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## Legal Schnauzer

*The memory of a beloved pet inspires one couple's fight against injustice.*

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The legal schnauzer will scale all obstacles in pursuit of truth and justice

### About Me



#### LEGALSCHNAUZER

Roger Shuler: Have bachelor's degree in journalism (U of Missouri, 1978) Worked 11 years for daily newspaper. Worked 19 years as university editor. Married, no kids.

[View my complete profile](#)

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THURSDAY, AUGUST 9, 2012

## U.S. Judge Abdul Kallon Is the No. 1 Reason I Can No Longer Support Barack Obama

Polls show the 2012 presidential race is a virtual dead heat, even though Republican candidate Mitt Romney is deeply flawed. That suggests quite a few Democrats who enthusiastically supported Barack Obama in 2008 are not so enthusiastic at the moment. In fact, it seems a significant number of them are prepared to stay home on election day in November.



Abdul Kallon

If the election were held tomorrow, I would be among those Democrats. I could write a 100-page treatise on the reasons I have come to hold Barack Obama in utter contempt. They all have to do with Obama's stupefying failures on justice issues, which were driven home again last week by the resentencing of former Alabama Governor Don Siegelman to almost six years in prison for "crimes" that do not exist under the law.

As a resident of Alabama, I see the Siegelman fiasco as clear evidence that a modern strain of Stalinism has come to the American South. But on an even more personal level, my disdain for Obama can be summed up in two words--Abdul Kallon.

Probably the single most important personnel decision Obama has made in our state was the appointment of the 43-year-old Kallon as a federal judge in the Northern District of Alabama. It's a lifetime job, and unless Kallon meets an untimely demise, he could be handing down rulings for another 40 years or more.

That's a scary thought because my wife and I have had two cases before Kallon--and he butchered them both. I've already provided details on [Kallon's bungling of our lawsuit against unethical debt collectors](#). Now, let's consider "his Honor's" actions in a case that resulted in the state-sponsored theft of the full property rights to our house.

Kallon used something called the *Rooker-Feldman* doctrine to cheat us out of our rights to due process. The record clearly shows that no hearing was conducted on a sheriff's sale of our house, even though we properly contested it under Alabama law. But Kallon allowed our constitutional rights to be trashed by using an arcane legal doctrine that probably is unknown to all but a tiny handful of Americans. And even among lawyers who are well acquainted with it, the *Rooker-Feldman* doctrine is the subject of spirited debate.

*Rooker-Feldman* essentially holds that a state judge can violate your constitutional rights but you can do nothing about it in federal court. In other words, those "federally protected rights" we all hear about in high-

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school civics class are not federally protected at all. If a state judge issues a ruling that violates any of your constitutional rights--due process, equal protection, you name it--*Rooker-Feldman* might block any chance you have for redress in federal court.

I would argue, along with quite a few lawyers, that *Rooker-Feldman* is unconstitutional. But that is a post for another day. My point now is this: Regardless of one's views on *Rooker-Feldman*, Judge Abdul Kallon clearly misapplied it in our case.

Kallon has an undergraduate degree from Dartmouth and a law degree from Penn, so he isn't stupid. *Rooker-Feldman* is controversial, but it's not all that complicated, so I have every reason to believe that Kallon comprehends what the law actually says. The problem, I suspect, is that Kallon came from the pro-corporate Bradley Arant law firm, where he once made a handsome living by defending employers who discriminate.

Why would a Democrat like Obama nominate a guy who clearly is out to protect corporate and institutional interests? I have no idea, but it has caused me to sour on the president. And my experience with Kallon is just more evidence that Obama has done almost nothing to clean up the justice-related mess he inherited from George W. Bush. In fact, I feel like I might as well have voted for John McCain back in 2008.

I've written quite a bit about the battle over our property, and a post titled "[Going On the Attack Against the Thugs Who Stole Our House](#)" provides a summary. A post titled "[Showdown in Shelby County, Part II](#)," includes a video of our house being stolen--live and in color--on the courthouse steps in Shelby County, Alabama.

Mrs. Schnauzer and I filed a federal lawsuit over this charade, but Kallon ruled that he did not have subject-matter jurisdiction to hear the case, based on *Rooker-Feldman*. A little layman's legal research shows that the judge botched the case on relatively simple grounds. That suggests to me that the clearly intelligent Kallon is taking directions from his Bradley Arant buddies, which would amount to a federal crime called obstruction of justice. (That, too, is a post for another day.)

For now, we will cite a few issues where Kallon went wrong. And we will start with a brief explanation of *Rooker-Feldman*. It's actually a combination of two U.S. Supreme Court cases, one from 1923 and one from 1983. What do these two cases, 60 years apart, mean in the real world. *Wikipedia* provides a short, sweet summation:

*The doctrine holds that lower United States federal courts other than the Supreme Court should not sit in direct review of state court decisions unless Congress has specifically authorized such relief. In short, federal courts below the Supreme Court must not become a court of appeals for state court decisions. The state court plaintiff has to find a state court remedy, or obtain relief from the U.S. Supreme Court.*

Given that the nation's highest court hears only a tiny fraction of cases that come before it, *Rooker-Feldman* means that many victims of constitutional violations in state court have to hope for relief from the same court that screwed them in the first place.

Several exceptions exist to *Rooker-Feldman*, and some of them applied to our case. I feel certain that Abdul Kallon is smart enough to know that. But his actions suggest that granting us relief would have conflicted with the predetermined outcome that had been assigned to our case.

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Here are brief looks at four specific issues on which Kallon cheated us:

**\* Mrs. Schnauzer's Claims Regarding the House She Jointly Owns**--It was undisputed in our federal lawsuit that my wife is joint owner of our house. It also was undisputed that she was not a party to the state lawsuit our neighbor filed, resulting in a judgment of about \$1,500 against me. A U.S. Supreme Court case styled *Lance v. Dennis*, 546 U.S. 459 (2006) governs, and it holds:

*The Rooker-Feldman doctrine does not bar actions by nonparties to the earlier state-court judgment simply because, for purposes of preclusion law, they could be considered in privity with a party to the judgment.*

Kallon clearly had jurisdiction to hear my wife's claims that her property interests had been unconstitutionally violated. He unlawfully refused to hear those claims.

**\* My Claims Regarding the House I Jointly Own**--It's undisputed that I filed a claim of exemption regarding the notice of levy that had been placed on our house over the \$1,500 judgment. It's undisputed that Shelby County Judge Hub Harrington, contrary to procedural and statutory law, conducted no hearing on my claim of exemption. The governing case is styled *Dale v. Moore*, 121 F. 3d 624 (11th Cir., 1997), and it states that *Rooker-Feldman* applies only where . . .

*the party seeking relief in federal court had a reasonable opportunity to raise its federal claims in the state-court proceeding.*

I filed a motion stating that our neighbor, Mike McGarity, had not contested my claim of exemption, so by law, the sheriff's sale could not proceed. I cited Rule 69(f) of the Alabama Rules of Civil Procedure and showed that was binding law where no contest had been filed. Harrington conducted no hearing on the matter and allowed the sheriff's sale to proceed, violating my rights to due process and equal protection of the law. To make matters worse, I was never served with the order that Harrington supposedly issued, so I had zero opportunity to be heard by the judge who ordered an auction of our house.

The constitutional violation here could not be more clear. From *Dykes v. Hosemann*, 743 F. 2d 1488 (11th Cir., 1984):

*At a minimum, due process requires timely notice, in advance of a hearing. . . . Furthermore, "before a person is deprived of a protected interest, he must be afforded an opportunity for some kind of hearing."*

I received no notice of Harrington's alleged order, and I had no opportunity to be heard, meaning *Rooker-Feldman* did not bar my claims. And *Dykes* spells out a constitutional violation that Kallon unlawfully chose to ignore.

**\* A Final State-Court Judgment? What Final State-Court Judgment?**--*Rooker-Feldman* can be a pain for those who have been treated unlawfully in state courts. But it comes with significant limitations. Perhaps the most important one is spelled out in *Nicholson*

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*v. Shafe, 558 F. 3d 1266 (11th Cir., 2009):*

*Pursuant to the Rooker-Feldman doctrine, lower federal courts are precluded from exercising appellate jurisdiction over **final state-court judgments**.*

We were contesting an unlawful sheriff's sale. It did not involve a state-court judgment, final or otherwise. It's questionable whether it even involved a state-court order. If it did, I never was served with one.

By the clear language of *Nicholson*, my claim was not barred by *Rooker-Feldman*. Kallon unlawfully barred it anyway.

\* **Inextricably Intertwined?**--In some cases, a federal claim can be barred if it is found to be "inextricably intertwined" with a state-court judgment. What does that mean? A case styled *Casale v. Tillman, 558 F. 3d 1258 (11th Circ., 2009)* spells it out:

*A claim is inextricably intertwined if it would effectively nullify the state court judgment . . . or it succeeds only to the extent that the state court wrongly decided the issues.*

My federal claim did not contest the \$1,500 state-court judgment. In fact, I did not contest any state-court action. I contested the unlawful actions of Shelby County Sheriff Chris Curry in allowing a sale to proceed, contrary to clear law. I also contested Judge Harrington's unlawful interference in a case that statutorily rests with the sheriff. But neither of those claims had anything to do with whether the \$1,500 judgment was or was not correctly decided. And neither would nullify the state-court judgment.

The claims simply stated that if someone was going to try to make a claim on our property, they had to do it as prescribed by Alabama law.

These are only a few of the wrongheaded decisions Abdul Kallon made in the case involving our house. And as you can probably imagine, when someone messes with your house--in our case, it's one we've owned for 23 years, the only home we've known as a couple--it gets personal.

To be cheated by a judge . . . who was appointed by Barack Obama . . . who received my vote for president in 2008 . . . well, that sets off an overpowering sense of outrage in me.

Abdul Kallon has pretty much become the face of the Obama administration in my home. And it's an ugly face that tells me nothing has changed on the justice front since the George W. Bush years.

How two men of color can look the other way while our foundation of civil rights cracks beneath us is incomprehensible to me.

I long have contended that Obama would be sailing toward easy re-election if he had acted responsibly on justice issues. But he chose to "look forward, not backward," allowing GOP criminals like Karl Rove to raise vast sums of campaign money, and now he's in a horse race that could wind up with Mitt Romney in the White House.

If Obama winds up as a one-term president, it's exactly what he deserves.

[Swatek--Appellate Brief](#)



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Posted by [legalschnauzer](#) at 6:12 AM   
Labels: [Abdul Kallon](#) , [Barack Obama](#) , [Chris Curry](#) , [Hub Harrington](#) , [Mitt Romney](#) , [Rooker-Feldman doctrine](#) , [sheriff's sale](#)

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#### **Redeyesaid...**

I hear you LS, I share your frustration/disappointment with the Obama administration, and I admire your principled stand.

Despite my disappointment and frustration I am going to vote for the President because as awful as things are, especially for African Americans, they would be a thousand times worse under a Romney/TeaPublican administration.

If President Obama is a one term President it may be what he deserves, but it's certainly not what we the people deserve.

August 9, 2012 at 8:37 AM



paperblog

### **Anonymous said...**

Neil Garfield, an attorney and in fact, a super attorney at law, his blog is Livinglies wordpress, you have been sent this Roger, and it is the blog that you should consider connecting the Alabama people to.

Neil finally, after the years of being in the battle of "home foreclosures," also discovered as have you, the CORRUPTION is so deeply infecting our "Body Politic," that there is a TAP ROOT:

"It's about the money, you're honor . . ."

Roger, the money is counterfeit, s you know and this was-is a breach in contract yet to be "filed?"

Special thanks to Walker Todd of AIER for the invite and for creating this interesting program.

Chautauqua Notes | Ethical Challenges of Finally Fixing the Financial Crisis: Fair Deals vs. New Deals, Submitted by rcwhalen on 08/09/2012

Ethical Challenges of Finally Fixing the Financial Crisis: Fair Deals vs. New Deals

Below is an outline for my August 7, 2012 presentation at the Chautauqua Institution, Chautauqua, New York, earlier this week.

When someone asks about the ethical challenges of fixing the financial crisis, that question opens up multiple avenues of discussion. Everything about the breakdown in national trust since 2008 reflects a crisis of ethics. Ethics is the key question behind the entire event that we have now decided to call the financial crisis. Personal, institutional and national ethics all come into play in this search for supposed solutions. But in asking and then discussing this question, we may not necessarily reach the conclusion that at first seems so obvious to many Americans today – namely that the solution to the financial crisis is more laws and regulation.

I. To start our conversation, let's first define a couple of terms. First, fair dealing as a unique American concept. Second, the so-called "New Deal" of the 1930s. Economist Paul Krugman says that Americans need another New Deal, but it is my view that a fair deal consistent with traditional American values regarding politics and economics is a better

idea. We'll start with the New Deal and work backwards.

con't at ZEROHEDGE dot com

August 9, 2012 at 2:03 PM

**jeffrey spruill said...**

Why would a Democrat like Obama nominate a guy who clearly is out to protect corporate and institutional interests?

Just ask Rush Limbaugh-he's quoting Artur Davis now!

\*

The state court plaintiff has to find a state court remedy, or obtain relief from the U.S. Supreme Court.

Good luck on that one Mr. Schnauzer. The Supremes & the feds are too busy covering up past crimes to deal with a state injustice!

August 9, 2012 at 2:06 PM



**legalschnauzersaid...**

Good point, Jeff. You can go to the same court that cheated you already or to a court that would never hear your case in a million years. In other words, our right to due process/equal protection, etc. are not federally protected at all. They are "protected" by a state judge who likely to be a hack. Of course, a lot of federal judges are hacks, too.

August 9, 2012 at 2:19 PM

**Anonymous said...**

Before the internet was so F\*\*Ked up, Lincoln's work was found as follows:

In his "offices," that he was able to get as a FEDERAL "lawyer," et Cetera:

Above the deliberation of the "jury room," was a "trap door," whereby "Lincoln" ET AL were able to know what was going on, AND Lincoln was 100% about the CORPORATION, a Rockefeller "Trust." The PLACE WHERE THE PEOPLE "BROKE BREAD?" Well there was the ability to SPY by the "Lincoln law firm," disgusting, the transparency was only for the benefit of the "Judicial and Corporate USSA."

But of course, oil wells, killing indiscriminately as "collateral damage, women, children" and then there is the building of the "Iron Horse" for the "capitalist class," too, same yesterday

and today!

VIRTUAL CREDIT HIDDEN IN THE FED.

FIRE caused the loss of almost all of "Lincoln's cases."  
Surprise, surprise, "fire sales" are the mantra for the  
"fraudulent inducements" and "transference of wealth," to  
THE FED!

Ah, keep baited breath here for holding onto tomorrow's  
truths unfolding! Obama was-IS the ICON: "ABE LINCOLN."

WHAT?! LAWYER CLASS. And to be in our real time, a  
FRAUD.

Unconstitutionally, the LAWYER CLASS-LESS in America are  
in the rackets of "Who Do We Cheat 'Em and How," or suffer  
the consequences - see JFk, et al.

Letting "all" to THE paying DUES at a B.A.R., during the  
GREAT DEPRESSION, et Cetera?

Who made money? Bootleggers and LAWYERS. Abe's icon  
rules.

The knowing know, not to worry all bets are in on the  
"Judicial," whose management was and is: GOLDMAN  
SACHS.

"GS"

Now with the Judicial in the U.S. as a managed "retirement  
portfolio" by the criminals GS, there is no doubt, I would  
HOPE, to see what was intended by the US President "Obama  
Barry," "Lincoln" "promise" TO keep the corporation as how  
many hundred years?

Ongoing.

See American Free Press for the coverage of LARRY  
SINCLAIR and "President" Mr. Big "O."

THANK the universal common sense of true words, LS, Roger  
Shuler, for the investigative reporting you provide to the  
mostly? non appreciative.

You have your own tally and the unseen realm has you with a  
perfect "dime," that is a "10!" in the getting understanding to  
the people of America.



thanks forever/rk

August 9, 2012 at 3:42 PM

**David said...**

Roger, think about this - if Romney is elected Karl Rove will be back in power. I for one do not relish living in a country run by Roves.

August 9, 2012 at 6:19 PM



**legalschnauzersaid...**

David:

I hear you, and I share your concern. It almost seems, however, as if Karl Rove never left the White House. If we are going to have corrupt federal judges, I would prefer they be appointed by someone I didn't vote for.

To vote for Obama and then be cheated (twice!) by Abdul Kallon . . . well, it makes me want to puke.

You are looking at the "macro" view, and that's a very legitimate view. I'm taking more of a "micro" view. I see my vote as endorsing the qualifications and actions of that person. And from that perspective, I simply cannot endorse Barack Obama.

Please know that I will not vote for Romney under any circumstances. I will either sit it out or consider a third-party candidate--unless, of course, something dramatic changes with Obama. But I don't see that happening.

August 9, 2012 at 6:33 PM

**Anonymous said...**

in due timely manner, the powers that be?, the course in fate!,let all Dems vote for Romney and get the inevitable over with, if there's no super polihero, in site.to start a new global CIVILiation! through a higher consciousness of all, out of Russia and China, the American prophet Edgar Cacey, has predicted the Arab Springs state by state ,(inc. Syria, then Iran next} bless us one and all, we will need it.. av

August 9, 2012 at 7:34 PM

**Jeffrey Spruill said...**

See Mr. Schnauzer-- how the FBI does it to cover up their past crimes?

They launch their magical mystery PR tour:

<http://hamptonroads.com/2012/08/free-fbi-seminar-thursday-night-virginia-beach>

August 9, 2012 at 9:40 PM

**e.a.f. said...**

sometimes it is just a case of voting for the lesser of two evils. Mr. Obama clearly did not clean up the Justice dept. Why he failed to do so is beyond me.

Without justice people will be forced to live in tyranny & in the end will wind up living like those in any dictatorship. When that happens, with all the guns there are in the U.S.A., there will be problems.

August 11, 2012 at 7:43 PM



**Searching For Rule Of Law In Americasaid...**

I find myself in utter amazement of the similarities of our circumstances...

On January 21, 2009 President Obama, at a White House ceremony said: "Transparency and the rule of law will be the touchstones of this presidency." I'm still waiting...

After years of seeking legal redress in the courts up here in New York (which found me eventually unsuccessfully arguing my Rooker-Feldman dismissal before the 2nd Circuit Court of Appeals), I finally submitted a Section 242 of Title 18 Complaint to the DOJ, and after 4 months I was told that "they don't handle that sort of thing here", and that "i should get a lawyer"...

If this President won't take the time to have his people at least look into the gross miscarriage of justice that is going on across this country, not only on the state level, but also in the federal district courts... then he won't get this Black, Democrats vote this go round either.

<http://departmentofjusticecomplaint.blogspot.com/>

<http://blackwallofsilencepart1.blogspot.com/>

My name is Michael A. Hense, and I Am Searching For Rule Of Law In America

August 17, 2012 at 10:04 AM



**legalschnauzersaid...**

Thanks for writing, Michael. Rooker-Feldman is bad law. But it's doubly bad when judges misapply it. In the real world, it becomes an excuse for federal judges not to do their jobs. And it means that our constitutional rights, in many cases, are not federally protected at all. They are "protected" by the state you happen to live in, not the "United States." This is a classic

form of "states' rights law," where the power of the states  
usurps the constitution.

August 17, 2012 at 10:08 AM

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