

"Actual INNOCENCE"

No. 18-10867

IN THE  
SUPREME COURT OF THE UNITED STATES  
OF AMERICA

Dwight L. Allen — PETITIONER  
(Your Name)

vs.

Camden County Superior Ct, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Federal District Court for the Northern District of Georgia  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dwight L. Allen  
(Your Name)

Ridge State Prison, P.O. Box 276  
(Address)

Chester, GEORGIA, 31012  
(City, State, Zip Code)

(940) 902-3122  
(Phone Number)

Queshion: Why are all of the Federal Courts in the country functioning  
as "Courts of Appeals" instead of "Courts of First Instance"?  
Answer: Because the Federal Courts in the country are functioning  
as "Courts of Appeals" instead of "Courts of First Instance" because  
of the "Cross-Party" Litigation between the Federal Government  
and the State Government. By referring to the Rule of Law and the legal  
principle of "Federalism", the Federal Courts in the country are functioning  
as "Courts of Appeals" instead of "Courts of First Instance".

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION.

THE FEDERAL DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA, BRUNSWICK, DIVISION.

THE UNITED STATES ELEVENTH CIRCUIT COURT OF APPEALS  
ATLANTA, GEORGIA.

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Magistrate Judge Justin S. Award, Transfer "ORDER" September 21<sup>st</sup>, 2017.  
Northern District Court.

### APPENDIX B

Judge Lisa Godbey Wood "ORDER" Signed and Dated on January 25<sup>th</sup>, 2018.  
Southern District Court.

### APPENDIX C

Civil Docket for Case # 2:17-cv-00115-LBW-RSB  
Southern District Court.

### APPENDIX D

Judge Lisa Godbey Wood "ORDER" Signed and Dated on May 11<sup>th</sup>, 2018  
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11<sup>th</sup> Circuit Court of Appeals March 27<sup>th</sup>, 2018, Entry of Dismissal.

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## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

REED v. U.S., 215 F. APPX 962, 964 (11th Cir. 2007), Cite No. 540 U.S.  
At 381-82.

GEORGIA v. RACHEL, 384 U.S. 780, 86 S. Ct. 1783, 16 L.Ed.2d 925  
(1966).

Barnhart v. Sigma Coal Co., 534 U.S. 438 151 L.Ed.2d 908, 122 S.Ct.  
941 (2001).

### STATUTES AND RULES

28 U.S.C. § 1443

28 U.S.C. § 2254, § 2255

42 U.S.C. § 1983

28 U.S.C. § 636(b)(1).

CIVIL LOCAL RULE 72.

28 U.S.C. § 1254(1).

### OTHER

(CERT) No. 13-5143, July 5<sup>th</sup>, 2013 Wayne Bennett, et al.

ALLEN vs. Camden Co. Superior Ct. No. CR 211-209, Southern District Ct. Brunswick Div.  
11th Circuit Court of Appeals Complaint Filed against Judge LISA Bodley Wood.  
Criminal Justice Act of 1964 and Civil Rights Act of 1964  
U.S. Constitution Article III Section 2.  
House joint Resolution 192  
The Prison Litigation Reform Act of 1995 (3 strikes rule)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 27<sup>th</sup>, 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_A\_\_\_\_\_.

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

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_A\_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1.) 1<sup>st</sup> Amendment Right to Petition the Government for Redress of Grievance without the threat of Retaliation.  
"Access to the Court"
- 2.) 6<sup>th</sup> Amendment Right to Conflict-free Counsel.
- 3.) 14<sup>th</sup> Amendment Right to Due Process and the equal Protection of the law.
- 4.) FEDERAL STATUTE 28 U.S.C. 31443, STATES AS FOLLOW;  
A Defendant's Case may be transferred from State to Federal Court in Certain Limited Civil Rights Situations:  
Any of the following "Court actions" or "Criminal Prosecutions" commenced in a State Court may be removed by the defendant to the District Court of the United States for the District and Division Embracing the place where it is pending:
  - (1.) against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal Civil Rights of citizens of the United States or of all persons within the jurisdiction thereof;
  - (2.) for any act under color of Authority derived from any law providing for equal rights or for refusing to do any act on the grounds that it would be inconsistent with such law.

## STATEMENT OF THE CASE

On May 30<sup>th</sup>, 2017, The Claimant Mr. Dwight L. Allen Filed an Affidavit of truth into the Camden County Superior Court Requesting that a new trial be granted based on newly Discovered Evidence

On September 13<sup>th</sup>, 2017, the Claimant Mr. Dwight L. Allen Filed a "Timely" Request to Transfer (his) State Case to the United States Federal District Court for the Northern District of Georgia, Invoking Federal Statute 28 U.S.C. § 1443.

On September 21<sup>st</sup>, 2017, the Federal magistrate judge Mr. John S. Award of the Northern District Court issued an "ORDER", using a long Standing Practice, to Transfer Claimants Case to the Federal District Court for the Southern District of Georgia, Brunswick Division, the magistrate judge "unknowingly", Recharacterized Claimants Affidavit Requesting to have Claimants Case transferred from State to Federal Court, to A Habeas Corpus 2254 Petition.

On September 29<sup>th</sup>, 2017, the Claimant Mr. Dwight L. Allen Filed a "Timely" Objection, to the "Recharacterization" of Claimants Affidavit and to the "Transferring" of Claimants Case to the Southern District Court of Georgia Brunswick Division, Claimant addressed the "Conflict of Interest" between Claimant, judge Lisa Bodley Wood and other officers of the Federal Court. Claimant made a proper request that (his) Case remain in the jurisdiction of the Northern District Court, Atlanta Division. Claimant made this Objection Pursuant to 28 U.S.C. § 636(b)(1). Claimant contends that to-date the "Conspiracy", between both the Northern & The Southern District Courts Continue by the Northern District Court Ignoring Claimants "Timely" Filed Objection, Allowing Judge Lisa Bodley Wood to Continue (her) "Harassment".

## REASONS FOR GRANTING THE PETITION

1.) When Considering the meaning of a Statute, Courts <sup>Should</sup> Apply the following Analysis; First, Courts Should Construe a Statute to give sensible and intelligent effect to all of its provisions and should refrain whenever possible, from construing the Statute in a way that renders any part of it meaningless. Second, a Courts duty is to reconcile, if possible, any potential conflicts between different sections of the same Statute, so as to make them consistent and harmonious. Third, in construing language in any one part of a Statute a Court should consider the entire scheme of the Statute and attempt to gather the "legislative intent" from the Statute as a whole. Barnhart v. Sigmon Coal Co., 534 U.S. 438, 151 F.3d 908, 122 S. Ct. 941 (2001).

A.) Magistrate judges of the Federal District Courts in the State of Georgia are being permitted to "unlawfully," Recharacterize, Affidavits filed into the Courts in order to subject specific Affidavits to unlawful dismissals. The case law being used to justify the recharacterization of these Affidavits, are Federal cases that prevent the Dismissal of cases with characterization problems. The Case in Question, before this Honorable Court, Pertains to Magistrate Judge, Justice S. Award who with "malicious intent," Recharacterized Claimants Affidavit knowing full well that the language used in the Affidavit supported Claimants use of the Federal Statute 28 U.S.C. 31443. The Claimant Contends that when the movant objects to a Court recharacterizing a filing, pursuant to 28 U.S.C. 3636(b)(1), as a petition for writ of habeas corpus, the Court should not treat the motion as a 2254 or 2255 motion but must rule on the merits of the motion as filed. The Claimant Mr. Allen contends that by the magistrate judge re-labeling Claimants Affidavit and referring to the Affidavit as a Habeas Corpus, this ~~senseless~~ act by the magistrate judge exposed the Claimants case to the complex laws that govern Habeas Corpus and Deprived Mr. Allen of his right to a Federal Remedy. The Claimant Mr. Allen contends that there is no legislation, law or Statutes in place of the (2018) ERA that provides for a specific "format" for the use of Federal Statute 28 U.S.C. 31443, nor has the Federal Courts in Georgia forced their Federal judges to explore the "legislative intent" for 28 U.S.C. 31443 before issuing "orders" that "discriminate" against the filer's of these Affidavits.

Note: A District Court has an obligation to "construe" the pleading as presented when a petitioner contest recharacterization.

The Claimant contends that Federal judges in Georgia due to their being unfamiliar with the Federal Statute 28 U.S.C. 31443 or through their own conflicting interests, are using the "recharacterization" process as a way to legislate from the bench "unlawfully". Federal Statute 28 U.S.C. 31443, cannot be subjected to the same laws that govern Habeas Corpus unless the law specifically states. Retro v. U.S., 215 F. APPX 962, 964 (11th Cir. 2007), Castro, 540 U.S. at 381-82.

B.) The Claimant Mr. Allen contends that the Northern District Court in Atlanta, Georgia "unlawfully" avoided the Claimants "timely" filed objection to the recharacterization, the transferring of Claimants Case to the Southern District Court in Brunswick, Georgia, where there existed a conflict of interest between Mr. Allen and Judge Lisa Godbey Wood along with other officers of the court. The 11th Circuit Court of Appeals refused to address the jurisdictional question between the Northern and the Southern District Courts, pertaining to what court had jurisdiction over the "timely" objection was filed into the Northern District Court, because of Claimants "poverty" status. "No Justice for the Poor." Georgia v. Rachel, 384 U.S. 780, 86 S. Ct. 1783, 16 L. Ed 2d 925 (1966).

C.) The Claimant contends that June of 2017, (He) filed a federal complaint into the Southern District Court challenging the Federal Courts denying "poor" people "Access to the Court", by not providing Defendants the right to have cases seven (7) to ten (10) years old used as "strikes" under the Prison Litigation Reform Act "3 strikes rule", to be removed so that these Defendants with long prison sentences won't be discriminated against by ~~state~~ officials because state lawyer's has informed Warden's across the state that the Defendant is unable to file federal complaints because he or she can't pay the filing fees, the courts have already made it clear the (pro-se) filings should not be held to the same standards as Attorney's, this being the case when a (pro-se) person files a federal suit that fails to state a claim, because of the claim right is very complex on certain issues, the Federal Courts should at least provide a remedy to have older cases used as "strikes" removed. (a fair time frame) set by the court.

2.) The Federal District Courts across the State of Georgia are failing to address Federal Statute 28 U.S.C. §1443, in its entirety by Refusing to Address the portion of the Statute that deals with "the right pertaining to Civil actions, commenced in a State Court to be transferred to Federal Court Pursuant to §1443. The Claimant is asking that the Supreme Court Identify what constitutes a Civil action in the State Court. The Claimant contends that state Courts all across the State of Georgia, refer to Extraordinary motions filed into the trial Courts as "Civil action", would this Honorable Court be so kind as to Identify what constitutes a Civil action, filed in a State Court to be transferred to Federal Court under §1443.

#### CONCLUSION

WHEREFORE The Claimant contends that this case presents issues of Im- portance beyond the particular facts and parties involved and the granting of this writ would alter a pattern of abuse against poor defendants, plus provide poor defendants their right to "access to the Courts", for these reasons and more, The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dwight L. Hill

Date: 5/22/2018

5/22/18  
Carolyn M. McGuire

