as a lawyer, as I am not allowed to know how practice law to even pretend. The court's own website¹² states I "must be prepared" to be "same as a lawyer," else punished for not being one. It states I have no right to be represented by a lawyer; but in certain circumstances the court may grant a chance of fairness, but do not count on it, as a chance of fairness is not a right in the US Courts. I demand a chance of fairness and a chance of justice in every single circumstance with no further delay.

37. As to tolling statutes I have not stopped taking active legal pursuit since the moment I was tortured, so the clock has no elapsed time.

38. I demand award of damages and recompense in addition to already demanded in excess of \$400,000,000.00.

39. This legal testimony I freely provide under oath, and of my opinion. 28 U.S.C. §1746; 18 U.S.C. §1621

40. All this I demand of this court without delay. Submitted this day 24 of September, 2015, by

x _____
David A. Bardes, *Pro Se*

213 Rainbow Lake Drive
Brevard, North Carolina 28712
828-393-4599(h)
davidbardes@davidbardes.com
ColdCellTorture.com

FOOTNOTES

1. Federal Lawsuits:

Bardes v. Magera (2:08-cv-487-PMD-RSC). Fourth Circuit CA 09-2191 & 10-1944. SCOTUS: No. 10-8581, Mar 28 2011 Petition DENIED.

Bardes v. The State of South Carolina (1:11-cv-999-CCE-LPA). Fourth Circuit CA No. 13-2133 (09/13/2013)

Bardes v. MassMutual (1:11-cv-340 CCE-LPA)

2. US Senate Report on CIA Torture and Murder:

On December 9, 2014 the US Senate Intelligence Committee published their Report on CIA Torture and Murder. See Senate websites, or <http://coldcelltorture.com/cia.php>

One victim later deemed innocent, was beaten, bones broken, sodomized, rectally rehydrated, submerged in ice baths, given ice showers, then spent days in hypothermic cold cells stripped naked and chained to a bolt in the floor, dying from hypothermia. And his family denied his dead body for even a proper burial.

3. FBI Report detailing hypothermic torture:

In May of 2008 the US Department of Justice, Oversight and Review Division, Office of the Inspector General, published their unclassified, "A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq" report. See agency websites or <http://coldcelltorture.com/fbi.php>

Of the dozen or so descriptions of the FBI using hypothermic torture, on page 80 is found:

The same FBI agent told the OIG that approximately two weeks later she encountered another detainee who was shackled to the floor of an interview room. She said the air conditioner had been set to make it very cold in the room and the detainee was shivering. Also, the detainee had urinated in his pants. The MPs advised her that the detainee had been in the room since the previous day with the air conditioner left on the whole time, and that they were told not to bring the detainee food, water, or anything else until the interrogators returned. The agent said the MPs told her that the interrogators were trying to "break down" detainees through the use of temperature manipulation, loud music, and immobility.

4. Seven Reported Hypothermic Deaths:

See articles reporting hypothermic murders of inmates Daniel Pantera (2012), unnamed (2012), Raleigh Priester (2012), Jerome Laudman (2008), Willie Daniels (2006), Bobby Ray Mott (2003), and Charles Platcher (2003) in search engines or <http://coldcelltorture.com/three.php>

5. South Carolina Judge Baxley's hypothermic ruling against South Carolina:

After the brutal and slow hypothermic murder of South Carolina prison inmate Jerome Laudman in 2008, his family sued, and South Carolina State Circuit Judge Michael Baxley agreed with the family and in 2014 issued a 45-page order finding the Department of Corrections had violated the rights of Laudman and other inmates with serious mental illness, and ordered the state to stop killing the mentally ill with hypothermic torture, estimated to cost \$30 million. See search engines or <http://coldcelltorture.com/laudman.php>

6. Warden Wilson in prison for hypothermic torture:

White County, Tennessee, Warden Wilson is serving a 20 year prison sentence for the prolonged and near-death hypothermic torture of inmate Joshua Roberson. He lost his appeal, *United States v. Wilson* (No. 07-5825, US COA 6th Circuit). See court resources and search engines, or <http://coldcelltorture.com/wilson.php>

7 – Mexican children being tortured with hypothermia:

Mexican children being tortured with hypothermia sue the CBP [Customs & Border Protection.] Lawyers for women and children detainees stated the temperature inside the concrete cells was kept so cold the detainees' lips chapped and split, their fingers and toes turned blue, and their faces chapped and throbbed with pain, see federal lawsuit, Case No. 1:14-cv-20945, or <http://coldcelltorture.com/border.php>

In August of 2014 California US District Judge Dolly M. Gee ordered the release of children held in inhumane conditions in CBP detention centers in Texas. See: http://www.nytimes.com/2015/07/26/us/detained-immigrant-children-judge-dolly-gee-ruling.html?_r=0

8. Six Juveniles tortured with hypothermia:

In Lancaster, Ohio, in 2014, the local newspaper reported on a lawsuit filed by Attorney Edward Forman in regards to six juveniles tortured with hypothermic torture and the article quoted:

The lawsuit alleges that juveniles were repeatedly placed in solitary confinement for periods of up to 40 days with temperatures in the mid-50s in the holding cells. The lawsuit alleges the juveniles were frequently kept nearly naked without access to blankets, and as a result of this suffered symptoms of frostbite, including blisters and purplish-blue skin on their fingers and toes. Juveniles also suffered symptoms of hypothermia, including uncontrollable shivering and chattering of teeth, dizziness, nausea, and confusion, the lawsuit contends.

Plaintiff's lawyer, Attorney Edward Forman, is quoted:

"These conditions were truly horrific," Forman said. "No human being should ever be subjected to conditions like this, and certainly not children. How can we ever expect to reform and help juvenile offenders when we treat them this way?"

See lawsuit in the Southern District, Eastern Division case No. 2:14-cv-01608, as found in PACER, or see <http://coldcelltorture.com/juvenile.php>

9. Protest at Durham Jail:

See local Fox affiliate 1/1/15 article reporting fifty protestors banging drums marching around the Durham jail in protest to hypothermic conditions and lack of edible food, see:

<http://myfox8.com/2015/01/01/prisoners-protest-held-in-downtown-durham/>

Six months later in Summer of 2015, with an outside temperature of 100 degrees, Amplify Voices, the jail's watchdog group, reported a letter from an inmate, *"Everything is going pretty bad in here. It's very cold temperatures in this jail, mostly in the cell. But I ask the officers can they turn up the heat, but it never get done. We have to put on all of our clothes just to stay warm."* Sheriff Michael Andrews has the air conditioner thermostat set to murder. It is only a matter of time.

See other inmate letters as to hypothermic conditions this summer at the watchdog group's website, see <http://amplifyvoices.com>

10. Marshal Project article on hypothermic murders:

On the same day the US Senate published their report detailing hypothermic murder, on December 9, 2014; New York City's non-profit The Marshall Project published their report and news article detailing the hypothermic murders of our own citizens and asks the question why.

Their attention was initially prompted by the murder trial of a Riker's Island jail guard accused of turning up the heat in one inmate's cell so hot his brain baked to death. This is called hyperthermic torture, the opposite of hypothermic torture, but both kill.

See their report titled, *"It's Not the Heat: Prison inmates are dying of cold. Why?"* by Alysia Santo.

See either <http://themarshallproject.org>, or directly at:
https://www.themarshallproject.org/2014/12/09/it-s-not-the-heat?utm_medium=homepage&utm_campaign=site-placement&utm_source=featured-block&utm_content=3-112

The largest financial and operating principle of the Marshall Project has contacted the US Department of Justice on three discussions regarding hypothermic torture, but hypothermic torture continues on, so no one has done a thing.

11. Judge CARR disabled, contract not renewed:

In 2010 Charleston, South Carolina Lawyer Andy Savage is reported in the local Post and Courier Newspaper in an article titled “*Savage wants judge off torture case,*” demanding Judge CARR recuse himself from a torture case as his client was unable to get a fair trial otherwise, which Savage says was precipitated by years of odd and unexplainable behaviors, all of which led to CARR having his contract cancelled and as of October 2011 is no longer a judge, as a US Marshall told me on the phone, meaning he was removed months before his contract expired, and not renewed.

My first hearing in federal court was before CARR and occurred in Charleston, SC in 2008, and as I stood at the plaintiff’s table, at the defendant’s table stood four seasoned defense lawyers talking to a staff of greater number. At one point they must have said something to anger the judge, because Magistrate Robert CARR started screaming at the top of his lungs, his face bright red with spittle flying about as he screamed and shout, and after several minutes of this screaming I did not know why the judge had become unglued, or if was standard fare in the federal court, it was my first time there. The defense lawyers stood at attention rapidly nodding their heads saying yes your honor, yes your honor, their staff frantically flipping through law books to feign help. I sat down as my legs were bad and could not stand for so long, and waited for the screaming to stop. This was videotaped into the record, with research you can find it.

See Post and Courier article titled, “*Savage wants judge off torture case,*” published on June 16, 2010 at: <http://www.postandcourier.com/article/20100616/PC1602/306169971>

12. Western District of North Carolina website:

The Western District’s website provides the following text to *Pro Se* litigants:

*...You do not have the right to an attorney in a civil case and the Court only appoints attorneys in certain circumstances. Because you do not have the right to an attorney and may not be appointed one, you **must be ready** to pursue your case to completion [same as a lawyer.]*

*...If you file a case pro se, you will have to follow the Federal Rules of Civil Procedure and this Court's Local Rules **the same as any attorney who represents someone***

How can I be the same as any attorney when the only way to be same as any attorney is to be an attorney?

See <http://www.ncwd.uscourts.gov/filing-without-attorney>

As to the Federal Rules of Civil Procedures:

The Federal Rules of Civil Procedures can only be understood by three years of law school and decades of tutelage before practice, otherwise they help as nothing, but I am required to be the same as any attorney and held responsible being not. This is fundamental nofairness.

As to the Local Rules:

I had questions about the Middle District's local rules, which I am expected to follow same as an attorney or suffer loss. There were rules which did not make any sense, some with half sentences which just stopped, then contradicted. I asked the clerk what the rule means, and was told it is against the law to tell me. She suggested I ask Judge Webster in the hearing.

I wrote down all my questions on a pad of paper, to prepare. When allowed to speak I asked the judge my first question. He looked around on his bench for a copy of the local rules, and then flipped through a few stacks of paper, and looked under the desk, and said he did not have a copy of the local rules. The defense lawyer pulled out his copy of the local rules, and read the rule in question to the judge. The judge answered he did not know what the rule means either, and asked the defense lawyer whom answered he also did not know. The judge said he was unable to answer my questions on the local rules. I looked down at my pad of questions having been told to ask no more, and thanked the judge and sat down. This was videotaped into the record in the Durham, NC courthouse, with research you can find it

So I cannot know the rules to be same as an attorney, as the judge does not even know the rules, he has no copy, while those who know cannot tell you or they go to prison.

This is fundamental zero fairness as even a chance is prohibited. I strongly object and I demand a chance at fairness, and a chance at justice, as guaranteed in the Constitution.