

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

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OF THE FIFTH CIRCUIT  
FILED

JAN 9 2009

Gregory A. Nussel  
Secretary to the Council

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DOCKET NO. 07-05-351-0086

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**IN RE: Complaint of Judicial Misconduct against United States  
District Judge Samuel B. Kent under the Judicial Conduct and  
Disability Act of 1980**

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**ORDER**

On December 20, 2007, this Council issued an order deferring consideration of the complainant's motion to reconsider the sanctions imposed against Judge Samuel B. Kent as the result of his misconduct. The consideration of this motion was deferred in deference to a criminal investigation being conducted by the United States Department of Justice.

On August 28, 2008, a United States Grand Jury handed down a three count indictment charging Judge Kent with felonies for conduct which had been the subject of the misconduct investigation of the Special Investigating Committee and the sanctions imposed by this Council as a result of that misconduct. (This indictment is attached as "Exhibit A".) The Council has continued to defer action on the motion for reconsideration pending the trial on those charges.

On January 6, 2009, that same United States Grand Jury issued a superseding indictment charging Judge Kent with committing additional misconduct described in Counts 4, 5 and 6 of the superseding indictment. The superseding indictment is attached as "Exhibit B". The conduct charged in Counts 4, 5 and 6 of the superseding indictment is conduct which is beyond the

misconduct the Special Investigating Committee and this Council discovered and considered, and upon which it based its earlier sanction.


In light of the new allegations of additional serious misconduct of which the Special Investigating Committee and the Council were unaware:

1. It is ordered that the complainant's motion seeking reconsideration of the sanctions imposed against Judge Kent is granted;

2. Following the trial of the criminal charges pending against Judge Kent, the Council will investigate the additional charges of misconduct alleged in Counts 4, 5 and 6 of the superseding indictment along with any supplemental investigation needed on the misconduct alleged in the original indictment. The Council will take such additional steps as are necessary to impose further sanctions in light of the result of the investigation.

DONE this 9<sup>th</sup> day of January, 2009.

FOR THE COUNCIL:

  
\_\_\_\_\_  
Chief Judge

United States Courts  
Southern District of Texas  
FILED

EXHIBIT A

AUG 28 2008

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA §

CRIMINAL NO.

**08-596**

v. §

Count One: 18 U.S.C. § 2244(b)

SAMUEL B. KENT §

Count Two: 18 U.S.C. §  
2241(a)(1)

Defendant. §  
§  
§

Count Three: 18 U.S.C. § 2244(b)

INDICTMENT

The grand jury charges:

INTRODUCTION

At all times relevant to this indictment:

1. Defendant SAMUEL B. KENT was a United States District Judge in the Southern District of Texas. From 1990 to 2008, defendant KENT was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.
2. Person A was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to defendant KENT's courtroom.

**COUNT ONE**  
**(18 U.S.C. § 2244(b))**  
**Abusive Sexual Contact**

3. On or about August 29, 2003, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly engage in sexual contact with another person without that other person's permission, to wit: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, did engage in the intentional touching, both directly and through the clothing, of the groin, breast, inner thigh, and buttocks of Person A with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of Person A.

All in violation of Title 18, United States Code, Section 2244(b).

**COUNT TWO**  
**(18 U.S.C. § 2241(a)(1))**  
**Attempted Aggravated Sexual Abuse**

4. On or about March 23, 2007, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly attempt to cause another person to engage in a sexual act by

using force against that other person, to wit: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, attempted to cause Person A to engage in contact between Person A's mouth and defendant KENT's penis by forcing Person A's head towards defendant KENT's groin area.

All in violation of Title 18, United States Code, Section 2241(a)(1).

**COUNT THREE**  
**(18 U.S.C. § 2244(b))**  
**Abusive Sexual Contact**

5. On or about March 23, 2007, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly engage in sexual contact with another person without that other person's permission, to wit: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, did engage in the intentional touching, both directly and through the clothing, of the groin, breast, inner thigh, and buttocks of Person A with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of Person A.

All in violation of Title 18, United States Code, Section 2244(b).

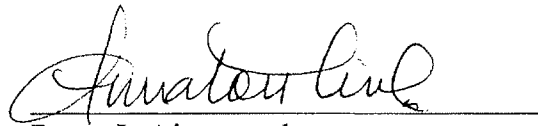
A true bill.

ORIGINAL SIGNATURE ON FILE

By: \_\_\_\_\_  
Grand Jury Foreperson

WILLIAM M. WELCH II  
Chief, Public Integrity Section

By:

A handwritten signature in cursive script, appearing to read "Ainsworth", written over a horizontal line.

Peter J. Ainsworth  
John P. Pearson  
AnnaLou T. Tirol  
Trial Attorneys

EXHIBIT B

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAN - 6 2009

Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA §

CRIMINAL NO. 08 - 596

v. §

Count One: 18 U.S.C. § 2244(b)

Count Two: 18 U.S.C. § 2241(a)(1)

SAMUEL B. KENT §

Count Three: 18 U.S.C. § 2244(b)

Count Four: 18 U.S.C. § 2241(a)(1)

Defendant. §

Count Five: 18 U.S.C. § 2244(b)

§  
Count Six: 18 U.S.C. § 1512(c)(2)

SUPERSEDING INDICTMENT

The grand jury charges:

INTRODUCTION

At all times relevant to this indictment:

1. Defendant SAMUEL B. KENT was a United States District Judge in the Southern District of Texas. From 1990 to 2008, defendant KENT was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.
2. Person A was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to defendant KENT's courtroom.

3. Person B was an employee of the United States District Court for the Southern District of Texas.

**COUNT ONE**  
**(18 U.S.C. § 2244(b))**  
**Abusive Sexual Contact**

4. On or about August 29, 2003, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly engage in sexual contact with another person without that other person's permission, that is: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, did engage in the intentional touching, both directly and through the clothing, of the groin, breast, inner thigh, and buttocks of Person A with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person.

All in violation of Title 18, United States Code, Section 2244(b).



**COUNT TWO**  
**(18 U.S.C. § 2241(a)(1))**  
**Attempted Aggravated Sexual Abuse**

5. On or about March 23, 2007, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly attempt to cause another person to engage in a sexual act by using force against that other person, that is: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, attempted to cause Person A to engage in contact between Person A's mouth and defendant KENT's penis by forcing Person A's head towards defendant KENT's groin area.

All in violation of Title 18, United States Code, Section 2241(a)(1).

**COUNT THREE**  
**(18 U.S.C. § 2244(b))**  
**Abusive Sexual Contact**

6. On or about March 23, 2007, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly engage in sexual contact with another person without that other person's permission, that is: defendant KENT, at the United States

Post Office and Courthouse in Galveston, Texas, did engage in the intentional touching, directly and through the clothing, of the groin, breast, inner thigh, and buttocks of Person A with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person. All in violation of Title 18, United States Code, Section 2244(b).

**COUNT FOUR**  
**(18 U.S.C. § 2241(a)(1))**  
**Aggravated Sexual Abuse**

7. On one or more occasions between January 7, 2004, and continuing until at least January 2005, any one and all of which constitute the offense of Aggravated Sexual Abuse, but which the Grand Jury cannot further differentiate by date, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly cause and attempt to cause another person to engage in a sexual act by using force against that other person, that is: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, did engage and attempt to engage in contact between his mouth and Person B's vulva by force and did penetrate and attempt to penetrate the genital opening of Person B by a hand and finger by force with an intent to abuse,

humiliate, harass, degrade, and arouse and gratify the sexual desire of any person.

All in violation of Title 18, United States Code, Section 2241(a)(1).

**COUNT FIVE**  
**(18 U.S.C. § 2244(b))**  
**Abusive Sexual Contact**

8. On one ore more occasions between January 7, 2004, and continuing until at least January 2005, any one and all of which constitute the offense of Abusive Sexual Contact, but which the Grand Jury cannot further differentiate by date, in the Southern District of Texas, in the special maritime and territorial jurisdiction of the United States, defendant

**SAMUEL B. KENT**

did knowingly engage in sexual contact with another person without that other person's permission, that is: defendant KENT, at the United States Post Office and Courthouse in Galveston, Texas, did engage in the intentional touching, directly and through the clothing, of the genitalia, groin, breast, inner thigh, and buttocks of Person B with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person.

All in violation of Title 18, United States Code, Section 2244(b).

**COUNT SIX**  
**(18 U.S.C. § 1512(c)(2))**  
**Obstruction of Justice**

9. On or about May 21, 2007, Person A filed a judicial misconduct complaint with the United States Court of Appeals for the Fifth Circuit. In response, the Fifth Circuit appointed a Special Investigative Committee to investigate Person A's complaint.
10. On or about June 8, 2007, at defendant KENT's request and upon notice from the Special Investigative Committee, defendant KENT appeared before the Committee.
11. As part of its investigation, the Committee sought to learn from defendant KENT and others whether defendant KENT had engaged in unwanted sexual contact with Person A and individuals other than Person A.
12. On or about June 8, 2007, in the Southern District of Texas, defendant

**SAMUEL B. KENT**

did corruptly obstruct, influence, and impede an official proceeding, and attempt to do so; that is, defendant KENT falsely stated to the Special Investigative Committee of the United States Court of Appeals for the Fifth Circuit that the extent of his unwanted sexual contact with Person B was one kiss and that when told by Person B his advances were unwelcome no

further contact occurred, when in fact and as he well knew defendant KENT had engaged in repeated unwanted sexual assaults of Person B, in order to obstruct, influence, and impede the Fifth Circuit's investigation into the misconduct complaint filed by Person A.

All in violation of Title 18, United States Code, Section 1512(c)(2).

A true bill.

By: ORIGINAL SIGNATURE ON FILE

WILLIAM M. WELCH II  
Chief, Public Integrity Section

By:



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Peter J. Ainsworth  
John P. Pearson  
AnnaLou T. Tirol  
Public Integrity Section

