

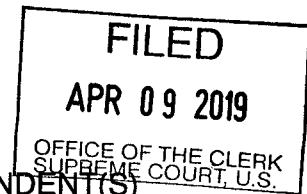
No. 18-8770

IN THE
SUPREME COURT OF THE UNITED STATES

MARTIN RUGAMBA — PETITIONER
(Your Name)

vs.

ANDREW CUOMO — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARTIN RUGAMBA
(Your Name)

P.O. BOX 380941
(Address)

BROOKLYN, NY 11238
(City, State, Zip Code)

(443) 425-7214
(Phone Number)

QUESTION(S) PRESENTED

Whether the turf tussle (rivalry) between FBI and NYPD in particular, municipal police in general, and other security agencies that violate my constitutional rights in retaliation for reporting their misconducts to FBI, constitutes City's policy, practice or custom for the purpose of 42 U.S.C. § 1983 and Bivens. Specially where continuing violations, unbound in space and time, morphed into taunting FBI?

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:

MARTIN RUGAMBA,
Petitioner

v.

ANDREW CUOMO, City of New York, CRST Expedited, City of Los Angeles, NYPD unknown 4 Police Officers, Larry Yeo, Josh, Brock, UNITED STATES GOVERNMENT, Public Unions, Teacher Small, General John Stricter M.S. Principal, Planet Fitness, MTA MD Bus Driver, and 4 unknown People.

Respondents.

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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 A 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☒ is unpublished.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 B 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☒ is unpublished.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:** 28 U.S.C. § 1331 (federal question)

The date on which the United States Court of Appeals decided my case was January 16th, 2019.

☒ 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

42 U.S.C. § 1983

Bivens

First Amendment to the US Constitution

Fourth Amendment to the US Constitution

28 U.S.C. § 1361

28 U.S.C. § 1331

Federal Rules of Civil Procedure, Rule 4 (Personal Jurisdiction)

CPLR 302 (a) (long arm statute of the State of New York)

CPLR - CVP § 214 (recover a chattel)

Continuing Violation doctrine (its nature under *Gonzalez v. Hasty*, 802 F.3d 212, 220 (2nd Cir. 2015) (was granted to *Clauberg v. State of New York* 2008 NY Slip Op 28136 [19 Misc 3d 942] March 4, 2008 Collins, ---))

Severe Infliction of Emotional Distress

Wrongful Death

Wrongful Employment Termination - Constructive Discharge (Hostile work environment) under common law of wrongful discharge as well as under § 1983 in violation of First Amendment, example political retaliation.

8 U.S.C. § 1155

8 CFR § 246.1-7

STATEMENT OF THE CASE

A- Defendants Claimed the Responsibility by Bragging about the Death of Jerome NYAGATARE

David Cohen, the CIA agent and the unknown NYPD officers, steered my mind so that it will focus on the sign NY ~~GA~~ RD, see exhibit A. The sign echoed NYAGATARE in ^{my} mind; the halo echoed the idea "beyond real life". Further, they displayed a medical emergency transportation box in front of me; my mind associated it with "dying".

In July 2012 I received heart-breaking news about the death of my brother NYAGATARE. Later, Christopher Weiss alluded to him as, "He is decomposing." Bragging is admissible in Court under the rule of evidence, hearsay. See Larry Bell v. State of Indiana. Bell told the officer who was arresting him for rape that he could read a person. Court ruled that his statement was about a bragging description of his ability. Case No. 49 A 05 - 1405 - CR - 205.

B- NYPD Officers Claimed Responsibility of Sept. 2016 Bombing in Manhattan

On or about the day the best friend of NYAGATARE died, a bomb detonated, another was found, respectively, in front of Selis Manor apartment building on 23rd street, and 27th street between 8th and 7th avenues. Weeks earlier, I had reported cops suspect-stalkers in locations which later turned out to be the locations where bombs were planted. It was a stunning discovery.

Weeks earlier, I had found a car tire inflator in front of Selis Manor. As I was dismantling it using a screwdriver, two cops showed up. They asked if there was a camera on the building in front of which I was doing the dismantling. A man said yes. I pushed a sign of relief thinking that I had just dodged the bullet. In Los Angeles, a screwdriver cost a woman's life, the LAPD cop who gunned her down was let off the hook. Recently, a woman almost killed me by catapulting with her car, a huge pot of flower on 5th Avenue NY sidewalk. It travelled/skidded about 48 shoes, Size 10. I tried to stop it with my foot, I got a wound on the foot.

The fact that bombs were found in locations where cops, subjects of my reports, had been, incriminates squarely the cops.

C- NYPD Cyberintelligence Spied and Keeps Spying on Me.

About late 2011, I saw two identical NYPL networks listed on Wifi start up script. Later, I noticed another network name: liquid smear. "liquid smear" network also appeared on the NYPL wifi list. This happened after I made a report

about a suspect-cop stalker from the Brooklyn Priinct. One day, YouTube replaced a video I was watching and typed on the screen, "the username is going to scare you." Then a video of ghosts eclipsed the one I was watching. This occurred following a report in which I called my stalkers werewolfs. Other ghost images would appear on screen upon typing my name into Google search field, and they were sponsored by NOVOMAR, a company that claims to make computers out of CO₂. About 2007 I posted a comment cheering them up. An inference that can be made is that my stalkers on the internet had turned NOVOMAR into a stalker. No one seems to say no to proxy bullying/harassment on behalf of cops.

I have abandoned HOTMAIL because stalkers were acting up the content to -from family and friends. I deleted these emails, curiously they reappeared in both sent and received folders. I realized that the internet providers' IT ies were spying on behalf of my stalkers. I started entering unsavory keywords in Google search field, the IT ies would respond by disconnecting my browsing. After receiving a letter from Mark HAZUDA, USCIS director, which, instead of responding to my fee waiver inquiry, he skewed the response and wrote, "when you call for forms be respectful, don't yell, etc. The only inference that can be drawn is that the internet providers have been recording my online sessions, then the cops stalkers shared these unsavory keywords with Mark HAZUDA in an attempt to undermine my immigration status. See the letter exhibit B *Mark HAZUDA*

A few days after reporting that there was an NYPD intelligence officer who stalks me online, I heard that a clandestine CIA agent under David Cohen, NYPD Intelligence Chief, discontinued his NYPD assignment. A few days later, I started receiving emails from a security company based in Virginia. It offered a job requiring to possess a laptop and a cellphone, just the tools similar to the ones I used to collect and report to FBI the online clues of stalking. An inference can be drawn that the CIA agent tried to ~~lure~~ lure me to his turf in Virginia, to exact vengeance.

D. Andrew Cuomo and the Suicide of Judge Sheila

In 2016, a man snatched my phone on Baltimore subway. I ran after him, as soon as he crossed the door sill, train doors closed instantly. It appeared that the robber and the train operator synced the moves. They knew from the previous robbery that I run very fast. As I reached the door sill, the train operator shut the doors instantly. The reason my phone was snatched from me was because stalkers knew the content of my phone. I manipulate images to evoke situations among others, prurient graphics. My version of "I love NY / I love Big Apple" connotes prurient meaning. *Exhibit # 10 NY*

In 2016 I discovered that the State of New York was placing ads featuring "I love NY" on billboards. I contemplated to showcase my versions, but I kept procrastinating. One event ~~surreal~~ led me to believe that my stolen phone was in police custody. At Union Square Park, 14th St. New York, I watched and photographed dancers, type of people my stolen phone was riddled with. I turned around and saw a cop behind me. The similarity between people on my phone and those who were dancing led me to believe that the cop had my phone and had seen the content. I understood that the cops used my phone to peddle trouble against me at the state of New York.

On the day Judge Sheila committed suicide, I stopped using SNAP because my EAD expired on this day. Using it while my immigration status is outdated would have

put me in trouble. For example, exhibit C shows that my New York domicile expires when my work permit expires.

The suicide of Judge Sheila shed light to the wrongful prosecution I would have faced on basis of SNAP, if I had used it after expiration of EAD; and on basis of prurient-evoking graphics, exhibits D' Cop stalkers approached Andrew Cuomo and convinced him to bring about my prosecution. Andrew Cuomo contacted Judge Sheila about it, she was faced with a dilemma she could share with no one, it made her stressed out, in the news, according to the testimony of family and friends. She decided to botch the scheme by committing suicide.

E - Constructive Discharge

In Sept. 2017, CRST hired me as truck driver; within 5 months I made about \$2853.00 see exhibit E I was deprived of bonuses and a significant raise that was going up every month until reaching 42 cents a mile. Ellie, student coordinator, teamed me up with a heavy smoker who coughed relentlessly. She knew I was not a smoker and had requested a non smoker lead driver.

After the training, the driver manager Larry Yeo failed to find a Codriver. Out of the 22 listed as potential Codrivers, only one, McDonald, was available. Yeo rejected him then imposed IZZAK. IZZAK's driver manager Laura prevented him to team up with me. In addition, Yeo caused me to be stranded about 12 days in Carlisle, PA, with no pay, no reimbursement of personal expenses. He also attempted to make me responsible of defects on a tractor taken to shop by unknown driver, and before checking it out I did a preliminary inspection which revealed major defects other than the ones listed at check in shop time.

I asked Brock Ferry, the fleet manager to give me a different driver manager. He gave me Josh; they both failed to find me a Codriver. After having ignored me for 3 weeks, Brock assigned me tractor 102911. I double inspected it, it was fine. Its 2 weeks later that I discovered that I was likely to freeze to death while asleep, because the opt-idle engine management system was not working. It turns on and off the engine to keep proper temperature in the sleeper berth. This is where the control buttons are. After 2 loads having been taken away from me and given to other drivers, I was stranded again, this time in Nebraska where it was heavily snowing. This is where I had to use the opt idle because the tractor was not moving. No need of opt idle when it is moving. I had about \$20.00 on me, I was not being paid for waiting a dispatch, then driver manager Tim said it could take a week to get a dispatch in my area. In 2 weeks with Josh I only ran 667 miles (about \$120.00). I spoke to Brock Ferry about my precarious situation, he did nothing about it. He even prevented me to bobtail to Cedar Rapids where I would get loads easily. He said it is too far to bobtail. Curiously he allowed a tractor to bobtail 300 miles to just snatch a load ^{from me} taking to Oregon from me. I decided to quit, I wrote a letter asking for improvement in working conditions, i.e. honor their much touted 2500 miles per week. There was no response. I paid \$200.00 to get back to NY on Greyhound.

F- On February 20th, 2018, I mailed Employment Authorization renewal to USCIS. It was received on 2/26/2018, the EAD form expiration date was 2/28/18. USCIS rejected the application as outdated form. I could not find a newer version on USCIS website for several days. I decided to pursue permanent resident status that was granted in the nineties but USCIS never mailed the Green Card to me.

On 6/27/18 I submitted FOIA, it revealed that I submitted the wrong medical exams. I submitted a trucker's physicals ~~XXXXXX~~ in error.

I recently submitted approved medical exams from a civil surgeon, exhibit F-1-15. I have not heard from USCIS about it. In the past, Mark HAZUDA in a manner suggesting that he has been in contact with my stalkers, see page 2 upper paragraph. Also one mail to him was intercepted by Union Square postal worker; she/he read the content and divulged it to 2nd Circuit Court clerk who entered false event on the docket, see exhibit G. Mark HAZUDA never submitted anything in the 2nd Circuit, contrary to docket entry 34, 36.

PRAYER: I request for a mandamus ordering USCIS to issue the Green Card. USCIS has not been forthcoming with my permanent resident matters and others. USCIS failed to notify me that I had mailed the wrong medical exams in the nineties. By doing so, USCIS withheld unduly the proof of my permanent resident status in violation of APA Section 706 (1). See Sharkey v. Tarantino. Court found that her permanent resident status was withheld illegally.

G- In 2015 students were disrupting my classes. Eventually I sent them to the main office for discipline sanctions. Ms. Small Shelby, teacher at Lansdown MS, intercepted them, took them to a room of teacher I had suspected to be a stalker suspect. After I reported Ms Small to FBI that she could have been inciting students to disrupt my classes. This belief was fortified by her statement, "I am 35 years old" that I felt was directed to me in the middle of a math class.

My next assignments were cancelled by Diane, substitute handler, in retaliation for reporting Ms. Small.

At General John Stricker MS (middle school), 2 students were not doing the classwork and had no intention of doing it. I spoke to them about the opinion of Justice SCALIA. The next period I was summoned by the principal. The students ^{had} reported that I stole a phone, the other said that I said to her that she cannot go to college. Both reports were false. The principal then said, "You never tell kids about those things." I think the Math coach, Bryan, is the one who incited the kids to go to the principal. A day earlier he had incited a student to truncate a classroom phone cord.

My subsequent assignments were cancelled.

H- On 1/10/17 planet fitness attendant cut the lock of my locker and stole my flash drive. I complained to Nicole Lieberman, she called the cops, see exhibit H. The cop was rubbing up and down his hand on the chest in reference to bathing that I was prevented to take because Nicole had closed the showers. Mimicking bathing was bragging and claiming responsibility ~~of~~ for the foul play. A few years earlier, a woman in Baltimore stated that I have AIDS. This was in reference to the toothbrush and a razor blade that the planet fitness attendant in Brooklyn, NY, had planted in my shower kit. Generally speaking, I endured many harassments at planet fitness clubs.

I- On March 24th, 2017, after midnight, I boarded a bus^{that} I usually take from Owens Mills Subway station to Rogers station. The bus drove to Glyndon where it dumped me. When I protested, the driver called the cops. Then I got out, took a taxi and paid \$20.00. There have been other dumpings at: Cromwell, North Linthicum, from where I had to work to downtown (4 hours).

On several occasions in NY, I would buy a train ticket and turnstiles would reject them for insufficient funds. The more I report the more the attacks escalate.

J- In 2005 I was arrested without probable cause at La Tijera, Los Angeles, on or about Feb. 15th. I was interrogated all night by Reynolds or Raynoso, I was released in the morning and was escorted by Fontanetta to my car. They kept my driver's license. I decided to go to DMV for a duplicate. I missed a day of work about \$150.00. I was a substitute teacher at LAUSD. I realized that teachers I had been reporting master-minded this false arrest.

Before this incident, I was coming from night school, stopped at 7-Eleven on Wilshire Blvd. I was eating a burrito when cops converged onto me. They ordered to drop burrito, then placed me in front of car with all its light illuminating me; they said that I robbed the bank. Eventually they released me. I noticed particularly a ~~fat~~ tall cop that I recognised when I was booked on 2/15 or 2/16 at Culver City; he gave me a bottle of Coca Cola, I took one or 2 sips, then he took the bottle away. On another occasion, he came to school where I was subbing to interrogate me. He narrowed the exit gate by placing a table on which he sat on, observing observing people exiting school. I reported all these incidents to School district and FBI.

ARGUMENTS

This case shows that cops, teachers, government officers, and people in the general public acted and continue to act in concert to attack me, physically, bullying, harassment, and attempted arrests, in retaliation for reporting their conducts to FBI. The defendants conducts was an expression of ruthlessness abridging my First Amendment rights. It appears that the attacks morphed into taunting FBI through me. This may be an explanation as to why they like to brag and claim responsibility of the attacks. Normally wrongdoers keep quiet. My stalkers do the opposite either because they think they can make FBI irrelevant or they have become a redoubtable autonomous political entity independent from checks and balances. ~~XXXXXXXXXX~~

In Nieves v. Bartlett, the Ninth Circuit (9th Cir.) stated that plaintiff can make retaliatory arrest claim even if the officer had probable cause. This circuit rule conflicts with the rule in other Circuits. In Lozman v. City of Riviera Beach, this court stated that plaintiff must show only the retaliation was a substantial or motivating factor behind the arrest, and that the retaliatory animus was but-for cause of the arrest.

In Fogle v. Pierson, 435 F.3d 1252, 1259 (10th Cir. 2006), 7th Cir stated, "... where frivolousness determination turns on an issue of law, we review the determination de novo. In instant case, facts are not subject to disputes because they are tantamount to confession. They are about claiming responsibility and bragging about committing them.

De novo review is warranted under Highmark Inc. v. Allcare Health Management Sys. Inc., 134 S. Ct. 1744, 1748 (2014). Or an independent review since this case brings forth an important constitutional issue where government entities in turf tussle are involved.

*An independent examination of the record must be made in order to ensure that the judgment does not constitute an intrusion on a constitutional right." NY Times Co. v. Sullivan, 376 U.S. 254, 285 (1964). In Pennkamp v. Florida, 328 U.S. 331, 335 (1946) is about independent review ~~of~~ First Amendment speech claims.

Constructive Discharge. To prove its existence, plaintiff must establish that the defendant deliberately made or allowed her work conditions to become so intolerable that employee had no other choice but to quit. See ~~Dubue~~ Irving v. Dubuque Packing Company, 689 F.2d at 172. Resignation is actionable under §1983 only if it qualifies as constructive discharge for prohibited reason, such as political retaliation. Irving v. Dubuque Packing Co., 689 F.2d 170, 172 (10th Cir. 1982); it cited Klein v. McGowan, 189 F.3d 705, 710 (8th Cir. 1999).

Employers are liable according to Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775, —, —, —, 118 S.Ct. 2275, 2290

Thus, CRST, Brock Ferry, Larry Yeo, Josh, are liable not only under state law, but also under §1983 because their conducts were motivated by Police officers influence. Reihmann v. Foerstner, 375 N.W.2d 677, 683-84 (IOWA 1985) constructive discharge in the context of common law claim of wrongful discharge; and grounded on intentional infliction of emotional distress for the tort wrongful employment termination.

The defendants are amenable to ^{Courts} ~~state~~ other than Iowa's under long-arm doctrine, See International Shoe Co. v. Washington, 326 U.S. 310 (1945). CRST does business in the state of New York, and I personally made a load pick up in New York in September 2017.

REASONS FOR GRANTING THE PETITION

1- Rivalry between security agencies and FBI is beneath the surface.

"Conspiracies inside of government, or the appearance of conspiracy, can be found within the annals of most countries, including the United States. Revelations concerning these plots have often led observers to conclude that secret cabals are intrinsic to a nation's politics, forming institutions unto itself..." (How Deep State Came to America: A History by Ryan Gingeras, Feb 4th, 2019).

I am a typical example of that rivalry. What started as reporting simple irregularities in the classroom, like lack of lesson plan, has ballooned in reporting and more reporting, and retaliation and more retaliations with no foreseeable end. The teachers and cops use their leverage to undermine every endeavor I am involved in, or bring about my demise without incriminating themselves. Courts cannot end this phenomenon but they can slow its momentum by protecting the First Amendment by ensuring that protected speech is not the cause for the arrest, bullying and harassment. It is a problem the entire nation would love to see resolved.

2- In the matter of retaliatory arrest claim, courts of appeals are divided.

The Ninth Circuit is for allowing retaliatory arrest claim to go forward even if the officer had probable cause. The other circuits do not agree.

The instant case serves as a good vehicle to revisit the question in *Nieves v. Bartlett*: whether probable cause defeats a First Amendment retaliatory arrest claim under 42 U.S.C. § 1983.

3- Lower courts erred by rejecting the bragging of the defendants. The bragging amounts to confession. As such there is no question ^{about} facts on the appeal. Petitioner is seeking review as a matter of law. De novo and independent reviews are warranted or proper.

4- 8 U.S.C. § 1155 does not permit revocation where the beneficiary is already inside the United States. *Firstland International, Inc. and Shao Zeng Chai v. United States Immigration and Naturalization Service*, 377 F.3d 127 (2004). USCIS failed to ~~rescind~~ ^{notify me about the} an already approved Green Card, 8 C.F.R. § 246.1-7;

USCIS did not follow the proper procedure prescribed in APA. Second Circuit ruled in favor of both Sharkey and Firstland. In light of these cases, mandamus should be granted.

"Where District Court did not hold an evidentiary hearing, Court of appeals must accept as true all material facts alleged in the complaint and draw inferences in plaintiff's favor." *Merritt v. Shuttle, Inc.*, 245 F.3d 182, 186 (2d Cir. 2001).

CONCLUSION

Petitioner Prays that lower courts decisions / judgments be vacated, that mandamus be granted.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

M. RUGAMBA

Martin RUGAMBA

Date: April 8th, 2019