

No.

IN THE

Supreme Court of the United States

ASSEM A. ABULKHAIR,

Petitioner

v.

GOOGLE INC, LAWRENCE EDWARD PAGE, AND
SERGEY MIKHAYLOVICH BRIN,

Respondent

On Petition for a Writ of Certiorari
To The U. S. Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

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SUPREME COURT, U.S.

QUESTIONS PRESENTED FOR REVIEW

September 11th left a remarkable dark scar remains in effect to deteriorate and disfigure the American society, day after day, due to an obvious blustering intelligence failure which inflicted an unbearable burden upon others to endure and struggle on a daily basis with no end in sight. The advanced sophisticated technology together with the speedy Internet era technique provides the perfect apparatus to be used and abused to discriminate against the well-known obvious group quickly blamed for instigating it to retaliate against them and bear the unbearable consequence of the event. To this end, the corrupt government seized the opportunity to show its arrogant attitude, unique muscles, and abuse of power to single out American Moslems for its heinous and outrageous religious discrimination. In doing so, it immediately started to intercept and open their incoming and outgoing mail. It went one step far and beyond to obtain their personal email private "password" from their internet providers to deliberately spy on them and monitor their activity and location in the absence of FISA Order and without obtaining a search warrant. This unlawful and immoral footstep on their rights and invasion of privacy violated the basic and decent rights cherished by the constitution and law of the United States.

Petitioner Abulkhair commenced his action based on the foregoing conspiratorial relation

established between the FBI and Google implicated his private email "password" and seizure of his email information records with neither FISA nor a search warrant to then place it under a "disabled" status without even a proper notice. Shortly after the Petitioner moved and sought the District Court's disqualification and recusal, the District retaliated with vengeance and dismissed the case in recompense [.]

[W]hat [is] based upon wrong remain[s] wrong [.] The questions presented are [:]

*** Whether the District Judge has the authority to dismiss suit while his/her recusal remains pending and his/her disqualification and impartiality comes into question when and where the federal and state canon, statute and rule mandated otherwise? ***

*** Whether an email provider is authorized to provide a user's confidential "password" to any federal or state law enforcement agency to spy on him/her based on his/her religious faith, freedom of speech or national origin, and whether such an engagement of a malicious calculated conspiracy between both can hold them accountable and liable under the constitution with federal and state law? ***

*** Whether an unreasonable search seizure of
an email property contains private information
records executed without obtaining a search
warrant or serving a proper notice violates the
Fourth Amendment right by the Constitution of
the United States? ***

*** Whether a corporation conversion modifies
the caption of the grandfathered action? ***

PARTIES TO THE PROCEEDING

The parties to the proceeding are:

ASSEM A. ABULKHAIR, Plaintiff, Petitioner;

GOOGLE INC, Defendant, Respondent;

LAWRENCE EDWARD PAGE, Defendant,
Respondent;

SERGEY MIKHAYLOVICH BRIN, Defendant,
Respondent.

RECUSAL

With all due respect, as a matter of principle, we hereby shall *demand* the recusal of the Chief Justice of this Court, the New Jerseyan Justice and the New Yorker bilingual Justice to please recuse themselves from this matter even if their decision will be in our favor.

Please make sure that the "denial order" reflects the recusal factor of the aforementioned Justices accordingly.

By: /s/ Assem A. Abulkhair, Pro Se

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OPINIONS BELOW

The district court did not issue a written opinion. The District Court's orders are reported but unpublished at *Abulkhair v. Google Inc.*, et al, (D.C. No. 17-cv-7217). [Pa3-5]. The Third Circuit Court of Appeals affirmed with a written opinion under Appeal No. 18-1584. [Pa2].

STATEMENT OF JURISDICTION

The Third Circuit Court of Appeals rendered its denial of Petitioner Abulkhair's petition for rehearing on July 11, 2018. [Pa1]. Petitioner Assem A. Abulkhair seeks review of that judgment on a writ of certiorari.

The present petition is timely filed under 28 U.S.C. § 2101 and under Rule 13.1 of this Court.

The Court's jurisdiction is invoked under 28 U.S.C. § 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States of America, Amendment I, Freedom of Religion and Speech, IV, Unreasonable Search and Seizure Without a Search Warrant, XIV, Due Process Clause and the Equal Protection of the Laws; FISA; Title 28 U.S. Code §144; 28 U.S. Code §455; *Carpenter v. United States*.

FACTUAL & PROCEDURAL BACKGROUND

On September 15, 2017, Petitioner Assem A. Abulkhair filed a *pro se* compliant in the U.S. District Court for the District of New Jersey alleging that the Defendant Google Inc., "private" corporation and its Defendant founders conspired with the "federal" FBI agency violated his rights under state, federal law and the U.S. Constitution by providing his email [confidential] "password" to the FBI to monitor and spy on his personal email account to eventually [seize] his email address and put it under their "disabled" status without reason, justification, or even [a] proper notice for the simple fact of being [a] Middle Eastern born [MOSLEM]. As it perfectly appeared from the overwhelming evidence and the mountain of events, Defendants' willful and malicious action was instructed and directed under the influence and by order of the idiotic and moronic FBI agency to "enhance" and advance their unrelenting spying operation in launching their unlawful surveillance to spy on Abulkhair which was triggered by September 11th. Petitioner Abulkhair served three (3) "published" notices upon the Defendants to cease and desist their cancerous discrimination and violation of the laws with his constitutional rights years long before filing his "Historical and Topical" lawsuit, but to no avail. (See Abulkhair's Complaint Exhibits 1-3). All had gone without heed. The case was assigned to the "disqualified" Judge Esther Salas, who was already presided over the "pending" FBI

matter, despite Abulkhair's orally and in writing warning to the clerk to prevent and obviate so. This profound observation stemmed from the conflict of interest involved in both cases and the apparent connection and relationship between the parties, amounted to the mountain of neglect and mishandling the FBI matter by Judge Salas which led it to end in the appellate court twice. While Defendants' unserved dismissal motion and another to modify the caption were pending, Judge Salas arose to the occasion to dismiss the other "forgotten" FBI Action. Abulkhair was mindful and alerted to the connection between the cases to immediately seek her recusal from both cases, specifically the one at hand, concerning Google. Abulkhair filed his motion for recusal on *("February 28, 2018")* under *Abulkhair v. FBI*, et al, Civil Action No. 2:14-cv-5677 (See doc. 41 or 47 Att. 1). An adequate review of this unique petition cannot be achieved without reviewing first the pending FBI Appeals Numbers: (18-1484 & 18-1930).

While her recusal motion still remained pending, just nine (9) days after it was filed, on *(March 9, 2018)*, Judge Salas retaliated by dismissing Abulkhair's action against Google and granted their unlawful and improper request to modify the caption without even the Set Deadlines on "3/19/2018" for responses has [not] expired yet, despite the fact of her full awareness of the defective service involved and the modification of Google business status, which conversion initiated after Abulkhair brought forward his grandfather's

action against them according to their declaration in district. Judge Salas then slept on her recusal motion for another two months to finally deny it "without prejudice" on *("April 20, 2018")* for which the proper and timely notice of appeal was filed in connection with that FBI case and still pending to this date under Third Circuit No. 18-1930. Perhaps, they are waiting for this Court to taste the water and the outcome of this petition to give them the green light to bring it forward.

Petitioner Abulkhair filed a timely notice of appeal on March 14, 2018, and the Third Circuit summarily affirmed in an unpublished *per curiam* opinion that not just adopted the District Court's reasoning "failed to oppose Google's motion", but went one step further and far beyond to argue and defend the Defendants' acts, misconduct and violations of the laws, and the Constitution, federal and state to grant their free pass to motivate and encourage other wrongdoers to follow their wrong path. The Third Circuit disregarded the recusal factor [Pa5] and argument entirely as nonexistent. [Pa2]. On June 29, 2018, Abulkhair filed a timely "published" petition for rehearing en banc and attached with the previously submitted brief relative to the "recusal" argument regarding the FBI Appeal for which was apparently overlooked. The Third Circuit swiftly denied it on July 11, 2018. Abulkhair now appeals and this Petition is timely filed.

REASONS FOR GRANTING THE PETITION

This case poses many questions that go to the very heart of the basic foundation of the integrity and impartiality of the entire judicial system. Some is as old as the Republic; the others are unique in kind to the new technology on the cutting edge era and the advancing Internet age to create a conflict and confusion in the lower courts as well equally in public. All merits this Court's review to repose once and for all.

This Court should grant the petition for certiorari to resolve an acknowledged circuit split on whether a "disqualified" district court judge has jurisdiction or discretion under the federal and state statute to issue any rulings on the case while his/her disqualification emerges and comes into question and the recusal motion remains pending. Then whether a private Internet email provider has the right to provide an email account secret "password" [t]o the "FBI" to spy on any American citizen without a search warrant, (FISA) Order, or probable cause then seize his account absent any prior notice or reason without to be held accountable or governed under the constitution and federal law applicable to their actions.

The unique, unprecedented, unparalleled and extraordinary circumstances that led to the unusual practice and dismissal of this ideal vehicle for resolving that circuit split should not prevent the Court from granting this petition and answering the important questions to the public.

The goal of the willful and malicious conspiracy between Google and the FBI led [t]o monitor and seize Abulkhair's email, was to prevent him from hiring an attorney to handle his matter against the FBI as the undisputed evidence proved to deprive petitioner of his day in court. The Court has recognized on several occasions, "[n]avigating the appellate process without a lawyer's assistance is a perilous endeavor for a layperson." *Halbert v. Michigan*, 545 U.S. 605, 621 (2005); see also, e.g., *Erickson v. Pardus*, U.S. 89, 94 (2007) (emphasizing that "[a] document filed *pro se* is to be liberally construed"). This compelling approach and clarification must apply to all litigants equally and no matter how sophisticated the *pro se* may or may not be.

If the corrupt U.S. Government has the desire to continually discriminate against its [MOSELM] citizens to disgrace the entire population by monitoring their movements and location through their personal emails and mail to invade their privacy, which it [h]as, it must be compelled and obligated [t]o obtain [a] search warrant or (FISA) Order to do so, and ought to follow its law and constitution as everybody else, with no exception to the "FBI" and/or "Google". [T]his mandatory requirement is absent from the process here because the FBI has given Google the impression that they are "above the law" [.]

Since the principles and parameters of the cell phone and email account invasion, privacy and protection remain the core substance as this Court made it clear recently with regard to the

phone protection equally similar to home, [t]he Court acknowledged that the government's searches of phone records were considered [a] Fourth Amendment search. The Third Circuit Court dissented, or rather overruled it when Abulkhair relied upon it as a turning point for his petition for rehearing. The FBI obtained Abulkhair's personal email private "password" from Google to spy, search and seize his email must be equally considered [a] Fourth Amendment search to require [a] search warrant [.] The underlying petition should be granted on the same exact basis to protect the public from the unleashed, wild, ferocious, abusive, intrusive and strayed government. Because the judgment below is inconsistent with the rulings of this Court's guideline adopted by *Carpenter v. United States* in particular and involves an important issue, the Court should grant the petition.

To make the point crystal clear, one way or another, this petition is [not] about [Abulkhair]. It is about whether the rule of law remains function and in full operation — or as the New Yorker Judge concluded [:]

*** "Every decision of the trial court was arbitrary and capricious, the entire case was held in a cloak of secrecy with the letter of the law in the dumpster." *Id.* ***

To permit the "disqualified" district judge to rule or decide the dispute while her recusal or disqualification at the center stage of [both] matters and [h]er recusal was pending, when and

where she knew or should have known that the federal and state statutes divested her jurisdiction and prohibited her——"[s]hall make [no] further [orders] and take [no] further [action] on the case," except to rule on her recusal issue, is to allow the *["SATAN"]* Himself [t]o judge and decide [H]is demon and satanic character. The district court judge must be disqualified and the dismissal should be vacated to restore the shattered image and heal the wounded integrity in order to repair the wrong that has been done, remove the unbearable inflicted injustice and oppression, and protect the court and the public before eroding the public confidence and trust in the eye of the law and justice [.]

This case raises important questions old and new that go far and beyond the heart and mind of the guarantee of fair adjudication and impartial justice. The Third Circuit's affirmation of the wrong and improper dismissal added more awkward and troubling issues than answers the questions irresponsibly in ways that create more and more conflict with this Court's precedents and, without doubt, undermine public confidence and trust in the federal judicial system. At this crucial juncture, Certiorari is imperative.

With that in mind, the foregoing reasons warrant this Court to grant the petition within its sound discretion when and where the ends of justice so require the Court to do so. And there is no reason to persuade otherwise or not to do so here.

ARGUMENT

I. WHETHER THE DISTRICT HAS AUTHORITY [T]O DISMISS SUIT PENDING ITS RECUSAL

Whether the Third Circuit's affirmation is questionable or not, it definitely failed to answer or even mention the central question brought forward in regard to the [pending] recusal issue for which surrounding the inevitable, unquestionable and warranted disqualification of Judge Esther Salas. In the decision below, the Third Circuit never mentioned the District Judge's pend[ing] recusal prior [t]o her dismissal within its opinion or its implications, as to whether Judge Salas has any authority under the law, federal and state, to enter a dismissal that was designed and aimed to retaliate against her inevitable recusal [.] Nor, in its useless and absent view, did Judge Salas' retaliatory and vengeance dismissal "create an appearance of bias" such that recusal is warranted under §144 and §455(a) or the appearance of impropriety itself. [T]here is [NONE]. But the Third Circuit chose to harshly analyze and arrogantly criticize the complaint to create its own findings the District Court failed to "make" when and where it decided to get even with Abulkhair in recompense for his recusal. There can be no question that the Third Circuit defined the appellate principle set forth by this Court in *Sao Paulo*, which cautioned that courts may not "disregard" relevant facts or refuse to examine "all the circumstances" 535 U.S.

at 232-33 (emphasis omitted) for which the Third Circuit just had done. The Third Circuit even departed and deviated from its own canon concerning the negligence of ignoring the recusal factor that directly led to mock and mud the judicial system in the eye of the law before the public. See, e.g., *United States v. Ciavarella*, 716 F.3d 705, 724 (3d Cir. 2013) ("We must consider whether recusal is warranted considering the totality of the circumstances involved in the proceedings.") But, as the New Yorker Federal Judge with integrity convinced that when the judgment concerns [MOSLEM] litigants, the constitution, statutes, rules, and "the letter of the law" [must] end "in the dumpster" [t]o retaliate against them. The Third Circuit brought forward the best example and the undeniable proof of all time within its net opinion. What is most important [is] what the Net OPINION does [NOT] say, rather than what it does. The opinion does [not] say that Judge Salas has [any] authority [n]or discretion whatsoever to enter her dismissal order after her recusal was filed and still pending. [T]here is [NONE]. [T]he law does [.] [T]his is what the abusive Opinion does [not] say [.]

Title 28 U.S. Code § 144 clarified within its crystal clear language the restriction with the limitation of authority and/or jurisdiction available to the judge upon filing his/her recusal as plainly simplified and amplified[:]

[W]henver a party to any proceeding
in a district court makes and filed a
timely and sufficient affidavit that

the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge [shall] proceed [no] further therein, [but] another judge shall [be] assigned to hear such proceeding [.]

[T]his is what the abusive Order under appeal does [not] say [.] The most favorable, relevant, and persuasive rule agreeable to the aforementioned federal statute distinguished itself from all other sister states made no room for a second guess or interpretation to move or maneuver around ended with the Tennessee Rule 10B. Under the parameter of R. 10B section 1.02 describes the immediate effect of the recusal motion as briefly cited [:]

[W]hile the motion is pending, the judge whose disqualification is sought [shall] make [no] further [orders] and take [no] further [action] on the case, except for good cause stated in the order in which such action is taken [.]

[T]his is what the abusive Order under appeal does [not] say [.] The section 1.03 of Rule 10B continues further to mandate [:]

Upon the filing of a motion pursuant to section 1.01, the judge shall act promptly by written order and either grant or deny the motion. If the motion is denied, the judge shall state

in writing the grounds upon which he
or she denies the motion [.]

[T]his is what the abusive Order under
appeal does [not] say [.] Applying practically the
District and Circuit's orders under appeal to the
aforementioned federal statutes and state rules to
determine whether Judge Salas has any authority
to enter any orders after her recusal was filed.
[T]he law clearly say[s] she must [NOT] [.] [T]his
is what the abusive Order does [not] say or even
mention [.]

Here, Petitioner Abulkhair filed his recusal
motion on *("February 28, 2018")*. On (March 9,
2018), Judge Esther Salas could not wait any
longer than nine (9) days to show and spread her
anger mixed with her ferocious vengeance to
swiftly retaliate against Abulkhair's moving
recusal cause and factor by footstep[ping] on all
federal and state statutes together with the
constitution, which she sworn to uphold, to satisfy
and appease the corrupt government and its
wrongdoers accomplice to serve the interests of
Abulkhair's adversaries (FBI & Google), along
with her ego at the expense of degrading the rule
of law, the interest of justice, and ultimately
denying justice [i]n the eye of the law and the
public [.] Thus, Judge Salas has no authority to
dismiss Abulkhair's action [Pa3] against Google in
accordance with the rule of law. [T]his is what
the abusive Opinion under appeal does [not] say
or even mention [.] Above all, the Third Circuit
failed to realize or even consider that resisting a
judicial recusal with an ultimate retaliatory out of

order and out of authority revenge dismissal and the abuse of discretion combined effect rendered this matter one in which reasonable observers here and abroad not only could, but certainly did, question the appearance of the undermined impartiality and the severely damaged integrity. To this end, the judicial recusal in question was only denied afterward based upon the other adversary U.S. Attorney's unethical biased "advise" as the "disqualified" Judge Salas acknowledged within here denial order. The improper dismissal and the net opinion under appeal must be reversed to honor the rule of law in the interest of justice in order to maintain the public confidence and trust.

Speaking of the public confidence and trust, we do [not] even trust the "USPS" to deliver this petition to the "highest" Court in the country or return our "stamped" copy in its self-stamped envelope. How confident and trusting is that!![] As a matter of fact, our August credit card check payment to the bank was stolen, cashed and then reported to the bank and the USPS, because the local police refused to file a report on the basis that the thief is one of their own. The USPS does "[not] guarantee to press any criminal charges" against the perpetrator — Nor does it even guarantee to "send a letter confirming the report" of the mail theft incident. The idiotic and moronic "FBI" boy[s] do [not] care about the crime committed against Abulkhair. The reason is clearly obvious. The robber was embolden by them because they are the one have instructed

and given him the green light to intercept and open Abulhair's incoming and outgoing mail. The corrupt District Court dismissed the previous suit against the USPS to permit and legalize the wrongdoers' continual acts and misconduct because the satanic evil behind is the one "above the law" to further motivate others out there to violate Moslems' constitutional rights with impunity. This is the tragic and ugly reality of the "Kangaroo Society" everyone has chosen to remain silent about it.

What kind of fabricated "freedom" and "democracy" placed the FBI "above the law" with impunity??[?] Needless to say, they romantically shake their fantastic waist on the "dance floor" with "guns" in order "to protect the American people and uphold the Constitution of the United States" from the enemy within as clearly evidenced here to the contrary. When the ballet box* brought forward the disfavorable elected one who [h]as beaten them, they pursue to impeach him to satisfy and appease the sore loser. This infirm mentality does not believe or belong to neither freedom nor democracy. It only belongs to a tyrannical police state the world has sadly come to know, notice and witness very well.

To further undermine and erode the public confidence and trust in their judicial system, there can be no question that Google's satanic conduct as shown here, is the typical one which is capable to cause an enormous harm to injure the judiciary and bring it to its knees. Google is the most corrupted monopoly known around the world with

its satanic conduct and immoral reputation in both business and behavior. It is not [a] stranger to the system here and abroad. It has paid a \$2.7 billion fine in Europe and is still facing to pay double. They bought every lobby in the U.S. and elsewhere. They "hired the best 25 law firms" to shamefully purchase the judiciary—not to defend—only here, not out there. "Cash for Judges"! They successfully succeeded in dealing with the "District" and "Circuit" so far. Whether the "Supreme" is also for sale or is up for grabs, [w]e throw in \$300 plus *one cent under our shoe to find out and let the public and the world debate amongst themselves. On the other hand, the entire "Galaxy" can [not] afford to buy Abulkhair's single word to appease, please, or persuade otherwise [.]

Moreover, when judicial recusal resistance present or partiality is undertaken in an unambiguous manner that could be reasonably construed as favorable to the government or its ally "private actors" as it obviously appeared to the naked eye of the public, the concerns are magnified. Members of the public understand perfectly that "guardian of the law" and judges are both officers of the federal government, but they expect that each will remain in the appropriate sphere—[a] division that [is] guaranteed by fundamental separation-of-powers principles. To later witness the Third Circuit turned a blind eye on the core substance of the entire appeal concerning the disqualification and the recusal issue of the disqualified Judge Esther Salas who

acted and entered her dismissal after being stripped of her authority and while her recusal motion was pending labeled this "unpersuasive" in its trivia footnote [op.5,fn.3] when and where the federal and state statutes mandated the recused judge — "[shall] make [no] further [orders] and take [no] further [action] on the case," contradict[s] the founding principle the judiciary foundation builds on and stands for. In its arrogant defiance, the Third Circuit considered and labeled these mandatory requirements as "unpersuasive" to justify its refusal and disregard to adequately examine or even review the clear language of the federal and state recusal statutes. In other words, the Third Circuit meant literally that the rule of law is "unpersuasive" [.] Certainly, this infirm label and interpretation designed to only adjudicate Moslems' claims against the corrupt U.S. Government. The undisputed, undeniable and uncontroverted proof has been articulated, demonstrated and provided by the Circuit itself here time after time. "* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does [not] constitute binding precedent." [op.1, fn.]. [T]hat absolutely stands altogether § 144, § 455(a), Tennessee Rule 10B with the constitution on its head. As this Court has already concluded, the entire purpose of § 455(a) is to "broaden the grounds for judicial disqualification," *Liljeberg*, 486 U.S. at 858 n.7, and to "promote confidence in the judiciary by avoiding even the appearance of impropriety," *id*, at 865. The Third Circuit has not only

accomplished just the opposite, but strayed far into prohibited terrain with its unique approach to disregard and obviate the recusal factor entirely. [T]his is what the abusive Opinion under appeal does [not] say or even dare to mention [.] It further undermines the judicial dignity and integrity in the eye of the public here and abroad, and certainly demonstrates a clear deviation from the rule of law and the rules of court which constitutes an abuse of discretion to warrant a reversal without regard.

II. WHETHER [T]HE CONSPIRACY BETWEEN [N] GOOGLE AND FBI [T]O SPY ON AND SEIZE ABULKHAIR'S EMAIL WITHOUT A SEARCH WARRANT, PROBABLE CAUSE OR PROPER NOTICE [V]IOLATED [H]IS PRIVAC[Y] AND INFRINGED HIS CONSTITUTIONAL RIGHTS

Since September 11th transformed America into an ugly dramatic and tragic shape and form to the most recognizable feature in both "Kangaroo Court" and "Kangaroo Society", Abulkhair has unfortunate to share the blame with a very pink piece of the big pie of the most heinous religious discrimination witnessed in the primitive and modern history ever known to the mankind and to pay the heavy price for being a [MOSLEM]. At the same night of the event, the idiotic and moronic FBI agency placed Abulkhair under their 24/7 surveillance, wiretapping his phone, and intercepting his mail in the absence of the (FISA) Order, without a search warrant,

probable cause or even a proper notice. By doing so, the strayed FBI agency and the corrupt government deliberately delayed Abulkhair's application for "citizenship" ([h]e does NOT proud of), which was submitted [a] few days after September 11th, for ten (10) years [t]o make [a] history and [a] remarkable record can [not] be broken to qualify for [a] "Guinness World Record" with merit. Abulkhair was compelled then to sue the wrongdoers both the government and the USPS. The first reached this Court. The latter never was despite the interception and opening of mail remains in effect. To avoid the outrageous mail invasion of privacy, Abulkhair decided to open an email account with Google in 2014 to join the public with the rest of the entire world. Unknown to him or even unaware that Google is used as an informant agent working on behalf of the FBI to provide private information about location to track peoples until he read the latest decision related to *Carpenter v. United States* entered in 2018. Even though, Abulkhair expected and pleaded his suit indicated the similarity based on the Defendants' malicious acts and conducts within his Complaint dated *("September 11, 2017")*. But Abulkhair has never expected, even in his dream, or even the members of the American Public that an Internet email provider, like the Defendant Google, would eve[n] dare to provide his/her confidential "password" [t]o engage with [a] federal or state government agency to spy on him and monitor his personal email information and to block his

messages, freeze the computer, identify the location for the FBI to chase him everywhere he goes, and to eventually seize it without [a] search warrant, probable cause or even a proper notice to circumvent what the "Due Process Clause" created to counter, and intended to prevent, obviate, and serve the meaning and intent [.] Putting Abulkhair's email on [a] "disabled" status, does [NOT] even stop Google from continuing to provide the "FBI" with Abulkhair's location. Otherwise, the FBI agents would not chase him [Abulkhair] from one place to another around the hour without "Google Satellite" assistance. Those unauthorized criminal acts and misconduct must be considered [a] Fourth Amendment search to require [a] warrant [.] [T]his is what the abusive Opinion does [not] say [.]

The Third Circuit characterized this "those claims were subject to dismissal because Appellees are private actors" [absent] any district's opinion or findings of fact, when and where the District's dismissal was only based on the technicality of failure to oppose the motions and nothing more or less. Notwithstanding, the Third Circuit ironically opined "The only way to cure the defects was to file an amended complaint" [op.5] when and where the "defects" are absent from the District Court's findings to cure or amend his complaint based upon to begin with. Failure to oppose [a] motion does [NOT] automatically warrant a dismissal when both the District and Defendants are fully aware of the defective service presence. [T]he presence of the

[recusal] vehicle [alone] divest[ed] the District's jurisdiction over both matters and must prevent and obviate the entry of this dismissal or modification of this caption. Judge Salas acted out of authority, order and discretion. At this crucial juncture, the dismissal was a clear product of misapplication and misinterpretation of the law on the part of both the District and Circuit in this regard. [T]he only way to "cure" their massive, chaotic confusion and "obtuse" mind of their misinterpretation of the plain language of the "recusal" statutes is [t]o reverse both without regard. To further deceive itself by relying on the insanity notion that "the Fourth Amendment does not protect against searches and seizures initiated by private actors" [op.3] when and where the actual actor acting behind the scene is obviously known as the evil "federal" agency "FBI" which plotted and [h]ad the motive, interest, and initiated the searches and seizures of Abulkhair's personal "password", email, private information without a search warrant, probable cause, or even a proper notice. Once the "private actors" willingly acted and engaged in acts and conduct with "governmental actors" to deprive [a] U.S. citizen of his constitutional rights and equal protection of the laws, all of the constitutional amendments together with the federal and state laws must come into play to equally govern. This is the rule of law the "perverters of justice" intended to deviate in order to discriminate and impose their own unbearable injustice and the will of oppression upon the disadvantaged, weak

and miserable among us. As a matter of fact, Google would never have "disabled" Abulkhair's email without a directive from the idiotic and moronic "federal" agency, the so-called "FBI". Without question, as clearly appeared in the eye of the public and the law, [t]he Third Circuit having given the free pass and green light to this unlawful, immoral and despicable act and conduct to continue [,] only this Court can restore the confidence and trust in the system by applying the same ruling and standard adopted by *Carpenter v. United States* for which it perfectly fits and is applicable to the similar acts, conducts and circumstances here to protect and secure everyone's secret "password", information and email since [no] one will be immune, with no exception to all of the members of this highest Court. The magnitude of the serious substance and question circulating around this unique matter can [not] be stressed enough. Turning a blind eye here is [not] an option. The unimaginable and severe consequence is authorizing and protecting banks and other business or industries dealing with the secrecy of "password" to provide state and federal government agencies with anyone's "password" to spy and monitor his/her personal or business checking, saving or credit account to put everybody at risk without accountability. This is what really left to fit a complete and perfect infrastructure of a model modified and magnified the nature of any "Kangaroo Society" ever assembled.

Google continual spying assistances to the strayed government allow the FBI to locate and track Abulkhair's movement and location. More specifically, the library he goes to—This makes it easier for the evil minded to target the computer and the disk he uses to block and corrupt his word documents because his outstanding, courageous and devastating words are more powerful than the existing of the U.S. "superpower" itself. At the end of the day, the idiotic and moronic FBI agents can freely wait around the library parking lot and chase him until he enters his home. This is the best "fake" freedom and false "democracy" ever imagined the hypocrite government intended to hide from its own people and the outside world. Blocking Abulkhair or anyone else access to his own written documents saved on his flash drive or within his email property on the basis of his religious faith or national origin, as it is the case here, has not only violated and abolished the First Amendment right to the freedom of religion, freedom of speech and expression to return the "*Discriminatory Clause*" in effect, but definitely turned it upside-down to stand on its head and to remain forever "in the dumpster", whether the philosophy and literature accept this mindful definition and expression or reject [.]

As a matter of fact, this petition was targeted and blocked access into by the coward, satanic morons hidden somewhere in the "free" and "democratic" ("America") on Sunday, *(September 16, 2018)* at 1:33 P.M. to compel retying the entire petition to undue, prepare, and

search the whole nuisance ordeal over and over again. Rewriting is unpleasant — But it adds more fuel and fire to the pain of the reader. They were better off when comparing the one they blocked to the one they have now.

On the other hand, Google neglected to provide the FBI with the most needed information about the Las Vegas animalistic Jew armed with "47 guns" and/or the Florida Christian monster who carried their heinous and ferocious mass shooting against innocent souls. Their satanic massacres would have been prevented and obviated. The arsenal of weapons was purchased through "Google Email". Nor did Google or the FBI monitor, tamper, or even dare [t]o block their messages of hatred posted on the Internet or "disable" their emails — [W]ake up America before [i]t is too late!![!]

What kind of a useless "freedom" and/or "democracy" that designed and intended to target and diminish peoples' "word" and encourage peoples' "bullet" under the "remarkable" Second Amendment "theory" [is] rather disastrous. This is the perfect definition of the most repressive and abusive dictatorial, autocratic regime, totalitarian state, and "Kangaroo Society" the world has learned about these brutal, barbaric, and unbearable tortures through the famous "Guantanamo Bay University of Torture and Humiliation of Human Beings" whether the deceptive morons and their propaganda agree or disagree. Once [t]he evil technology has been abused to potentially harm the innocents' word,

there would be a more powerful satanic technology ready out there waiting to knock it off to send the moronic monsters to the darkest Stone Age. People everywhere will say, there was an "oppressed" man predicted this and paid \$300 [plus] -*one cent* to only "seal" and make a "record" of it since the outcome is known in advance. But their satanic arrogance prevented them from listening. Keep that in mind!![!]

The acts and conducts of Google Defendants willfully conspired with the FBI to invade Abulkhair's privacy and spy on him based solely on his religious faith, freedom of speech, and national origin without obtaining (FISA) Order or a search warrant in the absence of any probable cause, as described here, violated and infringed Petitioner Abulkhair's constitutional rights guaranteed by the First, Fourth, Fifth, and the Fourteenth Amendments. [T]his is what the abusive Opinion does [not] say [.]

Google's illegal adventure to conspire and provide Abulkhair's private "password" to the "federal agency" (FBI) [t]o spy on him, monitor his email, and identify his precise location to chase him everywhere, combined with ultimately both Google and FBI's unreasonable search seizure of [h]is email, personal information and records contained within with[out] obtaining [a] warrant supported by probable cause violate[d] [the Fourth Amendment] regardless of the Circuit's misapplication and misinterpretation countering and finding otherwise.

There can be no question that the FBI/Google's acquisition of Abulkhair's email property with its records was [a] Fourth Amendment search. The Court held that the Fourth Amendment protects not only property interests but certain expectations of privacy as well. *Katz v. United States*, 389 U.S. 347, 351. The analysis regarding which expectations of privacy are entitled to protection is informed by historical understandings "of what was deemed an unreasonable search seizure when [the Fourth Amendment] was adopted." *Carroll v. United States*, 267 U.S. 132, 149. Allowing the FBI or any other governmental agency access to an email "password" or records—which "hold for many Americans the 'privacies of life,'" *Riley v. California*, 573 U.S.—contravenes that expectation. In fact, historical email private "password" and personal information records present even greater privacy concerns than the cell site location information (CSLI) considered in *Carpenter v. United States* to warrant the intervention of any decent court anywhere [.]

The Third Circuit's maneuver to ignore and step on the recusal threshold is understandable. The pretext under "failure to state a claim" from those who never filed a claim on their own in any court before sitting on their judicial bench is irrelevant. The meritorious question of law presented must be relevant. To run or shy away from is to shame the entire judiciary and to let the constitution stand on its head. This is what the

Circuit had done here. [T]his is what the abusive Opinion does [not] say [.]

The Third Circuit has strayed into prohibited terrain and refused to examine any of the issues concern the public, including the recusal issue to honor its own grandfathered principle to assure and ensure fairness and impartiality in the court of law. That should not be the last word or final order from the federal judiciary on a crucial matter that, when considered as a whole, surely undermines public confidence and trust in adjudicational and judicial fairness to warrant a reversal without regard.

III. WHETHER A CONVERSION TAKES EFFECT AFTER GRANDFATHERED ACTION AIMED [T]O COUNTER IT MODIFIES THE CAPTION

Whether the corporation conversion was properly taken or not, the decision and affirmation to modify the caption [Pa4] is not only questionable, but [i]t is deemed improper. There is no case law found to answer this specific area of law to render it very interesting to any "court of law" but [a] "Kangaroo Court". The trial court granted Google's motion to modify the caption based on its conversion emerged quickly and dated after Abulkhair grandfather's action was filed in the absence of an "opposition" due to the defective service. This Court would never accept this petition [i]f one (1) day late of the filing requirement of (90) days. In doing so, the trial court abused its discretion and erred because the

subsequent conversion of a corporation to another business entity does [not] apply to the grandfathered action to modify its caption.

However, since the undersigned Petitioner has never been served with any conversion process to determine whether the Defendants filed a notice of name change with California's Secretary of State, filed a notice of conversion under its laws, provided a name change or substituted parties to the trial court, or even the opposing party Plaintiff in the pending action. [T]here is [NONE]. As a matter of fact, Google's "Corporate Disclosure Statement" filed with the Circuit, was never served upon the Petitioner. [T]hey have [no] way to prove otherwise. Whether the "Delaware" latest corporation conversion maneuver attempted by Google led to lose its status to defend before the court, and yet taken steps to modify or dismiss in the face of the pending "recusal", is another quandary question of law. Certainly, the trial court lost jurisdiction to rule on either dismissal or modification of the caption upon the filing of the *("February 28, 2018")* pend[ing] "recusal" [.] In addition, since Google navigates its business internationally, it is unclear whether the Delaware corporation conversion is a separate entity and therefore a new party, rather than a name change, there is no indication that corporate formalities had been observed to convert the corporate entity absent service of the conversion process. In sum, Google Defendants had [not] shown a conversion recognized by California's Secretary of State

providing the Delaware corporation is the legal successor to the California corporation. Overall, neither Delaware law nor California law supersedes New Jersey law where Abulkhair's Action and claims are grandfathered and governed under it.

When a conversion takes effect under the law, it must be recognized and applied accordingly to its effective date and state, not retroactively to the pend[ing] grandfathered action. For this reason, the Delaware laws govern the Defendants' conversion mandated, "the certificate of conversion must state the jurisdiction where, the [date] on which, the other entity was incorporated" [t]o be effective accordingly. In any case, the resulting Delaware corporation is "deemed to be the same entity" as deemed to have come into existence on the [date] the California corporation was incorporated pursuant to Delaware law. It is clear that under the laws of Delaware, Google had [no] capacity whatsoever [t]o modify the caption of this action when "the [date] on which, the other entity was incorporated" under "limited liability" corporation emerged long after Abulkhair's grandfathered action was filed to render its conversion ineffective as useless at best. It further rendered both the District's decision and the Circuit's affirmation futile and erroneous.

Whether Google calculated, motivated and maneuvered its rushed conversion on the basis of tax evasion or to avoid an inevitable gigantic jury verdict toward Abulkhair's meritorious claims, it

does not require or call for the modification of the caption. This Google's entire conversion process was initiated after filing this suit against them to render it irrelevant. In this term, however, it would have been incorrect to file an amended statement setting forth the corporation's new "name", because the amended statement would still have continued to show the corporation as California corporation.

As [i]t clearly has shown within docket entry (13) "Order granting Defendants (12) letter request", the next day, permitting "Google LLC" before even filing their motion to modify the caption in the absence of neither service nor opposition. Henceforth, the District has [no] intention [to] accept any opposition, not even to review or check the [date] of "conversion" to apply to the grandfathered action ["date"]. The Circuit erroneously followed suit. Even in the absence of any opposition, the court must adhere to and abide by the law as written. Neither Delaware law nor California law would permit Google to modify Abulkhair's grandfathered caption when and where the [date] of the corporation conversion does [NOT] precede the [date] of the Action Caption. Otherwise, the coverage of home or auto insurance policy would be automatically raised to the roof or fall to the ground depending on the interest of the beneficiary of an occurrence. This is what the ruling under appeal has approved and legislated into law. To this end, more than fifty (50) suits filed against Google here and abroad without Abulkhair's knowledge until he filed his

suit against them. None of them has changed caption. The unique differentiation, Abulkhair's action one of a kind that intended to deter the satanic wrongdoers to reverse their course of the unlawful spying misconduct. That compelled Google to kneel seeking conversion.---But, at the time they arose to the conversion, it was too little, and too late. At this juncture, both District and Circuit erred and strayed far beyond in this regard, and their unfounded findings were [not] factually based except for an abuse of discretion. [W]e may be the first to drag Google to this Court without its consent, but unlikely to be the last.

Meanwhile, the Third Circuit cynically attacking "Abulkhair sought 'not less than' \$100 billion in damages and various other relief" [op.2]. Ignoring the fact that this "\$100 billion" suit [is] the one and [only] compelled "Google" wrongdoers to forthwith weep, cry and seek the refuge for conversion to save themselves from a potential "bankruptcy". [A] "One dollar" suit "to make a statement" does [not] compel any wrongdoers anywhere to neither seek corporation conversion nor moral behavior. [T]his has done just that [.]

To later have the Circuit mock itself to escape answering the question of law by footnoting "he has failed to show how he was prejudiced by that order" [op.5. fn. 3] in reference to the unlawful "modification" of the caption in accordance with the mandatory Delaware law is a clear error, abuse of discretion and a blustering deviation from the rule of law on the part of both the District's error and the Circuit's maneuver.

[W]hen the question of law [is] present [,] the effect of prejudice [is] obviated [.] Henceforth, [i]t is clearly obvious that the order to modify the caption is [NOT] factually based [.] [T]his is [t]he rule of law both court[s] below failed [t]o abide by, apply, comply, or even consider due to [t]heir misapplication and misinterpretation of the law in this regard. Therefore, the trial court erred and strayed into prohibited terrain by dismissing Abulkhair's Action and improperly modifying the Caption to call for a reversal without regard.

PETITION

In general, [a] Petition is [not] required nor created to please or appease anyone, but fundamentally designed for the contrary. The "professional liars" hate competition with no exception to the Respondents. We do not expect the Court which has remained "silent" regarding the darkest history of the "Slavery Era" for centuries until [a] courageous woman stood up to question [t]he "roots" of the "*Discriminatory Clause*" and [t]o change the course of history, which subsequently, it "rubberstamped" the "Moslem Ban" to hereafter grant a Moslem layman's petition!![!] Granting or denying the petition brings nothing valuable or meaningful to us since we won and defeated the wrongdoers with merit with our knowledge. History has already been made since it remains between our fingers and pen's disposal. Our word defeats their power. Once they trespassed, or rather foot-

step[ped] on their rule of law to defeat our right and justice in their "court of law", or actually their "Kangaroo Court" —— [w]e have won with merit [.] We donated an inordinate double amount of time to prevent the coming generation after generation to dare claiming that there was [a] philosopher adhered to his unique values and principles, proud of his unattainable moral courage living among ["AWBASH"] in the home of the cowards dominated by a corrupt totalitarian state concealing itself under a mask of fake "freedom" and delusional "democracy" administrated by the "professional liars", who decided to discriminate against him for his faith and chose to remain mute and left them without reprimand [t]o deter and declare —— [e]nough [is] enough [.] This is what the petition must be all about and intended to serve [.]

With that in mind, the District and Circuit chose to recklessly and foolishly footstep on the rule of law then attack a *pro se* who brought the entire rotten corrupt judicial system to its deepest wetted mud, contempt and humiliation to reach the endless point to manipulate, misrepresent, mislead, distort and defraud itself in order to defeat the virtue of "knowledge" that no one shall ever born to even dare to falsely claim. Indeed, with our knowledge, we compelled the arrogant wrongdoers to cross all lines of decency and "ethical" boundary in their unrelenting effort to deny basic right when, in fact, they degrade [t]heir "rule of law" and "voluntarily" footstep on their own judiciary with their shoes as we

speechless sit on the side watch them in confusion blend of dismay and joy. [W]e determine [t]o defeat the ["SATAN"] Himself and [H]is features whenever and wherever they may be found with our prestigious knowledge and unique principle in order to bring both the [OPPRESSION] and [INJUSTICE] to their knees, with or without their consent, whether the philosophy, literature, and "judiciary" would accept this speech or reject. [I]f this is the justice's justification of [OPPRESSION] and [INJUSTICE] "for all" – "Go Ahead Make The Judiciary Day" [,] (NOT) [ABULKHAIR] Day [.]

This matter does [not] concern only private party. There are issues of great moment to the public in Abulkhair's suit. Furthermore, tampering with the secret "password" and seizing private information in the manner indisputably shown here involves far more than an injury to a single litigant. [I]t is [a] wrong against the moral foundation set up to protect and safeguard the public, foundation in which violation or invasion cannot complacently [be] tolerated consistently with the good order of society. This is not a case that concerns a single litigant [Abulkhair] as the ignorant court thought that its affirmative ruling may challenge the shameful fact of Google's unambiguous spying conspiracy combined with the government's heinous crimes against its own people that articulated, illustrated and demonstrated in these operative dramatic words from the "American" Press [:]

*** "[O]ver and over again, we see that
what's suspicious to the FBI, the

CIA, the NYPD and the NSA [is] the
simple fact of being [a]*[Muslim]* [.]"

Neither Google nor the FBI would joined in
their satanic conspiracy to discriminate against
Abulkhair and violate his legal and constitutional
rights, except for "the simple fact of being [a]
[Muslim] [.]" Both have the motive and evil
mind to destroy this Court's published opinions,
block the public from reviewing them as they
actually do, and even wipe them off of the Court's
computer without even "notice". It is [a] very
scary tale and serious matter of concern for all
and everyone everywhere [t]o awake[n] all the
dead consciences. We made it clear below. [W]e
fear [no] one [.] [T]he fear itself fear[s] us [.] To
grant or deny the petition is to honor and respect
[t]he rule of law or shame and blemish [t]he rule
of *["SATAN"]*. The best testimony and
compelling testament cannot be stressed enough
more than the American Press' acknowledgement
of the severity of its dire consequence [:]

*** "[T]he immediate consequences here
affec[t] [Muslims] directly, [but] the
longer-term damage is [a]
degradation of [t]he rule of law in
this country [.]" ***

[I]n this only [,] we won and our case and
condolence rest[s] and repose there forever [.] Our
word remain[s] permanent sparkling and last[ing]
forever — Every injustice and oppressive decision
of the trial court and this court will [b]e "held in a
cloak of secrecy with [t]he letter of the law [i]n the
dumpster" until [t]he *"judgment day"* [.]

CONCLUSION

Since Judge Esther Salas defied her disqualification and recusal in the face of clearly valid Canon and mandatory Statutes expressly depriving her of jurisdiction pending her recusal, and acted intentionally and knowingly to retaliate and deprive Abulkhair of his constitutional rights to due process and equal protection of the laws in the clear absence of all jurisdiction, she possesses no authority and therefore the improper dismissal under appeal must be reversed in order to maintain the integrity and restore the dignity of the entire federal and state judicial system. To grant or deny the petition is to honor and respect the rule of law or shame and blemish the rule of *["SATAN"]*[]

Dated: *(October 6, 2018)*

Respectfully submitted,
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