

(b) Such rules shall not abridge, enlarge or modify any substantive right.

## II. FACTUAL ALLEGATIONS.

(a) The Plaintiff was not noticed, nor did he consent to a magistrate judge's hearing

And determination of this civil matter pursuant to 28 u.s.c. 636 ( c).

1. Plaintiff filed a simple to the court, to amend as to the proper parties in his case

On November 10,2012.( Objection exhibit 1)

2. In the manner in which the clerk of the court advised Plaintiff, filed a motion enter a

Affidavit which was to be used for evidence in his case. (objection exhibit 2, pages 1, 2 and 3).

3. On November 29,2012 magistrate judge M. Smith entered his order addressing the,

The motions (1 and 2)..

4. Plaintiff , makes his strongest objection he can make to the Body of the order as a whole,

And points to the specific wording as an attempt by judge Smith to direct , intimidation

Against. Plaintiff.

(a) Paragraph 1 in his order, at note 1 it is clear to me that the judge forgot that in the habeas case judge Smith cited. He refused to allow Plaintiff to proceed, and directed him he had to pay the filing fee. So I took what was the money I had put back and paid the filing fee in this case cv412-239. And it is now clear, just by the note I that judge Smith would have dismissed the complaint without due process.

(b). Page 2 Paragraph 2, Would magistrate judge Smith say those things to a Bar Attorney?

( c). Pages 2 and 3, page 2 the words ( court warns, harrang, pay back litigation, monetary sanctions dismissing, sanctions, frivolous), are all meant by magistrate judge M. Smith, to intimidate Plaintiff David Sutherland, as a pro se plaintiff,