

No: _____

IN THE SUPREME COURT OF THE UNITED STATES

Certiorari Petition No: 18 - 8838 - Appeal Record No: 18 - 1753

In The Matter Of
Frizzell Carrell Woodson
Appellant / Petitioner, Pro se Litigant

v.

The United States Of America
Defendant / Respondent

THE APPELLANT / PETITIONER, PRO SE LITIGANT IN WANT OF A
PETITION FOR A WRIT OF CERTIORARI TO REVIEW THE UNITED
STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT PER CURLAM
UNPUBLISHED OPINION AND RELEVANT APPENDICES

PETITION FOR REHEARING

Litigation Counsel of The U.S. Department of Justice

The Honorable William Pelham Barr *Attorney General of the United States*

The Honorable Jeffrey A. Rosen *U.S. Deputy Attorney General*

The Honorable Clarie McCusker Murray *Principal Associate Attorney General*

The Honorable Noel John Francisco *U.S. Solicitor General*

The Honorable George Zachary Terwilliger *U.S. Attorney for the EDVA*

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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44 Rehearing Consideration and or otherwise, the original Plaintiff to this cause continuum, Frizzell Carrell Woodson as natural person in truth and acting as the *pro se litigant* in law. Thusly in legal character, the Appellant / Petitioner gives acknowledgment pause in the Presence of the Comforter, therefrom the baptism of The Holy Spirit, I am Spiritually Blessed in Christian Citizenship faithfulness, always trusting ProvidenceGod's guidance by Faith, count it all Joy, to respectfully petition this Article III Court's constitutional conferred inherent authority, as such jurisdictional province fair and objective reading of the clear established principles of well settled rule of law applications, and non-elected public servants of the same law, under affirmative oath binding judicial duty to maintain supremacy of the rigid Constitution.

Whereas, may it be resolved, the Petition for the Writ Of Certiorari in as such granted ascribed *informa pauperis status*, afforded for the above cause intervention in this Court's jurisdictional forum, clearly established in the Supreme Court Record therefrom, a ministerial duty of the Judiciary Clerk sufficiently docketed as *Frizzell Carrell Woodson v. United States*, reflecting a principal Record No: 18 – 8838 thereof.

Whereupon, the rendered Order denying the effortful Writ of Certiorari in this case particular, this prescriptive twenty – five day statute of limitation entitlement is not an empty formality and any such denial of the said

pro se petition, should not be prejudicially treated as a definitive determination thence, thusly subject to entertain all the juxtapositional circumstances relevance, of such orthodox supervisory finality interpretation imposed under constitutional law.

Wherefore, this exceptional circumstance warrants the exercise of this vested Court's discretionary powers, conferred in 1803 with the landmark case of *Marbury v. Madison* (5 U.S. (1 Cranch) 137, 2L ed. 60), before a judgment can be entered therein the above constituted cause finality to resolve the unsettled judicial issues of both fact and law, thusly granting a Petition for Rehearing of the Order Denial for the *Pro se* Petition for Writ of Certiorari filed on April 15, 2019 and vacate that Order Denial particular, in accordance with the Rules of the Supreme Court, thusly entertain a comprehensive and through discretionary review, thereupon being informed of the open civil matter as such procedure and practice instructing the inferior courts to submit the transmissions of the Judicial Record trial court Orders and parties of legal interest statutory submissions into the Record and appellate rendered judgments of the courts below.

Wherefore, to schedule an opportune substantial brief on the case merits, as such clarification in depth for this Court intervention under the compelling societal civil importance of a challenged constituted jurisdiction of all lower courts, even to the extent to invoke adjudicative jurisdictional passage through a purposed *sua sponte* resubmission of the origin Adjudicative Plea pursuant to controlling precedent in *United States v. Ohio Power Co.*, 353

U.S. 98 (1957), as such necessitated interest in finality of litigation must yield when the interest of justice would make unfair the enabled Order Denial rendered on June 10, 2019, having an effective signatory of the U.S. Supreme Court Clerk The Honorable Scott S. Harris.

CONSTITUTIONAL AND STATUTORIAL GROUNDS FOR REHEARING

Pursuant to Supreme Court Rule 51.2 which governs requests for rehearing of a denial of petition for a writ of certiorari. Thusly, the sufficient grounds for rehearing are limited, and require the litigant to show either intervening circumstances or substantial grounds subject to invoked a *sua sponte* rehearing and or otherwise writ for certiorari.

Fundamentality the Constitution is the Supreme Law of the Land ordained and established by the people and thusly, confer upon all citizens the equality of substantive rights to a lawful government, as due course in prescriptive manner, conforming to the constitutional mandate of the judicial branch of the government.

Petitioner respectfully submits that this instant case standing is plain on its merits, the constitutional scope offers an unique zone of interest permitting this Court's to affirm its historic mandate "Equal Justice Under Law", as well as the given judicial steward's prerogative as envisioned by the framework of the U.S. Constitution of citizenry ancient entitlements, "The Freedom Of Speech," "The First Amendment Ancient Right To Petition The Government For Redress Of Grievances," and "The Fifth Amendment Hallow

Rights of Due Process Of Law.

FACTUAL BACKGROUND

The original Plaintiff pro se litigant is a natural born Citizen of the United States by virtue of my inherent "Rights Of Birth" to the "Prosperity" of "We the People" of the "Preamble to the United States Constitution", save an "Afro-American Beneficiary" of privileged statutory status of citizenship afforded, that is found upon the settled tenets created therein the Fourteenth Amendment to the United States Constitution and extended protections under the national law arising under the Civil Rights Act of 1964.

The federal *informa pauperis* statute, enacted in 1892, Act of July 20, ch. 209, 27 Stat. 252. Congress recognized that no citizen should be denied an opportunity to commence, prosecute, or defend an action, civil or criminal, in any court of the United States, solely because of his / her poverty makes it impossible for him / her to pay or secure the costs. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 US 331, 342 (1848).

Whereas may it be resolved, that in sum and substance a private cause of action is at its core, a tool for enforcing federal statutory or constitutional rights afforded. This existence of a cause of action enables a private person who has suffered a violation of federal rights to bring suit to obtain appropriate relief from the wrongdoer / tortfeasor.

Whereas, sounding in tort trifecta zones of FTCA violations concomitant on the federal grounds afforded for a prayer of relief expressed in continuum 28 C.F.R. Part 14, therefrom the administrative claim enumerated provisions

exhaustion, pursuant to *McNeil v. United States* (1993) 508 US 106, 113 S. Ct. (1980); *Meridian Intern Logistics Inc., v. United States*, 939 F.2d 740 (9th Cir. 1991); 28 USC § 2675 was statutorily denied, and therefrom given in sum certain relief for satisfaction of irreparable personal injury in due course continuum statutorily stated and expressed in the initial Notice Of Pleading.

The correspondence as required by law effected at 28 C.F.R. § 14.9 (a), makes legal reference to the administrative claim submitted thereabout the date of December 19, 2016, as such intake process for the alleged tort violations of the DOJ Attorneys Particular. The signatory is the Director of the Torts Branch Mr. James G. Touchey, Jr., for the reference date of October 30, 2017. Certified Mail 7015 1520 0003 0728 9730 Return Receipt Requested.

Moreover, the current statute presently codified at 28 USC § 1915, is designed to ensure that indigent litigants have a meaningful access to the federal courts, to commence and prosecute to conclusion any such action without being required to prepay fees or costs, or give security therefor, before or after bringing suit. Section 1, 27 Stat. 252.

Petitioner cause of action arose under the Federal Tort Claims Act 1346 (b) and thusly Filed on April 26, 2018 the first pleading with attach exhibits to the *informa pauperis* Complaint, as such prescribed financial affidavit application afforded, seeking redress violation of Plaintiffs rights secured under the rigid U.S. Constitution and federal laws of the United States in

harmonization with the Commonwealth of Virginia statutes applicable, thereagainst the above Defendant's alleged delictual conduct grievable liability, on federal grounds afforded, sounding in cognizable tort trifecta zones of concomitant Governmental Professional Negligence, a Wrongful Act as such breach of common-law duty and Omission of Enjoined Duty undertaken.

PROCEDURAL BACKGROUND

A. Proceeding Below Referencing To The Petition Of Certiorari

Petition Appendix A Notice of Judgment from Appellate Court: Pet. App A [43a] – [52a]. Whereas a direct appeal from the three panel appellate review by Federal Circuit Judges, The Honorable Judge Diania Gribbon Motz, The Honorable Judge Pamela A. Harris, and The Honorable Senior Judge Clyde H. Hamilton rendered the decisions of the inferior Court on filed on November 19, 2018.

Petition Appendix B *En Banc Rehearing* Order from Appellate Court: Pet. App. B [53b] – [56b]. The En Banc Rehearing denial was ministerially filed on January 29, 2019.

Petition Appendix C District Court Memorandum to Proceed *In Forma Pauperis*, Dismissed Civil Action: Pet. App. C [57c] – [62c]. On June 5, 2018, the Article III Judge issued an *sua sponte* in chamber platform decree, thusly in an open proceeding executed the fiat memorandum order dismissing the complaint, and foreclosure of the instant actions, which is the entire ruling under review expressed here in relevant part, “Plaintiff is Ordered to file his response to the Court's Order To Show Cause in Civil Action No:18cv278.

The Clerk is Directed to close all of Plaintiff's related cases (Civil Action Nos. 3:18cv00279, 3:18cv00280, 3:18cv00281, 3:18cv00282), in light of the Court's dismissal of the Complaints therein."

B. Statement of Judicial Facts and Procedural Activity Background

Petition Appendix D Civil Activity Instruments from U.S. District Court: Pet. App D [63d] – [64d]. The Defendant never gave statutory appearance to defend its legal interests to this civil matter. Also the instrument gives fair indication of the omission of the Clerks ministerial duty as such Service of Process upon the legal Defendant pursuant to Rule 4 (c) (B) (i) and Section 1915 (c).

Petition Appendix E Civil Activity Instruments from Appellate Court: Pet. App. E [65e] – [66e]. The Appellate Court disregarded the Motion To Challenge Constituted Jurisdiction.

C. Proceeding Before This Court

Petitioner timely filed a petition for a writ of certiorari and motion for leave to proceed *informa pauperis*. The Defendant's Litigation Counsel of Record, waived the government's right to respond, by and through passage of the statutorial notice dated May 16, 2019, bearing the only the printed name of "Noel J. Francisco", the title appointment of U.S. "Solicitor General" and thusly "Counsel of Record". May the record reflect thereupon a cursory reading of the four corner instrument particular, there appears to be no certified authorization of purpose and effect, as such ministerial requisite wet signature, electronic signature, legal signature /s/_____, and or

otherwise facially demonstrated to this practical subject - matter.

ISSUES FOR INSTANT REVIEW

An appellate court has an obligation to make an independent examination of the whole record in order to make sure that the judgment does not constitute forbidden intrusion on Procedural Due Process and or a erroneous decision purposed to deny any plaintiff of their constitutional entitlements, civil rights, federal rights, substantive rights, and procedural rights under statutory law and constitutional settled boundaries.

Petitioner further contends the appellate adjudicators forfeited their authority to recognized the importance of the issues, thusly culminated in deliberate concerted indifference to the extent of a loss of the court's statutory jurisdiction and willfully embraced palpable procedural defects, and knowingly held clear statutory omissions and adopted the trial court divergent views of dismissal of a subject – matter alleged to be in complete Article III standing for a cause of action to obtain a relief under adjudicative consideration.

Whereas, in dismissing complaints for failure to state a claim, a district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts. *Cook, Perkiss & Liehe v. N Cal. Collection Service*, 911 F.2d 242, 47 (9th Cir. 1990).

Whereas, an Order dismissing a complaint for failure to state a cause of action for failure to state a cause of action is a final appealable final order

if the order does not grant leave to amend. *St. Vil*, 714 So. 2d at 605 citing *Carnival Corp. v. Sargent*, 690 So. 2d 660 (Fla. 3d DCA 1997); *Stebnick v. Wolfson*, 584 So. 2n 177, 178 – 79 (Fla. 3d DCA 1991).

The inferior Court has overlooked, misapplied or failed to consider a statute, decision, or principle directly controlling. The Court has overlooked or misconceived a material fact, The Court has overlooked or misconceived a material question, The case is a precedent potential of grave public concern.

Constitutionally speaking, any and all, courts have a duty to ensure that *pro se litigants* do not lose their right to a hearing on the merits of their case due to ignorance of technical requirements. *Garaux v. Pulley*, 739 F.2d 437, 439 - 40 (9th Cir. 1984); *Borzeka v. Heckler*, 739 F.2d 444 n.2 (9th Cir. 1984); *Sherman v. Yakahi*, 549 F.2d 1287, 1290 (9th Cir. 1977); *Hansen v. May*, 502 F.2d 728, 730 (9th Cir. 1974) *Dewitt v. Pail*, 366 F.2d 682, 685 (9th Cir. 1966).

The trial court Article III Senior Judge in this open court proceeding above cause and or otherwise in contravention of settled principles and Misapplying the Law for improper motive and or the appearance of potential futuristic appointment tangible, as such personal elevating status gainable and thusly continued usurpation of authority violated due process of law.

When he granted the application benefit of *informa pauperis* to commenced the civil cause action, only to simultaneously without procedural statutory notice, in the same decree terminated the instant civil action sua sponte without authority under the clear establish principles of settled rule of

law, in contradiction to the citizenry rights afforded under the rigid constitution.

The trial court, in this open court proceeding above cause, lacked fundamental cognizable jurisdiction in full legal regards to sustainable Personal jurisdiction over the parties, a substantial subject – matter jurisdiction throughout the commenced civil action, in due course of procedure evidence by the Record Permanency indicates by memory of law, No Jurisdictional Power existence to hear and pronounce a particular judgment of kind, whereas in this jurisdictional issue of fact that cannot be waived.

The trial court Article III Senior Judge guilty or not guilty of alleged impeachable criminal character, in this open court proceeding above cause gave full emphatic threatening verbiage of weaponry intimidating implication that in any and all *informa pauperis* pleaded civil cause of action brought forth by my being a *pro se litigant* Afro -American Native Citizen Beneficiary, in no prescribed manner will proceed in the said court of venue heretofore and henchforth, of his judicial duty station or otherwise conferred appointment thereto.

The trial court Article III Senior Judge acted in a rebellious mannerism exhibited in failure to lawfully entertain self -recusal from the civil action for the sake of impartiality demonstrated Judicial Misconduct and Judicial Disability within the purview of defined Bias and undue Prejudice.

The trial court Article III Senior Judge practice and pattern has conspired to commit Domestic Criminal Disloyalty and High Misdemeanors

Offenses as such Judicial Oppressive Influence to excite the felony threshold offense that gave substantial rise to an abuse of unelected appointment engaged in domestic Insurrection to advocate Direct instruction to levy tyrannical restrictions at his pleasure under his unlawful will to forment certain indigent *pro se litigant* Afro – American Native Citizens Beneficiary proclaiming true allegiance to the detriment to all ordinary citizenry having standing assertion of Equal Justice Sovereignty Under The Law, transpirable rights indisputable set forth by the Freedom of Expression Clause, the Freedom of Exercise Clause, the Due Process of Law Clause and the Equal Protection Clause.

Statutorily speaking, a complaint that is filed *informa pauperis* to commence a civil action under 28 USC § 1915 (a) is subject to dismissal by the district court under 28 USC § 1915 (d), only if it is frivolous or malicious. *Neitzke v. Williams*, 490 US 319, 109 S. Ct. 1827, 104 L.Ed.2d 338 (1989). As *Neitzke* made clear, a complaint may fail to state a claim upon which relief may be granted under Rule 12 (b) (6) but not be frivolous within the meaning of Sec. 1915 (d). *Id.* at 1829. In the ordinary course, if the complaint is not frivolous so as to warrant dismissal at the initiation of the suit under Sec. 1915 (d), it should proceed as any civil case would be governed by the usual civil procedures, including Rule 12 (b) (6) if appropriate.

In furtherance this reasoning is implicit in *Roman v. Jeffes*, 904 F.2d 192 (3rd Cir. 1990), where they ruled that district court could not dismiss an

action under USC § 1915 (d) after granting an *informa pauperis* status and the and the service of the complaint. And in further discussion this reasoning also leads to the conclusion that district court cannot *sua sponte* dismiss a complaint under Rule 12 (b) (6) before service of process.

Whereas, may it be resolved, under the procedure of post - -filing delay review, a complaint is ministerially docketed and the motion to proceed *informa pauperis* is granted, if the Plaintiff meets the financial criteria. A court, however, cannot dismiss the complaint on the grounds of frivolousness, until the issuance of process and the responsive pleadings. e.g. *Bayron v. Trudeau*, 702 F.2d 43, 45 (2nd Cir. 1983).

Whereas, in prescriptive manner necessary and proper, “Service of Process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant.” *Murphy Bros., Inc., v. Michetti Pipe Stringing, Inc.*, 526 US 344, 350, 119 S. Ct. 1322, 143 L.Ed.2d 448 (1999). Under the Federal Rules enacted by Congress, federal courts lack the power to assert personal jurisdiction over a defendant “unless the procedural requirements of effective service of process are satisfied.” *Gorman v. Ameritrade Holding Corp.*, 293 F.3d 506, 514 (D.C. Cir. 2002); see *Omni Capital Int’l Ltd., v. Rudolf & Co., Ltd.*, 484 U.S. 97 104, 108 S. Ct. 404, 98 L.Ed2d 415 (1987). *Miss. Publ’g Corp., v. Murphree*, 326, U.S. 438, 444 – 45, 66 S. Ct. 242 90 L.Ed 185 (1946). Service is therefore not only a means of “notifying a defendant of the commencement of an action against him,” but “ritual that marks the courts assertion of jurisdiction over the lawsuit.” *Okla.*

Radio Assocs., v. FDIC, 969 F.2d 940, 943 (10th Cir. 1992).

The dismissal of the complaint in the present case is judicially wrong and demonstrates infringement of due process of law and the termination of the civil action constitutes a constitutional violation of equal protection under the same law for the Plaintiff was not given a Rule 15 (a) due course opportunity to amend the complaint to cure defects, if any, as required by *Neitzke v. Williams*, 490 US 319, 1098 S. Ct. 1827, 104 L.Ed.2d 338 (1989); *Colburn v. Upper Darby Tp.*, 838 F.2d 663 (3rd Cir. 1988), *cert. denied*, U.S. 109 S. Ct. 1338, 103 L.Ed.2d 808 (1989); *Roman*, 904 F.2d at 196; *Dougherty v. Harper's Magazine Co.*, 537 F.2d 758, 761 (3rd Cir. 1976).

The term jurisdiction refers specifically to a court's adjudicatory authority. *Reed Elsevier, Inc., v. Muchnick*, 559 U.S. 154, 160 (2010). Therefore, a "rule should not be referred to as jurisdictional unless it governs a court's adjudicatory capacity, that is, its subject – matter or personal jurisdiction." *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 435 (2011). In other words, "jurisdictional states speak to the power of the court rather than to the rights or obligations of the parties." *Landgraf v. USI Film Prods.*, 511 U.S. 244, 274 (1994).

REASONS FOR GRANTING THE REHEARING PETITION

All courts have an independent obligation to determine whether subject – matter jurisdiction exist even in the absence of a challenge from any party. Citing *Arbaugh v. Y & H Corp.*, 546 US 500, 514 (2006) (citing *Ruhgras AG v. Marathon Oil Corp.*, 526 US 574, 583 (1999); *Sharkey v. Quartantillo*, 541

F.3d 75, 87 – 88 (2nd Cir. 2008); Citing *Arbaugh v. Y & H Corp.*, 546 US 500, 514 (2006); *Da Silva v. Kinsho Int'l Corp.*, 229 F.3d 358, 361 (2nd Cir. 2000) (“to the extent the threshold limitations are jurisdictional, we are required to raised this *sua sponte*”). *Camico Mut. Ins. Co., v. Citizens Bank*, 474 F.3d 989, 992 (7th Cir. 2007) (citing *St. Paul Mercury & Indem. Co., v. Red Cab Co.*, 303 US 283, 287 n.10 (1983); *Andrews v. E.I. Du Point De Nemours and Co.*, 447 F.3d 510, 514 (7th Cir. 2006) (“While neither party raised the matter of jurisdiction, we have an independent obligation to ensure that jurisdiction exists.

Whencesoever, it appears by suggestion of the parties, as such practical satisfaction of the minds or otherwise, that the Court lacks constituted jurisdiction in an legal open proceeding holding due process continuum, a court cannot assume jurisdiction and then rule on the merits in favor of the party whom it has assumed jurisdiction.

Wherefore, the petition for rehearing challenges limited jurisdiction of the trial court purview for the above captioned cause for the non – service of process upon the captioned defendant, and the appellate court circumvention of its ministerial and obligated responsibility imposed under law, holding sufficient legal standing in this open civil matter before this honorable body, of which the pleaded *informa pauperis* complaint set forth the cause of action, the remedy sought of certain sum relief and the statutory venue of the suit at law, rests upon the defendant’s litigation counsel failure to statutory appear or defend and or otherwise dispute the allegations, has

establish the grounds for default final judgment as a matter of law.

CONCLUSION

For the foregoing warrantable reasons and to the advanced sound reasons manifested in the Petition for a Writ of Certiorari, this Petitioner clearly makes more than appropriate showing that grave issues of fact and law are presented by, and substantial relevant matters passage through, this purposed Petition For Rehearing before a finality judgment can be entered therein.

Whereas, to give substantive support for a supremacy discretionary reconsideration, and thusly petitions that this Court, in all due respect not withdraw from this jurisdictional matter, as such compelling constituted adjudicatory authority is necessary to secure judiciary integrity and maintain uniformity of decisions and not pretermitt the Due Process Violations of the inferior courts below.

Therefore, this Petitioner respectfully asks this Court of Equity, in the interest of justice, to grant a rehearing of the Order of denial, in accord to vacate that Order, and grant the Petition for Writ of Certiorari scheduling a briefing of the case and oral arguments and requesting to be informed by the appellate transmission of the judicial record.

Respectively requested and submitted by,

Frizzell Carrell Woodson Date: 6/25/2019

Frizzell Carrell Woodson Appellant / Petitioner, pro se litigant

Afro - American Native Citizen Beneficiary

2432 Cumberland Road, Farmville, Virginia 23901 – 4305

CERTIFICATION OF PARTY UNREPRESENTED BY COUNSEL

I the undersigned pro se litigant hereby certify that pursuant to Rule 44.2, this Petition For Rehearing is presented in good faith and not for delay and the grounds therefor, are limited to the intervening circumstances of substantial and or controlling effect and or substantial grounds not previously presented.

Ernest Conrad Woods 6/25/2019

Pro se litigant

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CERTIFICATE OF SERVICE

I hereby certify that on and or before the elective date of 7/25/2019 the undersigned signatory, Frizzell Carrell Woodson the Appellant / Petitioner, acting pro se litigant in all pertinent issues and practical legal matters to this Federal Tort Claims Act 1346 (b) civil action, thereagainst the proper Defendant, The United States in full representation by the United States Department of Justice, and subject to their statutory appearance in this civil action or not reflected in the affirmed record any raised defense thereto, and that upon my word and this written instrument as the expressed Certificate of Service therefor.

Whereas, in due course, I statutorily caused a copy of the foregoing Petition For Rehearing was served via U.S. Mail on all legal parties entitled to the substantive interest of the legal Defendant, The United States.

And thusly forwarded to the address of record expressed herein, as demonstrated hereunder and such implied deposited documents with purposeful Signature Confirmation that shall require a designated custodial signature of legal receivable familiarity upon receipt of items specified contents and or otherwise expressed for perfect statutory acceptability therefor.

The Solicitor General of the United States

Department of Justice Building, Room 5616

950 Pennsylvania Avenue, N. W.

Washington DC 20530 - 0001

Signature Confirmation #

The United States Attorney for the

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600 East Main Street

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The Attorney General of the United States

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Washington DC 20530

Signature Confirmation #

Frizzell Carrell Woodson Date: 6/25/2019

Frizzell Carrell Woodson Appellant / Petitioner, pro se litigant

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