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18-9369

In The
Supreme Court of the United States

WADE TRAVIS WEBB,
Petitioner,

v.

COUNTY OF PIMA, et al.,
Respondents.

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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QUESTION PRESENTED

A check on the government's power to prosecute its own citizens minus no check does not equal zero.

A check on the government's power to prosecute its own citizens minus viable means to hold the government accountable equals zero.

Petitioner Webb, a 44-year-old noncriminal, made formal accusations of multiple violations after Webb was indicted on a felony. It was then dropped but lasted 84 days and Webb suffered significant damage as this occurred in Arizona and Webb's home state was Kentucky.

This Court has stated that a Grand Jury is "a primary security to the innocent against hasty, malicious, and oppressive persecution; it serves the invaluable function in our society of standing between the accuser and the accused...to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice or ill will." *Wood v. Georgia*, 370 U.S. 375, 390 (1962)

This is contradictory. The grand jury system is very important to the criminal justice process to protect the innocent from being damaged but then again it is not important enough for consequences if it fails.

Is this approach inherently flawed as it allows the government to damage citizens at will while subsequently denying citizens their fundamental right to seek legal justice if there is probable cause of Constitutional violations?

PARTIES TO THE PROCEEDINGS

Petitioner Wade Travis Webb is the Plaintiff and Appellant.

Respondents County of Pima; Former Sheriff Clarence Dupnik; Former Sheriff Chris Nanos; Sheriff Mark Napier; Detective Jeffrey Castillo; County Attorney Barbara LaWall; Unknown Parties, are the Defendants and Appellees.

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Wade Travis Webb respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The Ninth Circuits decision affirming the district court's judgment, No. 18-16659, is at App. 1a. The District Court of Arizona's denial of a Rule 60 Motion for Relief from Judgment, No. 4:18-cv-00268-FRZ, is at App. 4a, the judgment is at App. 9a, and the order to amend complaint is at App. 11a.

JURISDICTION

The Ninth Circuit Court entered judgment on 2/21/2019. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL & STATUTORY PROVISIONS

Fourteenth Amendment (Section 1)

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983 (Relevant Portion)

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction

thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

STATEMENT OF THE CASE

Petitioner Webb filed a complaint with the United States District Court of Arizona in Tucson on 5/29/2018 along with an application to proceed *In Forma Pauperis* (IFP). Webb was representing himself. Webb brought the suit against multiple defendants via 42 U.S.C. § 1983 for violation of due process and equal protection that is secured by the Fourteenth Amendment.

Webb was granted IFP status but his complaint was deemed deficient for failure to state a claim upon which relief could be granted. Judge Zapata ruled that the complaint “has not plead, with any sufficiency, *which* specific rights” were violated. The district court ordered Webb to submit an amended complaint to correct said deficiencies.

Webb filed an amended complaint on 6/25/2018. The district court rejected it as it did not indicate what was changed and ordered it amended. Only the claims brought against the defendants was amended and Webb resubmitted the amended complaint on 7/12/2018.

On 8/6/2018 Judge Zapata entered judgment against Webb in favor of the defendants as “Ultimately, the Amended Complaint still fails to allege facts that would render” any of the defendants “liable under 42 U.S.C. § 1983” as well as stating that “the Amended Complaint still fails to state which constitutional right was abridged

by a state actor. Instead, the Amended Complaint makes conclusory allegations couched in the general terms of the Fourteenth Amendment.” Webb’s civil action was dismissed without prejudice.

On 8/31/2018 Webb filed a Rule 60 Motion for Relief from Judgment defending the complaints and a Notice of Appeal. On 9/12/2018 Judge Zapata denied Webb’s Motion “(alleging a “fundamental right to hold the defendants accountable”)” as well as stating “In conclusion, the Court understands that Plaintiff had limited means, and that Plaintiff’s arrest and indictment required state imposed non de minimis [sic] expenses, such as securing temporary housing for the 84 days from when Plaintiff was arrested until the indictment was dismissed.”

Additionally, on 9/10/2018 the Ninth Circuit sent the district court a Referral Notice for the “limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith.” Judge Zapata addressed this in the denial of Rule 60 Motion by stating “IT IS DETERMINED that although Plaintiff’s appeal may lack a realistic probability of success, the appeal is not “frivolous or taken in bad faith.”” It is up to the Ninth Circuit to determine whether the appeal is successful, not the district court.

Webb submitted the Opening Brief on 10/27/2018 and submitted a revision on 1/5/2019 for a misspelling on the caption page. The Ninth Circuit affirmed the district court’s judgment in favor of the defendants on 2/21/2019 but did not rule on the Motion for Relief from Judgment “because Webb failed to file a separate or amended

notice of appeal. *See Fed. R. App. P. 4(a)(4)(B)(ii).*" Webb was unaware of this rule as he is not a licensed attorney.

REASONS FOR GRANTING THE PETITION

I. Introduction

This case serves as an important example of how the criminal justice system is allowing innocent citizens to be attacked during the criminal justice process to the point of violating Constitutional rights and subsequently denying their fundamental rights to legal retaliation in the civil system after suffering unnecessary damage.

This at odds with the very principles in which the United States of America was founded upon.

Looking at this from an outsider's point of view offers perspective.

The United States is getting off track or is already off track. After my experience I believe that unalienable rights, to me the same as fundamental rights that cannot be infringed upon, in the United States are being compromised and is a much bigger problem than an isolated case.

Charging someone with a felony with the intent of putting that person in prison is an attack on that person's freedom that must be warranted.

The United States of America is interesting. In a relatively short time span a fledgling, burgeoning country that took up arms against a more powerful opponent to fight for freedom has become synonymous with freedom and a powerful country.

The Declaration of Independence boldly outlined exactly what the colonies were fighting for and the reasons.

We hold these truths to be self-evident: *That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.*

Central to the Declaration of Independence is unalienable rights which are endowed by the Creator and include life, liberty, and the pursuit of happiness.

The Constitution of the United States of America was then constructed around securing the unalienable rights of human beings which are not given by any government but are from a higher power as acknowledged. The Preamble is reliable evidence of exactly what the intentions of the Constitution were and what the Founders hoped to achieve.

We the People of the United States, in Order to form a more perfect Union, *establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity*, do ordain and establish this Constitution for the United States of America.

The Bill of Rights then significantly reinforced that citizens fundamental rights are protected in the United States.

The goal was to maintain a straight line incorporating all the elements of the Declaration of Independence and the Preamble, with the addition of the Bill of Rights,

so there was no chance of any of those elements being compromised ensuring freedom and protecting fundamental rights.

The Founders knew they would not get everything correct and left room for amendments so over time the line would stay straight even more than 200 years later. When the line starts to curve then there are problems that have to be corrected to straighten it out as it cannot curve and still function as intended.

II. Law

This Court stated that "The grand jury has always occupied a high place as an instrument of justice in our system of criminal law – so much so that it is enshrined in the Constitution." *United States v. Sells Engineering, Inc.*, 463 U.S. 418, 423 (1983)

"The importance of the grand jury cannot be underestimated: In the federal system and many States, a felony cannot be charged without the consent of community representatives, a vital protection from unwarranted prosecutions." *Rehburg v. Paulk*, 132 S.Ct. 1497, 1508 (2012) (footnote 3)

"The grand jury system is an investigative body acting independently of either prosecutor or judge whose mission is to bring to trial those who may be guilty and clear the innocent." *Marston's, Inc. v. Strand*, 114 Ariz. 260, 264 (1977) (citing *United States v. Dionisio*, 410 U.S. 1 (1973))

"Without thorough and effective investigation, the grand jury would be unable either to ferret out crimes deserving of prosecution, or to screen out charges not warranting prosecution." *US v. Sells* at 424.

III. Petitioner's Example

A. Background

Petitioner Webb, a 44-year-old male who is single with no children, was born in a small town in central Kentucky. His parents were poor and lived in a trailer in a small trailer park. Both parents were from the Cumberland Gap region and raised in families that were poor.

His parents worked hard, bought a house a couple of years later, and went on from there. Both got college degrees and were successful in allowing their children to have more opportunity than they had.

In school as Webb was growing up, he would recite the Pledge of Allegiance – “I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with *liberty and justice for all.*”

Webb later graduated high school then went straight to college graduating with a major in finance and a minor in organizational communication.

Webb then worked for a large institutional investment company that managed hundreds of billions of dollars for several years. However, Webb always wanted to work for himself assisting non wealthy individuals and families in managing their finances as there was a huge need that was not being properly addressed.

Webb attended a seminar where a large bank was looking for advisors to work with individuals and families. As it turned out this was a profound moment in Webb’s life. They were recruiting people and all that was talked about is how much money their advisors could make. There was no talk about benefitting the consumer.

Webb left the company he was working for a couple years later to start his own financial planning business as was always his dream. During research he located other financial planners that had the same views as him. They would only charge fees so there was no loyalty to any bank or brokerage firm. They were free to operate solely in the best interests of their clients.

The planners were also rated as some of the best in the business and the organization is viewed as the premier financial planning organization in the country. Webb decided he should join this organization.

Subsequently, Webb attained the Certified Financial Planner designation (CFP) which is the top credential in the personal financial planning field. It requires a college degree, a college-level program of study in personal financial planning, passing a 10-hour comprehensive exam, several thousand hours of relevant experience, and being bound a Code of Ethics. There are 83,000 CFPs in the United States.

Webb then looked to join the National Association of Personal Financial Advisors (NAPFA). He submitted a comprehensive financial plan for peer review, verification of his business set up as fee-only, and agreed to a fiduciary oath. Webb was accepted as a “provisional member” as he lacked the full three years of experience in comprehensive financial planning for a full membership. There are currently 3,500 NAPFA members. (Note: Webb is no longer associated with NAPFA as he later closed a business and was no longer practicing.)

Webb made business errors and did close his business in early 2009. It was humiliating and embarrassing but he did not harm anyone but himself.

Webb decided to reset and give it another go at a later date as he had invested too much to give up just because he had made some poor decisions. He moved in with his father in early 2009 at the age of 33 to regroup and rebound. The sole goal was to accumulate money to buy a house and go into business for himself again. He started going to counseling in 2009 and continued up until 2011.

He took a position later in 2009 with AmeriCorps in a program ran by the Homeless and Housing and Coalition of Kentucky and did that for two years. There were approximately 40 members in this group. He was based in a Community Action office in the county he lived in. His job was to help homeless and low-income people get back on their feet. He could spend a few thousand dollars to assist with rent and utilities etc.

If Webb decided to enroll a person or family, then he and his client would make a plan to resolve the issues with the goal of getting them off government assistance or minimizing the need for government assistance as much as possible.

Most of the clients that wanted to better themselves were successful. It was an investment that could save tens of thousands of dollars down the line.

During the two years with AmeriCorps the biggest issue Webb discovered was that the clients he worked with were financially illiterate which should be expected since it is not mandatory to be taught in high school as it should be.

At the end of the two years the director of the program did decide to require the members to teach financial literacy in their communities by doing a seminar once per month and asked Webb if he would teach the incoming group about personal

finance for a day so they could share the basic knowledge. Of course, Webb agreed and put together a presentation for a crash course in personal finance so the members would be well trained to share the basic knowledge. It was a good result as a couple of thousand people or so would be introduced to the basics.

It was a rewarding and eye-opening experience with AmeriCorps that Webb would have never experienced had he not made some errors previously. However, AmeriCorps is more akin to volunteer work as it paid less than \$1,000/month so he did not accomplish much toward his own goals.

He networked for a time after his two years but nothing was panning out so he needed to get the show on the road. He ended up taking a third shift job working on the floor at a factory making car parts. Webb was several levels underemployed and routinely worked 6-7 days/week and 50+ hours/week while also coaching an Under 12 youth soccer team. It was a means to an end so Webb was toughing it out.

Webb began making plans to move on to the next stage of his life two years later. He took the necessary steps to have a business ready as he was getting close to moving on.

On 1/2/2014, Webb changed the name of his business with the IRS in which the IRS responded that "We have changed the name on your account as requested. The number showed above (tax id no.) is valid for use on all tax documents."

B. Pre-Criminal Case

On 1/9/2014, an ex-girlfriend, Jill Shaw, that Webb had known for 20 years obtained his cell phone number from a youth soccer league website, Webb was a

member of the board of directors, and contacted Webb threatening suicide if he did not assist her with her issues. Ms. Shaw and Webb dated off and on for many years in the 1990s.

Webb was in a tough spot as he had a full schedule already dealing with his own life but also did not desire for Ms. Shaw to take her own life after seemingly contacting him as a last resort.

It did not make much sense as Ms. Shaw already had her own support network as she was married, has a sister, a mother, a stepdad, a father, a stepmom, and friends to assist her with her mental health issues.

Ms. Shaw informed Webb that she had attempted suicide by cutting her right wrist in three places in June 2013 including showing Webb a picture.

In June 2013 the Pima County Sheriff's Department (PCSD) responded to a 911 call at Ms. Shaw's residence a couple of days after her suicide attempt as she was threatening to commit suicide the following day why her husband was at work. Ms. Shaw was distraught as a lawsuit in Washington in which she accused a coworker of stalking her was dismissed. Ms. Shaw's husband stated to the responding deputy that "see I can't deal with this shit, I'm about to send my wife away." Ms. Shaw was taken to a hospital and admitted. Ms. Shaw ended up having to be restrained to a bed by the deputy and a nurse as she was belligerent with staff and wanted to leave.

Over the next two months Ms. Shaw continued to be erratic and unstable. During this time period Ms. Shaw called Webb three times more than he called her. On one occasion Ms. Shaw called Webb 16 times in the middle of the night. On another

occasion Ms. Shaw called Webb nine times in the middle of the night. Webb and Ms. Shaw also spoke for eight hours and Ms. Shaw was fully aware of everything going on in Webb's life.

Ms. Shaw kept two cards with love notes in them that Webb gave her in the 1990's and texted him pictures of both cards. In one the cards Ms. Shaw kept Webb wrote on the last line "If you ever need me let me know and I will be there for you."

The following day Ms. Shaw texted Webb a photo of her left wrist bleeding (App. 15a) with an explicit plea for help:

M this is not healthy am I just reaching out? I can't sleep haven't for days and I like to watch blood drip down my wrists in the unlikely situation that someone might actually help me because I'm clearly not brave enough to accomplish the outcome I crave.

Although the photo is blurry Ms. Shaw's wrist tattoo is clearly identifiable. The cards and the photo with the plea for help text message were sent in February 2014.

Over this time period Ms. Shaw sent Webb a multitude of pictures in text messages. Ms. Shaw led Webb to believe she was divorcing and separated from her husband living in a camper in her backyard which was one of the photos.

For two weeks in late February Ms. Shaw and Webb had communication issues with their phones. During this time Webb contacted Ms. Shaw's sister to inform her of Ms. Shaw's mental health status and what had transpired since early January. Her sister informed Webb that she had been dealing with Ms. Shaw's mental health

issues for years. During these communications it was clear that Webb was acting in Ms. Shaw's best interest.

Webb informed Ms. Shaw that he contemplated flying to Tucson to check on her wellbeing during the time of the phone issues and Ms. Shaw exhibited no concern.

Webb wondered if maybe his current plan was not the correct thing to do. Ms. Shaw's timing was uncanny. It was either perfect timing or the worst timing possible.

Webb's current plan was going to be slow as he was initially going to run his business out of the living room of his house doing it part time while working for another company with a more normal job for his skillset.

In early March 2014 Webb expressed frustration with his job as he was scheduled to work a 12-hour shift and he wanted to walk out. Ms. Shaw encouraged him to walk out and get his going stuff going telling him "you are going to have to do it sometime so do it now."

The following day a coworker knew how frustrated Webb was and suggested he probably did need to leave and that was Webb's last day.

It turned out Ms. Shaw was misleading Webb and intentionally made him upset. The criminal case made accusations that Webb was invited as "*she knew he planned to come to Tucson out of worry for her.*" Webb did fly to Tucson on 3/14/2014 which was eight days after he left his job.

Before Webb left, he went to the local sheriff's department to get fingerprinted for an FBI background check and mailed it. This is required to register as an investment advisor.

C. Criminal Case

On the evening of 3/15/2014, the day after he arrived in Tucson, Webb went to Ms. Shaw's house. An unknown male answered the door but did not open it. As Webb later learned it was Ms. Shaw's husband as he had been misled. Mr. Shaw claimed that Ms. Shaw was not home and Webb left without incident.

Webb called 911 to request a welfare check explaining he had flown in from Kentucky as Ms. Shaw had been threatening suicide etc. The dispatcher informed Webb that someone would look into it and call him. Mr. Shaw had called 911 as well.

Webb later heard from Deputy Daniel Sharp with the PCSD requesting a meeting with Webb at a PCSD substation in which Webb agreed. Deputy Sharp already knew that there was an incident at the same residence referencing suicide in June 2013 before meeting with Webb.

Deputy Sharp asked Webb for proof that Ms. Shaw had been suicidal and unstable. Ms. Shaw had claimed that she had not had suicidal thoughts since June 2013 and anything Webb would have would be from June 2013. Webb presented Sharp with the evidence of the wrist picture and the text message with the plea for help.

Within a matter of minutes Webb discredited Ms. Shaw as a witness as the picture would have to be from June 2013 and the text would have to have been written in June 2013 to someone else and subsequently forwarded to Webb in February 2014. At the same time Webb also told Sharp about the cards Ms. Shaw had kept.

Sharp disregarded Webb's evidence and downplayed it in the incident report. Webb was arrested for a Felony of Stalking Ms. Shaw, his private cell phone was

confiscated, and Webb was taken to jail. Sharp never asked Ms. Shaw about the evidence Webb presented.

Going to jail not something to be taken lightly. Webb waited for approximately 12 hours to see the judge in the morning. Once that was over, he had to get completely naked and was ordered to bend over and cough to ensure he wasn't hiding anything in his anus.

The Pretrial Booking Sheet noted Webb's Criminal History was Favorable – "A *search of national, state and local criminal history repositories did not reveal any previous arrests involving felony or misdemeanor charges.*"

This occurred on a Saturday night and Webb was bailed out by his mother the following Monday as she flew in from Kentucky.

Webb ordered the incident report once he was bailed out. It confirmed Webb's suspicions that Sharp had no intention of meeting with Webb and predetermined he was going to arrest Webb.

The report contained two major factual errors. The report states that Webb and Ms. Shaw dated in high school. Webb was a freshman in college and Ms. Shaw was a senior in high school. That is impossible and is misleading as they dated off and on for many years while *not* in high school. Ms. Shaw claims that she and Webb talk or text every 3-5 years which is not true as Ms. Shaw contacted Webb in April 2012 and in mid-2011 and is in the evidence from the criminal case. The report did not include that Ms. Shaw contacted Webb initially in 2014.

Webb also found out from the incident report that his life may have been in danger in a possible premeditated murder plot orchestrated by Ms. Shaw. Mr. Shaw had been carrying around a gun for days to possibly shoot Webb. When Webb did show up Ms. Shaw told her husband to "grab a gun." Webb was only a few feet from being killed.

Ms. Shaw was going to extraordinary lengths to portray herself as a victim. However, since Webb was not killed, Ms. Shaw was only capable of causing Webb a setback on his goals but was not capable of causing Webb to have to reset his life for second time. Ms. Shaw did not have the authority to arrest Webb or the authority to prosecute him.

The PCSD has an Ethics, Oath, & Mission Statement on its website that has not changed since 2012. (https://www.pimasheriff.org/files/2414/0571/5039/Ethics_Oath_MissionStatement_011112.pdf)

The PCSD claims that:

As a Law Enforcement Officer, my fundamental duty is to serve mankind; and to respect the Constitutional rights of all people to liberty, equality, and justice.

I, _____, as a member of the Pima County Sheriff's Department, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona.

The Pima County Attorney's Office (PCAO) outlines the criminal justice process on its website. (<http://www.pcao.pima.gov/criminaljusticeprocess.aspx>.)

The summary version states:

A prosecutor reviews the evidence to determine if it is sufficient to file formal charges. If it is, within 10-20 days, the prosecutor must present the evidence to a Grand Jury.

For a case to go forward, the Grand Jury must make an independent determination that probable cause exists.

This is a check on the power of the government to prosecute its own citizens.

The in-depth version under Formal Charging Decision states:

After the Initial Appearance, a detective or other officer will present to a deputy county attorney all the evidence that has been gathered about the crime in question. The deputy county attorney will review the evidence and decide whether to issue formal charges against the defendant and, if so, what the charges should be.

The charging or "issuing" decision is *a critical step in the criminal justice process. It is guided by legal and ethical rules that require a reasonable belief that the evidence is sufficient to convince a jury unanimously*, beyond a reasonable doubt, and despite any reasonable defenses—that the defendant is guilty of the charge.

Detective Jeffrey Castillo, a six-year veteran detective with the PCSD, was assigned the case as the lead investigator. Webb was arrested on 3/15/2014 and a Grand Jury Hearing was set for 3/25/2014.

Castillo wrote in his credentials that he graduated from the PCSDs Law Enforcement Training Academy and his training included "interviewing and questioning" and that he had "conducted numerous criminal investigations."

Deputy County Attorney (DCA) Kendrick Wilson, the lead prosecutor, and/or DCA Michelle Chamblee was to review the evidence presented by Detective Castillo to determine if charges would be filed.

In order to even attempt to charge a person, a DCA would have to determine that an investigation was thorough with the reasonable belief that the evidence is sufficient to convince a jury unanimously that the defendant is guilty of the charge. A DCA determined the evidence was sufficient to attempt to put Webb in prison for 3.5 years.

Detective Castillo was the sole witness and DCA Chamblee presided over the Grand Jury Hearing. No exculpatory evidence was presented. Detective Castillo could not answer specific questions and the answers were generalized except for when Webb and Ms. Shaw dated.

The first thing Detective Castillo told the jurors was “the defendant, Wade Webb, dated the victim, Jill Shaw, several years prior in high school.” That is not correct and misled the jurors from the very beginning in a stalking case.

Castillo read two out of context text messages that he could not answer questions about and the jurors had no background information from the previous two months or of June 2013.

A juror asked Castillo to describe what kind of relationship it was and Castillo replied “When they were in high school, they had a romantic and sexual relationship. They dated in high school.” That is three times Castillo gave false testimony about when Webb and Ms. Shaw dated significantly misleading the jurors.

The clerk asked how many years ago was their earlier relationship in which Castillo replied “I want to say about 20 years. Quite a while.” If Webb was a juror based on this testimony Webb would conclude that the defendant had been obsessed

with Ms. Shaw for 20 years as all they did was date in high school 20 years ago and then 20 years later Webb flies to Tucson out of the blue.

Finally, DCA Chamblee did not instruct the jurors on the elements required to prove stalking and did not correct Castillo's testimony.

The result was a 14-2 vote indicting Webb on a Class 3 Felony of Stalking, Domestic Violence. Webb's life was officially ruined at 38 years old.

Webb was appointed a public defender that did an excellent job of defending him.

Webb's arraignment was on 4/2/2014. Two days after that he was staked out at his hotel presumably by an investigator with the PCAO for the entire day including following Webb around when he was driving.

The initial case management conference was on 5/2/2014 in which the defense asked for a two-week extension to give the PCAO more time to review additional evidence provided by the defense.

On 5/9/2014 the defense filed a stipulation for a two-week extension to preserve the ability to file a motion to remand to grand jury pursuant to Rule 12.9 of Arizona Rules of Criminal Procedure. Rule 12.9 is the time limit to challenge a grand jury proceeding for a new finding of probable cause alleging that the defendant was denied a "substantial procedural right" including due process.

The second case management conference was on 5/14/2014. The defense asked for a three-week extension as a Motion to Remand to Grand Jury was forthcoming. The third case management conference was scheduled for 6/6/2014.

On 5/21/2014 a Motion to Remand to Grand Jury for Redetermination of Probable Cause was filed along with a Petition for an Order Shortening Time on the hearing for the following reason: **“Defendant is living in a hotel in Tucson, AZ pending this case. His home is the State of Kentucky.”**

The caption page of the motion to remand to grand jury made formal accusations of multiple violations during Webb’s criminal case:

The Defendant respectfully moves this court for an order remanding the case to the Grand Jury to redetermine probable cause. This motion is made pursuant to the Due Process clause of the 14th Amendment to the U.S. Constitution, Art. II § 4 of the Arizona Constitution (due process), A.R.S. § 13-206 (entrapment), Ariz. R. Crim. P. 12.9, A.R.S. § 13-2801 et seq. (interference with judicial and other proceedings), and relevant case law.

One paragraph in the Law & Argument section states:

The State failed to instruct the Grand Jury on the requirements of A.R.S. § 13-2923(A)(2) and (B), the very statute (stalking) Mr. Webb is accused of violating. Additionally, the State withheld crucial exculpatory evidence from the Grand Jury – Ms. Shaw’s history of suicidal ideation, the fact that she contacted him seeking help, the fact that Ms. Shaw did not fear that Mr. Webb was stalking her but was instead upset when she believed he stopped talking to her, the fact that Ms. Shaw encouraged Mr. Webb to quit his job, and the fact that *she knew he planned to come to Tucson out of worry for her.*

The last page of the motion states:

Mr. Webb was deprived of his due process right to a fair and impartial presentation of the evidence when the prosecutor failed to instruct the jury on relevant statute and when the detective failed to provide an “accurate picture” of the substantive facts. Had the State corrected the testimony, the Grand Jury could well have determined that there was convincing evidence of lawful conduct, and

returned a no bill. By failing to instruct the Grand Jury on the law pursuant to A.R.S. § 13-2923 and the salient exculpatory facts, the State violated Mr. Webb's due process rights to an unbiased Grand Jury, and a fair and impartial presentation of the evidence.

The judge scheduled a hearing on the motion for 6/16/2014. The hearing on the motion never occurred as the PCAO moved to dismiss the case in open court on 6/6/2014 at the scheduled case management conference.

These accusations were never defended. Everyone walked away and went on about their lives leaving Webb to pick up the pieces of his life. Webb suffered significant financial and emotional damage over the 84-day period.

Webb incurred expenses of more than \$7,000 in hotel bills, approximately \$2,000 or more in rental car expenses, at least \$2,500 in basic living expenses, plus other expenses. When his situation was not ideal to begin with this was too big of a hit for Webb.

Webb lost five years of his life that he can never get back, and now more years since these violations are still occurring and having a significant impact on him, amounting to more than 1,800 days, including working approximately 5,500 hours underemployed for nothing, that he spent pursuing happiness which amounts to approximately 21 days he lost for every 1 of the 84 days spent in Pima County.

D. Aftermath

Webb's problems were not over just because a charge was dropped. His problems were just beginning as now he was back in Kentucky in a spare bedroom at his father's house again.

Webb's life was a living hell from day he arrived back in Kentucky. He started counseling again in July 2014 and continues to this day. The first counselor was the same one he had seen before and is highly qualified. The counselor wrote that Webb was exhibiting signs of post-traumatic stress trauma (App. 16a). Other counselors have also assisted him in managing what they believe is also signs of post-traumatic stress disorder and depression. His family called the police twice on Webb because they were worried about how he was handling his situation. His family attempted to have him hospitalized but the hospital would not accept him as there was nothing they could do to assist him with his situation.

Webb knew he already had a legitimate lawsuit before he even left Pima County. However, knowing it is the easy part. Execution is whole different story as he was not familiar with the law, unable to hire an attorney, and he was 1,700 miles away from where this occurred.

Webb asked for the case files from the public defender's office when he was back in Kentucky and hundreds of pages were sent to him.

When reviewing the files, the most striking of all was that Ms. Shaw was never interviewed in person but instead was a recorded phone interview by Castillo. The phone interview was done on the day of the grand jury hearing which would be a couple of hours at the most before he was to testify.

Webb is familiar with interpersonal communication as he studied it in college. It defies logic that all the information that would be gathered from an in-person

interview, that is impossible to attain over the phone, was sacrificed and a phone interview the day of the grand jury was deemed acceptable.

Castillo states that "Over the course of a couple of weeks I have attempted to meet with the victim Jill Shaw to obtain a recorded statement in person but have been unable to do so as our schedules did not coincide."

Getting taken to jail and prosecuted for 84 days did not coincide with Webb's schedule either.

Another striking part of this summary interview is that Castillo states that "Jill informed me that she and Wade dated in high school and college."

That is more accurate than just dated in high school as the jurors were told three times. It appeared that Castillo could not remember what he wrote down and what Ms. Shaw had just told him.

However, that was not what happened. Castillo did not forget; he did not know.

Webb contacted the public defender's office for a second time at a much later date and requested digital copies of the case records which were put on a flash drive. The public defender's office put the audio recordings from the case on the flash drive which Webb never had access to before.

Castillo did not interview Ms. Shaw until *after he already testified* at the Grand Jury Hearing but did not disclose that information in his written summary of the phone interview.

The dated in high school was from the incident report which contained false information and explains why Castillo could not answer questions so he was constantly misleading the jurors.

The interview was 14 minutes long with the last six minutes having nothing to do with an investigation. Ms. Shaw was inquiring about the case and Castillo told Ms. Shaw that *“Today I presented the case to the grand jury and now I’m just going to wait for the court appearance.”*

Castillo does ask Ms. Shaw about a picture of a wrist with some blood but lacks any detail of exactly what the picture was and mentions the deputies said something about it. It appears Castillo never saw the picture so therefore neither did the prosecutors. Castillo does not mention any cards being kept. Castillo does not ask Ms. Shaw about the text message accompanying the picture.

Castillo also asks “Is there anything that happened that you haven’t told us yet that we need to know for the investigation?” Webb was already indicted based on the investigation. Ms. Shaw provides no relevant information either.

Castillo states as well that “Once he is arrested and we complete the investigation *I don’t have any involvement anymore unless I am subpoenaed to go to court and testify.*”

On 5/13/2014 Detective Castillo appears for the first time since 3/25/2014. That is 49 days later. This is right around the time that the remand to grand jury was first brought up alleging Constitutional violations.

Castillo was not subpoenaed to testify in court. Instead, Castillo contacts Ms. Shaw's sister "in order to obtain further information about Jill and Wades relationship."

Webb desperately tried to get some help within a couple of weeks of returning to Kentucky and contacted a multitude of law firms but was getting nowhere.

Webb contacted the ACLU of Arizona twice but did they nothing. He contacted the ACLU of Kentucky once but they did nothing. Webb sent letters by certified mail to then Arizona Governor Jan Brewer's office, then Arizona Attorney General Tom Horne's office, and the late US Senator John McCain's office. Senator McCain's office was the only one that responded but cited separation of powers.

It became apparent that there was no other way than for Webb to go back to Pima County. He went back to work at the same factory as a temporary worker for several months to accumulate the money. He left Kentucky in February 2016 and drove to Pima County. However, Webb was getting nowhere trying to get assistance once he was there.

It got so bad that he ended up sleeping in his car for eight nights. At one point he called a mobile crisis unit to his location. On the form he was given the Goal was to "find housing." The Action was "to call mens shelters for availability" with three homeless shelters listed. It also states that "member would like to find an attorney to take his lawsuit."

Webb did call one of the shelters as he was hungry and had not eaten going on his second day. He went to the shelter and picked up two ham sandwiches. The

following day he was not doing well and called 911 on himself. He was taken to a crisis response center by the Tucson police department. He was able to take a shower and get some food then left the next day.

Somehow after running around in circles he called the Arizona Attorney General's Office, again, and finally spoke to a Special Agent in the Criminal Division Special Investigations Section. The agent verified Webb's account with his defense attorney and forwarded a Notice of Claim form for Pima County and instructed him to sue in state court if Webb decided to act. Webb has been on his own ever since then.

He filed the notice of claim with Pima County on 5/3/2014 claiming violations by the PCSD with the PCAO involved as well. He was not going to wait around when Pima County had one year and eleven months to resolve this with Webb. Webb filed a complaint on 6/3/2014 and served Pima County. He then went back to Kentucky.

However, Webb had no idea what he was doing. His complaint was so terrible that the clerk had him write "Complaint" on the cover sheet and circle it.

Pima County subsequently hired a law firm with a seasoned attorney that destroyed Webb.

Pima County moved to dismiss. Webb filed opposing documents defending himself and drove from Kentucky to Arizona to attend the scheduled hearing to defend himself.

The judge dismissed the case. Webb then appealed the decision which was upheld. Webb then filed with the Arizona Supreme Court and his petition was denied on 4/3/2018.

The problem Webb had was that he ignorant about law, was expected to be as good as an attorney that had been to law school with years of experience, and did not suffer enough as he did not go “insane” or was not deemed an “incompetent person.”

But the real issue was he had no money to hire anyone. Webb is now expected to be as good as a seasoned attorney again. It was the government that attacked Webb initially and now both a state level government and the federal government have attacked Webb because of the situation that Webb was put in by the government.

Webb had spoken with the public defender’s office before the petition was denied and requested digital copies of the criminal case. When he received them that is when he discovered the new information from the audio in the criminal case that substantially strengthened his civil case.

Webb attempted to resolve his situation before burdening the federal system but was forced to file in Federal Court bringing claims of Constitutional violations of Due Process and Equal Protection under the 14th Amendment via Title 42 U.S.C. § 1983 against the Defendants.

Webb’s complaint and amended complaint were not perfect and he would alter a few things but the substance and the claims would be the same. He did not put the jury trial demand at the very end, most attorneys use “Does” as unknown defendants

and was not on the caption page, would have moved part of a section of a claim to the facts, and wrote RESPECTFULLY instead of RESPECTIVELY.

Besides that, that is about the best Webb is capable of doing.

E. Closing & Concerns

Using Webb's case an example is why this is so disturbing. Webb's entire situation in the civil system would have turned out differently if he had the money to hire a good attorney.

This is exactly why innocent citizens in the same socioeconomic class as Webb that do have legitimate claims of Constitutional violations during the criminal justice process are biased against solely because the citizens are poor.

Webb is a smart guy with good computer skills. He can focus on the legal matters in between temporary jobs to get by but also has the "luxury" of living with a parent in a spare bedroom with a laptop, the internet, and a printer. Most people in the same socioeconomic status must have full time jobs.

If Webb is having a difficult time in the civil system coming in with zero skills and spending hundreds of hours trying to get up to speed, then it would be awfully difficult for the vast majority of people in the same socioeconomic class.

Most likely those people would just have to accept it or quit once a judge throws the case out as they are not threat just as Webb was not a threat to Pima County.

The concern is that there are much more cases similar to Webb's case than is realized. A US Department of Justice report from 2007 reported 5.5 million cases were handled by state and county public defenders' offices. Almost 30% were felony

cases for a total of 1.65 million. After Webb's case it is statistically hard to believe this is not a bigger problem. If just 1 of 1,000 felony cases involved nonadherence of the criminal justice process resulting in Constitutional violations that is 1,650 cases/year with no justice.

There should never be a need for a Motion to Remand to Grand Jury to Redetermine Probable Cause. The charging decision is the simplest and most important part of the criminal justice process. If the PCAO and PCSD were confident enough to put Webb in prison on 3/25/2014 then there is no reason not to defend themselves and continue to attempt to put Webb in prison. The judge may have determined that the Grand Jury Hearing could have been compromised. That is not relevant. The PCAO and PCSD should still be convinced that a jury would unanimously decide that Webb was guilty of a Class 3 Felony of Stalking Ms. Shaw on 6/6/2014 as they were 74 days earlier on 3/25/2014.

Webb's liberty and pursuit of happiness were attacked by the government. When there is probable cause of Constitutional violations during the criminal justice process then the defendant does have the right to become the Plaintiff in a civil suit. The only thing law enforcement departments, prosecutors' offices, and municipalities have to do is play by the rules and respect the Constitutional rights of United States citizens. If they do that there is nothing to be concerned about when executing their duties.

CONCLUSION

At the end of the day, Earth is just a tiny rock orbiting a star in which there are an estimated 100-400 billion of in the Milky Way Galaxy. The Milky Way Galaxy is one galaxy in which there are at least two trillion of in the observable universe.

The Founding Fathers got it correct by developing a system of government that protects unalienable rights. Those rights cannot be compromised in the United States of America.

For the foregoing reasons, the petition for certiorari should be granted.

Respectfully submitted.



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