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FIJA Files Amicus Brief in Ninth Circuit

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by [Elias Alias](#) , [December 2, 2015](#)

With a salute to Don Doig, co-founder of the Fully Informed Jury Association, Oath Keepers is proud to spread the word about FIJA filing its most recent Amicus Brief, which should be of interest to all our members.

FIJA Banner cropped2

FIJA Files Amicus Brief in Kleinman Case in Ninth Circuit Court of Appeals

For Immediate Release

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Helena, MT– The Fully Informed Jury Association (FIJA) has filed an [*amicus curiae brief*](#) in the case of United States of America v. Noah Kleinman in the Ninth Circuit Court of Appeals challenging the judge’s instructions to jurors, which FIJA argues effectively denied the defendant’s Constitutionally-guaranteed right to trial by jury. From the outset of the federal trial of Noah Kleinman for victimless, marijuana-related activities that were legal under California state law, the prosecution and the judge were bent on quashing any possibility of jurors conscientiously acquitting Kleinman.

Jurors in the case were vetted extensively not only during the initial voir dire at the start of the trial, but were grilled again by the judge in individual, mid-trial interviews. In explaining his crafting of the mid-trial interrogation, the judge [*stated*](#) that jurors “lie like hell” and that “First they lie not to get in that seat; now they will lie to keep that seat.”

Such blatant disrespect of the jury and abuse of the jury process ultimately culminated in the judge issuing inaccurate instructions to the jury, verbatim as submitted by the prosecutor, with objections from the defense being rebuffed. The

offending instruction read:

“You cannot substitute your sense of justice, whatever that means, for your duty to follow the law, whether you agree with it or not. It is not your determination whether a law is just or whether a law is unjust. That cannot be your task. There is no such thing as valid jury nullification. You would violate your oath and the law if you willfully brought a verdict contrary to the law given to you in this case.”

FIJA argues in its amicus brief that in Kleinman’s trial that the court’s approach and treatment of the jury, and its jury instructions, so deprived the jury of its ability to deliberate over Kleinman’s fate that Kleinman was utterly deprived of trial by jury:

“While jury instructions have increasingly taken on a tone and orientation reflecting the prosecution bar’s desire to repress jury discretion, never before has a jury been instructed in such an overtly ham-fisted manner as the jury in Noah Kleinman’s trial...”

Roger I. Roots, J.D. Ph.D., attorney and FIJA advisory board member, wrote and filed the brief pro bono on behalf of FIJA.

“This case offers a near perfect opportunity for a high-level, appellate court to address the growing inaccuracy of jury instructions at the trial level. In fact, they’re not just inaccurate-in many ways they are totally false,” said Dr. Roots.

About the Fully Informed Jury Association

The Fully Informed Jury Association (FIJA) is a 501(c)(3), non-profit, nonpartisan, educational organization headquartered in Helena, Montana. Focusing on issues involving the role of the jury in our justice system, FIJA seeks to preserve the full function of the jury as the final arbiter in our courts of law by informing everyone about their rights, powers and responsibilities in delivering just verdicts when serving as jurors. The organization does not advocate for or against any case in progress, but rather seeks to fully inform everyone of all their options when serving on juries. This includes the option to conscientiously acquit when a just verdict requires it by voting Not Guilty, even if they believe the law has technically been broken, without fear of punishment for their verdict.

Learn more at FIJA’s website: <http://fija.org/>

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