

No. 18-816

11/14/18

In The
Supreme Court of the United States

—◆—
GAVIN B. DAVIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

—◆—
**On Petition For a Writ of Certiorari
To the United States Court of Appeals
For the Ninth Circuit**

—◆—
PETITION FOR A WRIT OF CERTIORARI

—◆—
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QUESTIONS PRESENTED

A priori, whether Plaintiff-Appellant's Due Process rights under the 5th and 14th Amendments were abridged and subjugated in the Ninth Circuit Court's Dispositive Order (ECF 10, November 6, 2018), in denying the Plaintiff-Appellant's request to proceed in forma pauperis (IFP, ECF 5), without the opportunity to file an Opening Brief and Excerpts of Record, or opportunity to pay the filing fee (ECF 3, 10), indicating, in their opinion, alone, that the litigation was "frivolous," which is disputed, itself requiring Due Process.

Secondarily, whether the federal courts have Jurisdiction under FRAP 21(c) **Special Writ for Political Asylum** under 8 U.S.C. §§ 1481(a)(2), a derivative of the *Expatriation Act of 1868* (the United States has always implicitly denied the doctrine of perpetual allegiance through its naturalization laws, providing federal statutory standing); and, with federal authority under FRCP 57 Court Decree, in such Rule's own authority with federal statutory standing thereof relying on 28 U.S.C. § 2201, for the Creation of such Remedy, in so moving. (generally, USDC SD Cal, 18-810, Doc. 9, Petition, pg. 12, ¶; see also, *Id.*, Jurisdiction, pg. 12, ¶ 13; and, Notice of Appeal, Doc. 12, pg. 1-2, each in the Appendix).

Finally, once establishing federal jurisdiction, as set forth with the district court; and, each of: (i) subjugated by the Ninth Circuit (ECF 10) denying the Petitioner Due Process, as

to be Constitutionally afforded (e.g. as protected by the 5th and 14th Amendments) to file an Opening Brief, and accompanying Excerpts of Record; and, (ii) moving tangentially in the Ninth Circuit in 18-56107; and 18-56202, in good faith; if the Relief sought, in whole or in part, in the Petition (Doc. 9) with the district court; with due process subjugated by the Circuit Court (ECF 10), is one form of potential redress, independent of the party or parties liable for such, and such redress requested, itself, constructively permissible in Petitioner's pending 42 U.S.C. § 1983, Deprivation of Civil Rights cases, pending in the Ninth Circuit (18-56107 (Denied *Bounds* Access to Courts), and 18-56202 (4th and 8th Amendment violations)).

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1(b), the Parties are as follow:

“Petitioner, Mr. Gavin B. Davis (the “Petitioner” or “Mr. Davis”), is an individual that is a citizen of the United States of America. He holds a Bachelor of Science degree from Cornell University; has completed approximately Four Billion Dollars (US\$4,000,000,000) of complex corporate finance and real estate transactions; is a published author; is an industry speaker, including before such law firms as DLA Piper. Petitioner is also a rare, RFID-brain implant; and, despite, such novelty, maintains that he is neither government property, nor a public figure. Petitioner has fully maintained and sought a private, non-public, life.” (Special Writ, Doc. 9, pg. 11, ¶ 11)

“[Respondent], United States of America (the “Defendant,” the “United States,” [Respondent], or “USA”) is a federal republic, established in 1776, and ranked by the Economist Intelligence Unit’s Democracy Index (“EIUDI”), a ranking of 167 countries on a scale of 0 to 10 based on 60 indicators, with a steadily declining value over the past ten years, and #21 globally (i.e. there are 20 countries that are considered more Democratic than the USA). Further, of countries ranked below the USA, an astonishing number are ranked as having better “functioning governments” including but not limited to Japan, South Korea, Cape Verde (Cabo Verde), Chile, Portugal, France, Estonia, South Africa, Belgium,

Singapore, and others. The “functioning” of the United States federal government is considered by the EIUDI to be on par (i.e. equivalent) with Sri Lanka, Trinidad and Tobago, Jamaica.” (Special Writ, Doc. 9, pg. 11, ¶ 12). Pursuant to Rule 29.5, or other authority, and, Rule 29.4(b), Service of Process completed via Certified U.S. Mail to: Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N. W., Washington, DC 20530-0001.

Party in Interest, San Diego County Sheriff Department (“SDCSD”) (see *Davis v. SD Sheriff Dept.*, 9th Cir., 18-56107, pending, ECF 3-1, R. at 37.) Defendant in pending Ninth Circuit case no.: 18-56107, generally, a Denied *Bounds* Access to Courts case action under 42 U.S.C. § 1983, and asserted by Petitioner (Plaintiff therein) as the strongest Denied Access to Courts case since *Bounds v. Smith*, 430 U.S. 817, 828, 97 S. Ct., 52 L. Ed. 2d 72 (1977), and itself, seeking to firmly clarify for the judicial cannon several misinterpretations of *Lewis v. Casey*, 518 U.S. 335, 343 (1986), as cited to in Petitioner’s (Plaintiff therein) Opening Brief (4-1, and Supplemental Brief 14-1). Derivative parties not served.

Parties in Interest, San Diego County District Attorney (“SDDA”) and Mr. Leonard Nyugen Trinh, Deputy District Attorney of the SDDA (“Defendant Leonard”), (see *Davis v. SDDA et. al.*, 9th Cir., 18-56202, pending, Excerpts of Record, ECF 4-1, R. at 118-119.) each Defendants in pending Ninth Circuit case no.: 18-56202, a

Deprivation of Civil Rights case, actioned under 42 U.S.C. § 1983, for, generally, Defendant Leonard violating the Petitioner's (Plaintiff therein, defendant (Superior Court California, San Diego County (SCD266332, SCD267654, and otherwise) in the capacity as violated) 4th and 8th Amendment rights, immediately actionable upon permissible parallel cross-action and collateral attack (as opposed to Due Process of the 5th and 14th Amendments). Defendant Leonard's direct and/or indirect actions led to the Petitioner being beaten (reported by Party in Interest SDCSD as Ca PC § 243(A) (Incident #16153663), inclusive of preserved, though unlawfully withheld, CTT Video Evidence) and almost killed¹ (9th Cir., 18-56202, Opening Brief, ECF 5, pg. 7, ¶ 4; and Amended Complaint, Excerpts of Record, ECF 4, ¶¶ 10, 11(b), R. at 121-122.). Derivative parties not served.

Party in Interest, Mr. John Gregory Unruh ("Defendant Greg", aka "Carlito"), Fugitive from Summons in litigations including but not limited to USDC SD Cal, 17-654 (see district court docket), and USDC SD Cal, 17-1997 (see First Amended Complaint, Parties, Doc. 22, September 24, 2018; and, FRCP 201 Notice / FRCP 60 Service of Process filing, Doc. 31, November 5, 2018). See also federal criminal case, *United States of America v. J. Gregory Unruh*, USDC DA, 2:95-mj-05124-MS-1, (1995), and all underlying federal records including but not limited to those of the Federal Bureau of

¹ Emphasis added; and additional grounds for an 18 U.S.C. § 242 claim against Defendant Leonard.

Investigation ("FBI"), Department of Justice ("DoJ"), Drug Enforcement Administration ("DEA"), without exception, frustration, or otherwise. Derivative parties not served.

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PETITION FOR A WRIT OF CERTIORARI

Gavin B. Davis, Pro Per, respectfully petitions this Court for a writ of certiorari to review the judgment of November 6, 2018, in this case of the United States Court of Appeals for the Ninth Circuit. Petitioner was denied each of FRAP 35 or FRAP 40 rehearing(s); and, Due Process was abridged, in being unable to file an Opening Brief and Excerpts of Record.



JURISDICTION

Jurisdiction with respect to this matter remains a threshold issue for review. Plaintiff posits, in multiple capacities that the federal court system has jurisdiction.

A priori, Petitioner notes that this Writ is filed under Rule 11, as: (a) Petitioner alleges that his 5th and 14th Amendment rights were unlawfully subjugated by the Ninth Circuit in 18-55741; and, (b) the Relief sought in 18-55741 and the underlying case (USDC SD Cal, 18-810) is a form of Relief sought in each of pending Ninth Circuit cases (i) no.: 18-56107, 42 U.S.C. § 1983, Denied *Bounds* Access to the Courts; and, (ii) 18-56202, 42 U.S.C. § 1983, 4th and 8th Amendment violations. In relation to the aforementioned, Petitioner alleges that 18-56107, will be the most, or amongst the most, important Denied *Bounds* Access to Courts in the history of the United States; and, separately, that 18-56202, will be a

strong self-litigant 42 U.S.C. § 1983, Deprivation of Civil Rights case for future legal precedent. As a result, Certiorari under Rule 11, directly, and, separately, constructively (related cases), is, de facto, imperative to public importance. The Court may wish to discuss such notion with the respective Ninth Circuit panels, as it deems fit.

The Ninth Circuit entered judgment in this case on November 6, 2018 (ECF 10), “[u]pon a review of the record and appellant’s July 20, 2018 filing, we conclude this appeal is frivolous. We therefore deny appellant’s motion to proceed in forma pauperis [IFP] (Docket Entry No. [5]), see 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious). No further filings will be entertained in this closed case. DISMISSED.” (WALLACE TASHIMA and SUSAN P. GRABER). Plaintiff-Appellant, who holds a Bachelor of Science degree from Cornell University, is a business professional, routinely working with leading corporate attorneys in completing over four billion dollars (US\$4,000,000,000) of corporate finance and commercial real estate transaction work over the past eighteen (18) years, has never done anything professionally or in a court of law that could be remotely deemed “frivolous”. The district court’s (USDC SD Cal, 18-810-LAB-NLS) dispositive order (Doc. 7, May 25, 2018), indicates, “[t]he Court is required to consider its own jurisdiction, *sua sponte* if necessary, and to dismiss the case if jurisdiction is lacking. See *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 954 (9th Cir.

2011) (en banc). Davis is therefore ORDERED TO SHOW CAUSE why this action should not be dismissed for lack of jurisdiction.” In response, Plaintiff-Appellant filed a Special Writ for Political Asylum on June 6, 2018 (Doc. 9), which the district court Dismissed without prejudice, but without leave to amend on June 7, 2018 (Doc. 10, 11), for lack of jurisdiction. Plaintiff-Appellant timely filed his Notice of Appeal to the Ninth Circuit (Doc. 12) on June 8, 2018, without paying a filing fee, and the Ninth Circuit opening case no.: 18-55741 on June 11, 2018 (Doc. 13, 14; ECF 1) (also on June 13, 2018, Ninth Circuit issued Clerk’s Order to show cause regarding the docket fee and IFP status (ECF 2), which the Plaintiff-Appellant filed subject to seal and 28 U.S.C. § 1915(a) on July 1, 2018 (ECF 4). The Respondent, the United States Department of Justice, entered the case for the United States of America, prior to this, on June 25, 2018 (ECF 4)).

On November 6, 2018, the Ninth Circuit, as cited above (ECF 10), Dismissed the case finding it “frivolous”, and without entertaining further filings in the case” in direct response to unrelated matters: i.e. Punitively responding to Plaintiff-Appellant’s FRAP 27-3 Motion (ECF 6), which it had denied (ECF 7); and, thereafter Plaintiff-Appellant had sought FRAP 40 panel rehearing (ECF 9) of this Order (ECF 7). As a result, the Ninth Circuit has prejudicially, and Punitively, violated, abridged, and subjugated Plaintiff-Appellant’s Due Process rights as protected by the 5th and 14th Amendments of the U.S. Constitution.

Jurisdiction, remains a threshold issue, which has not been engaged upon by any of the lower courts, and the federal court system has jurisdiction, as follows (pursuant to Rule 14.1(e)):

“The Court has proper jurisdiction over the lawsuit because U.S. Citizenship is a matter of federal law, *prima facie*. Federal jurisdiction is covered herein under a few applicable statutes, noted in priority, without prejudice as to supplemental federal jurisdiction, within this Complaint, any future Amendments thereto, or other actions by the Petitioner related to such matters. (a) Under 8 U.S.C. § 1401, who is a U.S. citizen from birth is defined; (b) Under 8 U.S.C. § 1481, a derivative of the *Expatriation Act of 1868*, regarding the right to renounce one’s citizenship, and whereby, the United States has always implicitly denied the doctrine of perpetual allegiance through its naturalization laws (i.e. the right to leave the country is always preserved, though a civil procedure for doing so, has never been perfected, to the Petitioner’s knowledge; or case law brought in such capacity, such as this Complaint. (c) Court’s position (Doc. 7, pg. 2, ln 21-28) is that Petitioner has other remedy in seeking citizenship in another country by way of law, and/or renouncing his U.S. citizenship, and that this Court cannot provide relief, and therefore have jurisdiction. Petitioner has sought a Special Writ under FRAP 21(c) special writ of political asylum under 8 U.S.C. §§ 1481(a)(2) with federal authority under FRCP 57 & 28 U.S.C. § 2201, for the creation of such remedy. Petitioner depends on Court’s unique Decree, given prior actions of parties against him seeking to

unlawfully imprison him, when under such circumstance, extradition to a foreign country in conjunction with a change in citizenship for personal safety, liberty, and equitable remedy is necessary, prima facie.” (Special Writ for Political Asylum, Doc. 9, Jurisdiction, pg. 12, ¶ 13)

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

Pursuant to Rule 29.4(a), in addition to the Respondent, the Solicitor General of the United States has been properly Notified of this action.

Finally, this Statement of Jurisdiction is Rule 14.1(e) compliant.

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PRIMARY FEDERAL PROVISIONS INVOLVED

The primary constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, are noted below, and set out in the appendix referred herein. Secondary federal, or state, provisions, cited herein, may be filed via Supplement at the Court’s request and Order, or looked up online for reference.

FRAP 21(c), Extraordinary Writ; “Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the circuit clerk with proof of service on the respondents. Proceedings on the application must

conform, so far as is practicable, to the procedures prescribed in Rule 21(a) and (b)” Also, FRAP 21(c), 1996 Amendment, “Most often a petition for a writ of mandamus seeks review of the intrinsic merits of a judge's action and is in reality an adversary proceeding between the parties. See, e.g., *Walker v. Columbia Broadcasting System, Inc.*, 443 F.2d 33 (7th Cir. 1971). In order to change the tone of the rule and of mandamus proceedings generally, the rule is amended so that the judge is not treated as a respondent. The caption and subdivision (a) are amended by deleting the reference to the writs as being “directed to a judge or judges.”

8 U.S.C. §§ 1481(a)(2), Voluntary Transfer of U.S. Citizenship (for good cause as redress and relief for 42 U.S.C. § 1983, Deprivation of Civil Rights violations); (Appendix at 13-14, 16, 18-19, 26, 28, 32-34, 50-51, 53)

Expatriation Act of 1868, The *Expatriation Act of 1868* was an act of the 40th United States Congress regarding the right to renounce one's citizenship. ... The Expatriation Act of 1868 was codified at 25 Rev. Stat. § 1999, and then by 1940 had been re-enacted at 8 U.S.C. § 800; (Citation omitted)

FRCP 57 & 28 U.S.C. § 2201, constructively, Declaratory Judgment (i.e. Decree), note, in part: “The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate,” as sought by the Petitioner in the case. (Appendix at 13, 14, 16, 18-19, 26, 34, 46)

Due Process under the 5th and 14th Amendments, in relation to S-Class, in forma pauperis (IFP) status vis-à-vis paying a rather minor, in the greater context, few hundred dollar appellate filing and docketing fee. "The Fifth and Fourteenth Amendments to the United States Constitution each contain a due process clause. Due process deals with the administration of justice and thus the due process clause acts as a safeguard from arbitrary denial of life, liberty, or property by the government outside the sanction of law. The Supreme Court of the United States interprets the clauses more broadly, concluding that these clauses provide four protections: procedural due process (in civil and criminal proceedings), substantive due process, a prohibition against vague laws, and as the vehicle for the incorporation of the Bill of Rights." (citation omitted). The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. The prohibitions, generally, of the due process clauses apply only to the actions of state actors, and not against private citizens. However, where a private person is acting jointly with state officials in a prohibited action, they are said to be acting under the "color of the law" for the purposes of 42 U.S.C. § 1983



OPINIONS BELOW

The Ninth Circuit's Dispositive Order (ECF 10, November 6, 2018) subjugating Petitioner's Due Process (prejudicially "S-Class'd / IFP'd Out") is reprinted at Appendix 1a. Also, in reference to the Circuit Court's Order (ECF 10) denying, outright, the Appeal (18-55741), under 28 U.S.C. § 1915(e)(2) of Petitioner's 28 U.S.C. § 1915(a) Response (ECF 5, July 1, 2018, sealed and subject to this Court's review, for prejudice by the Circuit Court, as alleged by the Petitioner, or alternative relief (e.g. paying the circa \$500 unpaid docketing fee, versus case closure) to the Circuit Court's Order (ECF 2, June 13, 2018), the Petitioner's FRAP 40 Rehearing (ECF 9, July 20, 2018, e.g. ¶¶ 7-12) of a non-dispositive order (ECF 6, July 19, 2018, reprinted at Appendix 11a) includes select discussion on the "non-frivolous" nature of the 18-55741 Appeal (itself dismissed prejudicially in violation of due process) is reprinted at Appendix 3a. The District Court's Order (Doc. 7, June 25, 2018) Rejecting for Filing Petitioner's case (Doc. 1, 2) is reprinted at Appendix 55a.

Further, the Appendix is completed with the Petitioner's Notice of Appeal to the Ninth Circuit (Doc. 12, June 8, 2018, reprinted at Appendix 13a); and Petitioners Extraordinary Writ (Doc. 9, June 6, 2018, reprinted at Appendix 18a) as denied by the District Court (June 7, 2018, Appendix 16a).

A priori, and prima facie, the lower courts, each have denied the Petitioner Due Process; and, their opinions, supporting their respective

dispositions are not supported by relevant authority, in abuses of discretion.



INTRODUCTION

Petitioner filed a Notice of Appeal, in forma pauperis from the District Court on June 8, 2018. The Ninth Circuit Court opened case no.: 18-55741 on June 11, 2018 (ECF 1), and via Clerk Order requested cause for the IFP filing or to pay the docketing fee. Petitioner timely filed a response, as requested (under seal), evidencing over One Hundred Thousand Dollars (\$100,000) of antecedent costs, in part, to the 18-55741 Appeal. Thereafter, in related cases, Petitioner paid docketing fees in each of Ninth Circuit 18-56107 (*Davis v. SD Sheriff Dept.*, 42 U.S.C. § 1983, Denied *Bounds* Access to Courts; while detained, unlawfully, pre-trial, on unreasonable, Excessive and Punitive bail also actioned under 42 U.S.C. § 1983, Deprivation of Civil Rights, for 4th and 8th Amendment rights, *Davis v. SDDA et al.*, each pending); and, 18-56202. On November 6, 2018, the Circuit Court Dismissed 18-55741, in violation of Petitioner's Due Process rights—at worst, Petitioner needed to merely pay the docketing fee, and thereafter, subsequent to a Briefing Schedule, file his Opening Brief and Excerpts of Record (i.e. requesting relief for IFP status should not be a “gamble” to have your case entirely dismissed, as it appears has been done (the Opinions of the lower courts, have no discussion on “Jurisdiction”, or engagement on the Petitioner's movement)).

As such, at each of the district court, and circuit court, Petitioner has not been heard. Petitioner's Special Writ for Political Asylum under 8 U.S.C. §§ 1481(a)(2), a derivative of the *Expatriation Act of 1868* (the United States has always implicitly denied the doctrine of perpetual allegiance through its naturalization laws, providing federal statutory standing); and, with federal authority under FRCP 57 Court Decree, in such Rule's own authority with federal statutory standing thereof relying on 28 U.S.C. § 2201, for the Creation of such Remedy, in so moving. (generally, USDC SD Cal, 18-810, Doc. 9, Petition, pg. 12, ¶; see also, *Id.*, Jurisdiction, pg. 12, ¶ 13; and, Notice of Appeal, Doc. 12, pg. 1-2, each in the Appendix), remains pending and should be afforded Due Process, as guaranteed, though subjugated by the Circuit Court. Further, the Special Relief and Redress sought, may be deemed to be part of pending Ninth Circuit 42 U.S.C. section 1983 cases 18-56107; and, 18-56202.

STATEMENT OF CASE

Pursuant to Rule 14.1(g)(ii), jurisdiction has been established, as brought forth in the Jurisdiction section of this Writ; and, concisely put forth as: "the federal courts have Jurisdiction under FRAP 21(c) Special Writ for Political Asylum under 8 U.S.C. §§ 1481(a)(2), a derivative of the *Expatriation Act of 1868* (the United States has always implicitly denied the doctrine of

perpetual allegiance through its naturalization laws, providing federal statutory standing); and, with federal authority under FRCP 57 Court Decree, in such Rule's own authority with federal statutory standing thereof relying on 28 U.S.C. § 2201, for the Creation of such Remedy, in so moving. (generally, USDC SD Cal, 18-810, Doc. 9, Petition, pg. 12, ¶; see also, *Id.*, Jurisdiction, pg. 12, ¶ 13; and, Notice of Appeal, Doc. 12, pg. 1-2, each in the Appendix)

"Petitioner, a naturalized U.S. citizen, of high academic and professional achievement (Curriculum Vitae, Attachment A), brings forth, in a novel and civil capacity, an FR[A]P 21(c) Special Writ for Political Asylum under 8 U.S.C. §§ 1481(a)(2), a derivative of the *Expatriation Act of 1868* (the United States has always implicitly denied the doctrine of perpetual allegiance through its naturalization laws, providing federal statutory standing); and, with this Court's authority under FRCP 57 Court Decree, in such Rule's own authority with federal statutory standing thereof relying on 28 U.S.C. § 2201, for the Creation of such Remedy, in so moving." (citation omitted)

"Petitioner is the victim of an 'ongoing' (note: this is operative and distinct as to realtime responsibilities of the U.S. government) series of serious federal crimes (e.g. Cyberstalking (47 U.S.C. § 223) also qualifying by definition as Domestic Terrorism under the *USA Patriot Act*, by a "cybermob", 18 U.S.C. §§ 2331(5)) of the Plaintiff, with elements of other federal crimes including but not limited to Stalking (18 U.S.C. §

2261A); Aggravated identify theft (18 U.S.C. § 1028A); Fraud and related activity in connection with obtaining confidential phone records (18 U.S.C. § 1039); Interception and disclosure of wire, oral, or electronic communications prohibited (18 U.S.C. § 2251) and California state crimes (e.g. Ca PC § 270); and, other violations of his rights (e.g. 42 U.S.C. § 1983), including by state actors (e.g. the San Diego District Attorney ("SDDA") and employees thereof)." (citation omitted) (now pending, 9th Cir., 18-56202)

As a result, Plaintiff-Appellant's Special Writ and Petition (i.e. 9th Cir., 18-55741) for the assistance of the U.S. Government, subsequent to its utter failure to stop ongoing (differentiated from past, and potential redress there from) federal crimes against him, after reasonable Notices (28 U.S.C. § 2674); the government's utter failure to act (28 U.S.C. § 2675) (Plaintiff draws a direct parallel to an active case of kidnapping (18 U.S.C. § 1201(a)(1); and, a virtual version of such) as to the obligations and duties of the Defendant), and, therefore, rendering it without any Discretionary Exemption Function (28 U.S.C. § 2680), has not been heard. Procedural due process, as protected by the 5th and 14th Amendments requires government officials to follow fair procedures before depriving a person of life, liberty, or property. When the government seeks to deprive a person of one of those interests, procedural due process requires the government to afford the person, at minimum, notice, an opportunity to be heard, and a decision made by a neutral decisionmaker.

“Petitioner asserts that the reason that the U.S. Government has not provided him federal protective custody; or, separately, stopped the Cyberstalking (47 U.S.C. § 223) and other federal crimes against him, is that the government has ulterior and dark motives in seeking to unlawfully commit the Petitioner to custody, in an effort to each of: (a) silence him; (b) legalize unlawful actions (e.g. Cyberstalking) for the benefit of the government, ex post facto; (c) “force a [government] take under”; and (d) steal the Petitioner’s highly valuable intellectual property for the benefit of others [(pending 9th Cir., 18-56168)], in utilizing entertainment as a guise to pull the proverbial wool over the populace’s eyes in seeking to take this civil right away.” (Special Writ, Doc. 9, pg. 9, ¶ 7)

As it relates to (b), Petitioner alleges such government purpose: “in order to establish and maintain the ability to have twenty-four (24) hour surveillance of the U.S. civilian population utilizing the United States Department of Defense’s agency responsible for the development of emerging technologies for use by the military, the Defense Advanced Research Projects Agency (DARPA), and, their Combat Zones That See (CTS) technology to do so. DARPA’s CTS technology and program strives to “track everything that moves” in a city by linking up a massive network of surveillance cameras to a centralized computer system—it is intended for periods of civil unrest (e.g. if U.S. Debt-to-GDP eclipsed 100% (it was approximately 60% in 2008 at the onset of the Great Recession); and, issues on the European periphery led to were

exacerbated domestically in a global feedback loop, creating the prospect of civil unrest in the U.S.). Further, CTS technology utilizes artificial intelligence software to identify and track all movement throughout the subject city. Petitioner alleges that the U.S. Government has been purposefully withholding camera footage from the Las Vegas Massacre (2017) in order to publicly utilize DARPA's CTS Technology to solve this planned mass causality event; on the very MGM Resorts International site, that the Petitioner was previously negotiating a Two Billion Dollar (\$2,000,000,000) Rolling Stone Hotel & Casino prior to the Great Recession (2008). Civil liberties activists and writers of dystopian fiction believe that surveillance programs such as DARPA's CTS technology have great potential for privacy violations, and have openly opposed the project, and, for good reason.



REASONS FOR GRANTING THE PETITION

I. U.S. CITIZENSHIP IS A MATTER OF FEDERAL LAW, PRIMA FACIE, UNDER 8 U.S.C. § 1481, A DERIVATIVE OF THE EXPATRIATION ACT OF 1868; AND, U.S. CIVIL RIGHTS ARE A ROCK-BED OF THE VERY FABRIC OF THE ESTABLISHMENT OF THE NATION.

If (a) a U.S. citizens Constitutional civil rights are violated, and actioned under 42 U.S.C. § 1983 (e.g. as Petitioner has done, pending Ninth

Circuit, 18-56107, and, 18-56202); (b) in such capacity as (a), state actors are in violation of 18 U.S.C. § 242, as alleged by Petitioner against Party in Interest, Defendant Leonard (see 9th Cir., 18-56202, Opening Brief, ECF 5, ¶ 60, citing to *Imbler v. Pachtman*, 424 U.S. 409, 429–31 (1976), “We emphasize that the immunity of prosecutors from [424 U.S. 409, 429] liability in suits under 1983 does not leave the public powerless to deter misconduct or to punish that which occurs. This Court has never suggested that the policy considerations which compel civil immunity for certain governmental officials also place them beyond the reach of the criminal law. Even judges, cloaked with absolute civil immunity for centuries, could be punished criminally for willful deprivations of constitutional rights on the strength of 18 U.S.C. section 242, the criminal analog of 1983. *O’Shea v. Littleton*, 414 U.S. 488, 503, 1974); cf. *Gravel v. United States*, 408 U.S. 606, 627 (1972).”, R. at 23-24.); and, (c) the federal court system has significant and broad powers, of which, pursuant to Special Writ authority under FRAP 21(c); additional authority under 8 U.S.C. §§ 1481(a)(2), itself supported in the judicial cannon with federal authority under FRCP 57 & 28 U.S.C. § 2201, for the creation of novel remedies; and a U.S. citizens life is utterly destroyed by those very actions moved under 42 U.S.C. § 1983, why should such person not have availability the relief (rhetorical, there is no reason) as sought in Ninth Circuit 18-55741 for assistance with political asylum to a country of “higher, and legitimate democratic order and rule of law” as a form of Relief; with such Costs borne as Damages by one or more of the parties,

whether the federal government, or other parties evidencing liability.

**II. THIS CASE IS THE PROPER
VEHICLE TO ADDRESS THIS IMPORTANT
ISSUE**

This Court has not yet had an opportunity to address government liability for Deprivation of Civil Rights, and the potential for political asylum to another country as an appropriate form of relief and redress to harm and injury.

**III. THE NINTH CIRCUIT WAS
PREJUDICIAL AND SUBJUGATED
PETITIONER'S DUE PROCESS RIGHTS,
PRIMA FACIE, IN DENYING HIM AN
OPPORTUNITY TO FILE AN OPENING
BRIEF AND EXCERPTS OF RECORD IN 18-
55741**

In addition, between the filing of the Notice of the Appeal (Doc. 12, June 8, 2018) to the Ninth Circuit, and his IFP Response (ECF 5, Sealed), Petitioner opened and paid docketing fees in 42 U.S.C. § 1983 cases, pending in the Ninth Circuit, 18-56107; and, 18-56202; and, in each has filed his Opening Brief and Excerpts of Record—which provides additional support for prejudice by the Circuit Court in this case (18-55741), in subjugating his rights of Due Process. The Circuit Court, thereafter, proverbially SLAPS the Petitioner in the face, by calling his filing “frivolous”. Petitioner takes personal offense, as

would be reasonably expected, given the time, effort, energy, and costs, of moving in 18-55741, its antecedents, and its related cases, still pending.

“The Supreme Court has formulated a balancing test to determine the rigor with which the requirements of procedural due process should be applied to a particular deprivation, for the obvious reason that mandating such requirements in the most expansive way for even the most minor deprivations would bring the machinery of government to a halt. The Court set out the test as follows: “[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors: first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and, finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” (citation omitted)

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CONCLUSION

In addition to these reasons presented, Petitioner, also notes that in the 1996 Amendment to FRAP 21(c), it specifically notes that, “the rule permits a court of appeals to invite an amicus curiae to provide a response to the

petition,” and, Petitioner is desirous, subsequent to the Filing of this Writ of Certiorari with the Court, to thereafter, file for leave to prepare an Amicus Memorandum, in the interests of justice.

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted, on this day, December 17, 2018,

/s/ Gavin B. Davis

GAVIN B. DAVIS, PRO PER