IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v. No. 05-1922

MATTHEW HALE,

Defendant-Appellant ,

Petition for Panel Rehearing and, in the alternative,
Petition for Rehearing En Banc

Humbly submitted,

Matthew F. Hale, pro se
#15177-424
U.S. Penitentiary-Max
P.O. Box 8500
Florence,C0 81226-8500

TABLE OF CONTENTS

Table of Authorities	ii
Petition for Panel Rehearing	1
Petition for Rehearing En Banc	6
Certificate of Service	7

TABLE OF AUTHORITIES

	Page
Above the Belt, Inc. v. Mel Bohannon Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983)	6
Bank of Waunakee v. Rochester Cheese Sales, inc. 906 F 2d 1185, 1191 (7th Cir. 1990)	6
United States v. Gabriel, 810 F 2d 627 (7th Cir. 1987)	6
United States v. Rahman, 34 F. 3d 1331 (7th Cir. 1994)	6
Statutes	
18 U.S.C. sec. 373	6
Rules	
Federal Rule of Appellate Procedure 35	1, 6
Circuit Rule 35	1
Federal Rule of Appellate Procedure 40	1, 4
Circuit Rule 40	1

Now comes the Defendant-Appellant Matthew Hale to petition this Honorable Panel for rehearing of his appeal pursuant to FRAP Rule 40 and Circuit Rule 40 and, in the alternative, petition this Honorable Court for rehearing en banc pursuant to FRAP 35 and Circuit Rule 35, stating as follows:

First, let me state that I am well aware that the granting of a petition for rehearing of an appeal - either to the panel that initially denied it or to the full Court - is an exceptional outcome. I do believe, however, as an innocent man who truly in his heart of hearts thought that he had refused to join a plot against Her Honor Judge Lefkow's life and meant no harm towards her whatever, that there are exceptional circumstances in this case that indeed justify such an exceptional outcome. I set forth these exceptional circumstances below.

Petition for Panel Rehearing (and Rehearing En Banc

It appears from the Panel's decision that it may not have read, and hence not considered, the Reply Brief I filed in this case. The first reason why I say that, this is because pages 9 and 17-18 of its decision specifically - and in fact its entire decision generally - operate under the premise that the "information" I wanted was Judge Lefkow's address alone rather than the home addresses of four people: the home address of Judge Lefkow and lawyers James Amend, Paul Steadman, and Kevin O'Shea. This distinction, I humbly posit, is vital to a just, fair, and accurate resolution of this case. It is a distinction, in fact upon which the rest of my meaningful life depends.

On pages 63-66 of my handprinted Reply Brief, I set forth why exactly the "information I wanted must be the home addresses of four people and not just Judge Lefkow's (and please also read again pp. 22-26 of my opening brief) - why in fact that is the only rational reading of the evidence in this case - but if the Panel did not read my Reply Brief, my argument there and elsewhere obviously was not considered.

I note that I filed a motion to withdraw my original reply brief on February 16, 2006 (I had filed a new Reply Brief on January 6, 2006). I cannot help but wonder though if both of my reply briefs were somehow inadvertently withdrawn and thus the Panel didn't consider the 89 pages of handprinted, double-spaced arguments set forth therein? If so, I submit that this itself is surely reason enough to grant my petition for rehearing because otherwise, I have been deprived of the opportunity to fully argue the merits of this case before the Panel and, of course, answer the arguments of the prosecutor. A manifest injustice has consequently resulted.

On December 5, 2002, government informant Evola said to me, "Well, I got your emal about the Jew judge, you wanting his address and the other rats." I in turn replied, "That information, yes, for educational purposes and for whatever reason you wish it to be." As the Panel noted on p. 9 of its decision, I had the previous

day asked Evola to obtain the home addresses of Judge Lefkow and the three lawyers of the Kirkland & Ellis law firm representing the other side in the trademark case presided over by Judge Lefkow.

Nonetheless, pages 9-10 and 17-18 of the Panel's decision clearly indicate that the Panel thought that "the information" I was referring to was Judge Lefkow's address alone. Specifically, the Panel stated on p. 9, "On December 5, Evola went to Hale's home unannounced to discuss the email 'about the Jew judge' and, in particular, Hale's request to locate her home address" and immediately after, the Panel quotes my saying "That information, yes, for educational purposes and for whatever reason you wish it to be." However, the "information" I wanted consisted of four addresses, not just Judge Lefkow's.*

What is of critical importance is for the Panel to ask itself::

Did Hale want Judge Lefkow's address "and the other rats" physically?
or
Did Hale want Judge Lefkow's address "and the other rats" addresses?

If the former is correct - that I wanted Judge Lefkow's address and the other rats physically, I concede that there is no doubt that the "information" I referred to was Judge Lefkow's address alone, no doubt that I thought Evola was querying about "exterminating" Her Honor, and concede that arguably a rational jury could perhaps find this to be a "code" for approving an attack on Judge Lefkow as the prosecutor argued in his brief and the Panel cites on p. 17 of its decision.

On the other hand, if I was wanting Judge Lefkow's address and the other rats' (addresses) which is indeed

*We weren't talking in particular about Judge Lefkow's address at all.

* Also, I must note, a valid conviction under 18 U.S.C. Sec. 373 requires that the proven target be Judge Lefkow because the solicitation of a private lawyer's number is not in violation of the laws of the United States.

the case as demonstrated by the December 4th email, the "information" I was referring to was composed of four individuals' addresses and thus there is reasonable doubt as to every facet of the government's case - no evidence in fact that the "Jew rat" Evola queried about "exterminating" was her Honor (see again Decision p. 9) and no evidence, in fact (as I argued in my Reply Brief pp. 11-14), that I solicited anyone's murder.

(This latter point further strongly persuades me that the Panel did not read my Reply Brief because the Panel states on p. 17 of its Decision that, "For his part, Hale all but concedes that there was adequate evidence with respect to this element; he seems to accept that the government proved he solicited the murder of someone, just not Judge Lefkow." On pp. 11-14 of my Reply Brief, I specifically refuted such a notion. Further, while the Panel mentions the idea of a "code" on p. 17 of its Decision, it makes no mention of my specific reply to that contention

found on pp. 66 of my Reply Brief.)* (See above)

In essence, understanding that my "information" was composed of four individuals' addresses makes a massive difference in this case. In essence, horribly and sadly enough, I remain imprisoned an innocent man due to a simple misunderstanding of English grammar. This is the paramount fact, under FRAP 40 (9)(2) that warrants a rehearing by the Honorable Panel.

In addition to pp. 63-66 of my handprinted Reply Brief which discusses why there is only one factually, grammatically, and linguistically rational reading of the phrase "you wanting his address and the other rats" and hence my "information" was composed of four addresses (please read again or for the first time same), please also consider the following analogy:

Say I sat down at a table in a restaurant, ordered a cup of coffee, and the waiter says to me, "you wanting cream and sugar?" Clearly, the waiter is asking me if I want both cream and sugar. By the same token, when Evola said to me, "you wanting his address and the other rats," he was saying to me that I was wanting both his address and the other rats.' Thus, since the evidence is clear that I did not want "the other rats" physically, "the other rats must be possessive; hence Evola's "it" was also composed of four addresses; hence Evola had to clarify which "rat" he was querying about "exterminating" ("Ah, when we get it, we gonna exterminate the rat? Jew rat?"); hence the "Jew rat" was in fact one of the Kirkland & Ellis lawyers whom as noted on Decision p. 9, I had labeled a "Jew" just the previous day (James Amend or Paul Steadman); hence why Evola referred to a "lawyer rat" later in the same conversation since he too had been talking about either Amend or Steadman earlier; hence why Weisman and the FBI conspired to have Evola send me a "femala rat" email on December 9th to make Her Honor the "target" after the fact; and hence why I adamantly refused to join a plot against a "femala" rat is (Judge Lefkow's) life on December 17th!

* * *

The second reason why I suspect that the Panel did not read my Reply Brief is that while its decision makes references to arguments found in my opening brief as well as arguments made in the government's brief, it makes no reference - anywhere - to arguments found in my Reply Brief. I especially refer the Panel to p. 20 or its decision, the Panel stating:

"Hale's insistence that he thought Evola was talking about someone else on December 5 is a frivolous argument on this record, particularly because in the days that followed Evola identified the target in language that pointed to the judge alone, but Hale said nothing to suggest that a misunderstanding had occurred. Evola's email to Hale on

December 9 assured Hale that the "exterminator" he had called "located her and was "working to get rid of the femala (sic) rat right now." Judge Lefkow was the only woman on the list that Hale sent on December 4, so his defense that he was confused about the intended victim is unconvincing. Hale's inaction after opening Evola's email of December 9 stands in stark contrast to his "veto" of Evola's plan for Ken Dippold and is strong evidence that it was the judge he wanted killed." (emphases in original)

My Reply Brief pp. 37-48 (please see same) covered these arguments - which were put forward by the prosecutor in his brief - in great detail. For example, on pp. 43-44, I state "There was no reason for 'correcting Evola's intended target or clarifying some perceived confusion' by responding to the 'femala' rat e-mail (pp. 41-42) since the 'femala rat' email clearly told me that he had changed his target from a lawyer rat to a femala rat and I couldn't send email back to him because I suspected that my emails were being monitored (see again Gov't Ex. 12/5/02 email)." (Thus, I simply could not respond to Evola's email since I suspected that the government was reading my emails and doing so would show that I had prior knowledge of Evola's plans and I mistakenly thought that prior knowledge of Evola's plans without informing on him was a crime.) (And see pp. 46-48 of my Reply Brief.) (Also see Gov't Tr. 12/17/02 p. 23 line 17 through p. 24 line 26 where I tell Evola that I suspect that my emails are being read and Evola tells me not to email him about his plans.)

As also pointed out in my Reply Brief on pp. 37-40, the only individual whom Evola had referred to individually as a "rat" on December 5th was a lawyer (lawyer rat") - one of the lawyers for Kirkland & Ellis - and yet it was a "rat" when Evola queried whether we were going to "exterminate." Thus there is reasonable doubt on its face whether I thought Evola was talking about Judge Lefkow or a lawyer for Kirkland & Ellis on December 5th.

Of special note, the prosecutor's argument on p. 41 of his brief - which I unfortunately only comprehended months after I had mailed my Reply Brief in - that Evola was calling Judge Lefkow a "lawyer" out of a group of three lawyers and a judge is, to say the least, a specious argument - especially considering that Evola is a layman. More importantly though, my statement immediately after he said "I'll get that address of that ah, Jew judge, lawyer rat..." before I cut him off proves indeed that I thought he was talking about two different people:

"...all that stuff is, I mean yeah, as soon as you get it, I mean send it certainly. I'll post it on the Internet. We want our people to know and, and ah, information about these people." (See Gov't Ex. 12/5/02 p. 6 line 32 thru p. 7 line 6).

Clearly when I cut off Evola mid sentence, I thought he was saying that he was going to get more than one address: the address of the "Jew judge" and the address of the "lawyer rat." Otherwise, I wouldn't have said "We

want our people to know and, and ah, information about these people."

Thus the Honorable Panel made a factual error when it stated on p. 10 of its Decision that "Hale asked Evola to send him the address once he learned it so that Hale could post it on the Internet " since "all that stuff" was the "it" and was composed of at least two addresses: the address of the "Jew judge" and that of the "lawyer rat."

This clear misapprehension of the foregoing facts is a compelling reason for a rehearing of my appeal by the Panel since it is clear that the Panel overlooked the fact that Evola consequently was referring to the addresses of at least two people: that of a "Jew judge" and that of a lawyer rat" - and thus the Panel failed to grasp the arguments throughout my opening and reply briefs that the "Jew judge" and the "rat" whom Evola proposed exterminating were two different people - and hence indeed I insisted that I thought Evola had been talking about a lawyer on December 5th. Such a misunderstanding of an appellant's argument is one of the well-accepted reasons for reconsidering an issue Bank of Waunakee v. Rochester Cheese Sales, Inc. 906 F. 2d 1185, 1191 (7th Cir. 1990) (citing Above the Belt, Inc. v. Mel Bohannon Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983)) and where, as here, such a misunderstanding of my argument of whom I thought Evola was talking about on December 5th had such a massive impact on whether there was sufficient evidence to support my convictions, as well as on the Panel's analysis as to whether the Ben Smith evidence was properly admitted, and whether I was denied a fair trial otherwise as a result of the prosecutor's improper rebuttal argument (prompting the Panel's statement that "The evidence against Hale was considerable..." p. 27), I humbly submit that the interests of justice manifestly warrant a rehearing of my case. Instead of being a solicitor of Her Honor's murder, I am clearly an innocent man who rebuffed Evola's pleas for violence against a "femala" rat or Judge Lefkow - as long as the facts are properly understood any my arguments are understood. (see e.g. Reply Brief pp. 59-62)

I further in my Reply Brief discussed why the "femala" rat email that was sent to me by Evola after consultation with the prosecutor (see again p.7 supra), in an obvious effort to fabricate a phony plot against Judge Lefkow's life, could not possibly be evidence that I thought Evola had been talking about a "femala" rat on December 5th (pp. 40-41) and the fact that I overwhelmingly rejected having wanted or solicited a "femala" rat's murder when Evola came back to my house precludes any rational jury from finding beyond a reasonable doubt that I thought Evola had been talking about a "femala" rate or Judge Lefkow, on December 5th (p. 42).

In sum, I unequivocally, unambiguously, and overwhelmingly rejected Evola's plans against a so-called "femala" rat, or Judge Lefkow on December 17 2002. The moment Evola told me that plans were "in

motion" to "exterminate" "the rat," - the "such a thing" being the murder of a "femala" rat or Judge Lefkow.

I ask that the Panel additionally consider the following pages as additional reason for rehearing.

Petition for Rehearing En Banc

This proceeding involves questions of exceptional importance to all of the judges of this Honorable Court, to all who value unobstructed legal proceedings, and to all who value the First Amendment rights to speech and religion-for the evidence of this case clearly shows that the U.S. Attorneys office and the FBI deliberately manufactured a phony plot against a federal judge's life, in order to obstruct a simple, ongoing trademark infringement case that judge presided over, and as a means to achieve the imprisonment of a man for ideological reasons who not only neither sought nor wanted her murder but who in fact clearly turned down an FBI informant's pleas to join a plot against her life. (Please read and consider pages 7 and 13 supra specifically and in fact pages 1-13 entirely in further support of this petition.)

It is, in fact, important for all of the judges of this Court to look askance upon fellow federal judges being so callously and cavalierly used in such a manner lest other judges - and maybe even the judges of this Court - also be subject of infamous "femala rat" emails or whatever else emanating from the U.S. Attorneys Office in the future. The harm that has been caused to me, an unwilling patsy and Judge Lefkow, the unwitting "femala rat" (See Panel Decision P. 10 is inestimable.

It is additionally important for the full Court to rehear this case to determine whether 18 U.S.C. sec. 373 really criminalizes letting other people do what they want which is really, at root, all I'm alleged to have done in this case. There was further, I submit, more evidence that the defendant in U.S. v. Rahman, 34 F 3d 1331 (7th Cir. 1994) wanted the alleged target harmed than evidence that I wanted Judge Lefkow harmed and yet Rahman's conviction was reversed (after all, I never, ever said that I wanted Her Honor harmed and yet Rahman said on several occasions that he did want his alleged target harmed). Thus a rehearing en banc is needed pursuant to FRAP 35 (6)(1)(A).*

It is also important for the full Court to decide whether bad humor, years before anything having to do with the target of an alleged murder solicitation and having nothing to do with her, was envisioned by Congress to be "strongly corroborative circumstances" that the alleged solicitor had specific intent to harm that individual under 18 U.S.C. sec. 373 and U.S. v. Gabriel, 810 F. 2d 627, 635 (7th Cir. 1987).

Thus I pray that I be granted Panel Rehearing. In the alternative, I pray that I be granted Rehearing En Banc. Thank you.

*There is a conflict within this circuit.

Humbly submitted,

_____

Matthew F. Hale

Dated

_____

Matthew F. Hale
#15177-424
U.S. Penitentiary - Max.
P.O. Box 8500
Florence, CO 81226-8500

Certificate of Service

The undersigned certifies that on this _____day of _____, two copies of the foregoing Petition for Panel Rehearing and, in the alternative, Petition for Rehearing En Banc entered the prison mailing system addressed to and hence served on the following counsel of record for the government by lst class mail:

Mr. David Weisman
Asst. U.S. Attorney
219 S. Dearborn Street 5th Floor
Chicago, IL 60604

_____

Matthew F. Hale

AFFIDAVIT OF KATHLEEN ROBERTAZZO

I swear under penalty of perjury that the following is true to the best of my knowledge and belief:

1. My name is Kathleen Robertazzo and I reside in Hoffman Estates, Illinois.

2. I am a certified shorthand reporter by profession and have worked in federal and state courts.

3. I have known Reverend Matthew Hale since June of 2000 when we first began corresponding via email.

4. One of the things that attracted me to Matthew and his civil rights movement is their taking a non-violent and totally legal approach to bringing about social change.

5. Matthew has emailed me extensively over the years about that commitment and we have also corresponded about his fight for a law license.

6. I personally witnessed a member of Matthew's church post violent rhetoric on a message board, I notified Matthew and Matthew immediately sent the member a scathing email wherein I was cc:ed. Matthew told the member that he better not ever hear he was speaking of violence or else he would be removed as a member. That exchange took place shortly after the 9/11 event. The member was told in no uncertain terms that Matthew's church was a non-violent organization.

7. I have also read hundreds of Matthew's writings and have never read anything among them that I considered a call for violence of any kind except in self defense against the violence of others.

8. I remember reading, for example, his article mentioning a "state of war" with Judge Lefkow. Since Matthew routinely uses the word "war" in a non-violent context and since the Matthew Hale I know acts strictly within the law, I didn't take this article as a call for violence of any kind against anyone.

9. In December, 2002, in fact, I remember Matthew writing many articles using what might be called militant language but never did I take any of his writings as a call to violence against anyone, especially since in private he never spoke of violence but a war involving educating the masses.

10. In December, 2002 as well as January, 2003, I remember Matthew referring to Judge Lefkow as a White woman with a Jewish surname, and that she was married to a Jew.

11. In late December, 2002, I recall reading a lawsuit that Matthew had filed against Judge Lefkow. Matthew requested that I serve Judge Lefkow with the lawsuit and I indeed made arrangements and had her

served in early January, 2003.

12. Throughout my friendship with Matthew, he frequently looked for the addresses and contact information on judges, lawyers and people who were denying him his right to practice law, and people out to destroy his church. The reason Matthew wanted the contact information was so that his members, followers and supporters could write letters of disapproval to these individuals. Never did Matthew call for acts of violence, it was always a call to flood his enemies with mail and phone calls.

13. As an officer of the court, if I thought for one moment Matthew was about violence, our friendship would have immediately ended.

14. I was named as a possible witness at Matthew's trial, and would have testified to the foregoing if called and will be happy to testify to the foregoing if ever asked in the future.

Further affiant sayeth not,

Kathleen Robertazzo

Kathleen Robertazzo

Signed and sworn on this 24 **day of** OCTOBER **2006.**

Leeandra J. Golembiewski

"OFFICIAL SEAL"
Leeandra [illegible]mbiewski
Notary Public, State of Illinois
My Commission [illegible]/29/2007