

18-6942

IN THE UNITED STATES SUPREME COURT  
FOR THE THIRD CIRCUIT  
WASHINGTON, DISTRICT OF COLUMBIA

MONSERRATE ZAPATA : U.S. S. CT.  
(Petitioner) :  
Vs. : DOCKET NO. \_\_\_\_\_  
PECO, PHILA. ELECTRIC CO., :  
(Defendants) :

PETITION FOR WRIT OF CETIORARI

TO THE HONORABLE, THE JUSTICES OF THE ABOVE COURT:

COMES NOW, this day of , 2018, A.D.,  
Monserrate Zapata, an Honorably discharged U.S. Army Veteran, 73  
years old, who most respectfully, pursuant te Tit. 28 U.S.C. Secs.  
1254(1); U.S. S. Ct. Rules of Appellate procedure Rules 14 through  
33 represents:

1. Petitioner seeks review from the Judgment and Orders  
affirmed by the 3rd Circuit Court of Appeals E.D. Pa. at Dkt. No.  
17-3441 Feb. 20, 2018, Review April 4, 2018, final mandate May 8,  
2018.

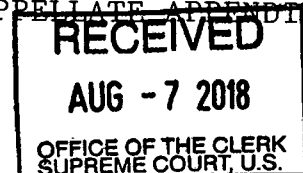
2. It is credible and affirmable by the Federal Civil  
Rights Courts that Respondents, according to the District Court's  
view:

"Zapata alleges that PECO violated his Fourteenth  
Amedment due process rights when it issued two  
"SHUT OFF NOTICES" on October 4, 2016 and July 11th,  
2017,

"BECAUSE ZAPATA FAILED TO GIVE ACCESS TO INSPECT  
ITS METER". (At this point the U.S. Dist. Court  
missed or ignored that:)

2. (a) On October 11, 2016 Zapata replied to PECO that  
SUCH REASON WAS UNTRUE AND WOULD TAKE LEGAL ACTION.  
(Exhibit 4 of Appellate-Appendix)

And there was more than a 3rd time respondents were  
threatening with SHUT-DOWN, August 8 & 17, 2017, if not  
given access to its meter; and again the reason was  
untrue. The real reason was, to install a smart-meter  
without required consent. (EXHIBITS 9 METER-UPGRADING  
& 10 LAST NOTICE of Court action APPELLATE APPENDIX  
October 20, 2017).



## STATEMENT OF THE CASE

PECO AND DEFENDANTS, ISSUED WITHOUT BASIS, FALSELY AND WILLFULLY, IN DEPRIVATION OF PETITIONER'S CIVIL RIGHTS, ISSUED TWO SHUT-OFF NOTICES AND ORDERS NINE (9) MONTHS APART, INTENDED TO CAUSE IRREPARABLE HARM, CONTINUING INJURY, PAIN AND SUFFERING.

## STATEMENT OF QUESTIONS INVOLVED

1. that Judges must not make findings of fact at the pleading stage

The Honorable Leeson, J. of the Federal Dist. Ct.

E. of Pa. and its law clerks were in Grave Error to categorize and classify Petitioner's claims for dismissal "FOR FAILURE TO STATE A CLAIM".

(a) Petitioner's Claims were made upon information and belief. RICHARDS VS. MIDCHEFF, 171 F. 3d. 635, 636 (2012) to which is an exception to ASHCROFT VS. IGBAL, 556 U.S. 662; 678, 678 (2009) and others. Not to mention, the claims were simple, claiming 'IRRREFUTABLE DECEIT to willfully deprive petitioner of his Federal Civil Rights and justify a SHUT-DOWN without probable cause. MILLER VS. CITY OF PHILA., 174 F. 3d 368, 369 (1997).

The Honorable Leeson, J. Equates JACKSON VS. METROPOLITAN EDISON, 419 U.S. 345 (1974) a SHUT-DOWN for NON-PAYMENT, COMPARING with Petitioner Zapata, who is a timely payment and obedient to the liar Defendant. At all times herein set forth DEFENDANTS WERE,

2. CONTRARY TO THE FACTS UPON WHICH APPELLANT MAKES HIS CASE, THE COURT ENTERED MEMORANDUM AND ORDERS

It is incontestable defendants were verifying fraud and deceit, and fraud, because it was written on notices and orders. The Court never viewed Appellant's cause IN DECEIT WILLFULLY MADE BY DEFENDANTS, to deprive Petitioner of said rights.

As a matter of fact, petitioner enumerates five requirements posed by the lower Court on behalf of respondents:

1. "PECO clearly gave plaintiff NOTICE that it intended to SHUT-OFF his electricity, and the NOTICE provided an explanation for how plaintiff could avoid SHUT-OFF".

2. Plaintiff would be required to run to the Public Utility Consumer Service on Deceit

3. Run to a Doctor at petitioner's burden and expense on respondents Deceit

4. The Court points at Petitioner "going to Complain TO FEDERAL COURT EIGHT DAYS AFTER RECEIVING THE JULY 11, 2017 SHUT-OFF NOTICE"

5. "RATHER THAN PLAINTIFF CONTACTING PECO", who was acting as Actor for the Federal Regulatory Commission to require consent of Petitioner for the Installation of a SMART-METER. And this were the DOCUMENTED REASONS to SHUT-DOWN Electric Service. BUT THERE ARE AND HAVE BEEN REASONS FOR PECO TO RISK ACTIONS FOR DECEIT AND PLACE THE FEDERAL COURTS IN QUESTION, in a Pre-trial of the facts. RICHARDSVS. MIDCHEFF, 696 F. 3d. 635 92012); COMPARING the Federal Regulatory Commission Act, 208-129 (1609). Wherein the U.S. Dist. Court E.D. Pa. employs ASHCROFT VS. IGBAL's PRE-TRIAL OF THE FACTS to defeat Petitioner's Claims FOR FAILURE TO STATE A CLAIM. PREMISED ON THE SAME FACTS, THE Dist Court moves to dismiss on the legal belief that Defendants ARE NOT STATE ACTORS. When in fact the Fed. Dist Court has not allowed Petitioner to discover the parties but for surely Defendant PECO is caught red handed Acting under the FEDERAL REGULATORY COMMISSION. Pa. Act 129 (2008) (1609) to Install a SMART-METER in the absense of CONSENT as PROVEN by RESPONDENTS written communications, giving rise to the SHUT-DOWN NOTICES and ORDERS for the 3rd time August 8, and 17, 2018 and Petitioner's last Notice to Defendants that, he would take Legal action.

WHEREFORE, FOR THE AFOREGOING REASONS, Petitioner-Appellant prays the Court grants Petition for Writ of Certiorari and leave to file Brief, as Petitioner-appellant is attempting to redress from a major injustice.

RESPECTFULLY-SUBMITTED,

*Monserate Zapata*  
MONSERRATE ZAPATA  
2047 N. American St.  
Phila. Pa. 19122

VERIFICATION

I, Monserrate Zapata, this 1<sup>st</sup> day of August 2008 ,  
aver and verify the foregoing facts, in the foregoing Petition  
are ~~true~~ and correct, to the best of my knowledge, information and  
belief. TO WIT: Petitioner-appellant has served respondents FIRST  
CLASS MAIL a copy of the foregoing Petition to RESPONDENT:

PECO

Lynn R. Zack, 2301 Market St. (S.23.1)

Phila. Pa. 19103 -and-

3rd. Circuit Ct. of Appeals,

Ms. P. S. Dodszeit, 21000 flr.

601 Market St. Phila. Pa. 19106

This AFFIDAVIT and PROOF OF SERVICE is in compliance to Tit. 28 U.S.  
C. Secs. 1746.

/s/

*Monserate Zapata*  
Monserrate Zapata

SWORN AND SUBSCRIBED BEFORE ME,  
THIS        day of july        , 2018,

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