

*Petitioning For Extraordinary/Emergency Relief via Habeas Corpus

No. _____

18-9388

IN THE

SUPREME COURT OF THE UNITED STATES

IN re: RAMSEY RANDALL v. Berks County, PA (Township); et al.
(Your Name) — PETITIONER

vs.

Berks County, PA (Township) et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

PA Supreme Court

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

FILED

APR 26 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

RAMSEY RANDALL

(Your Name)

SCI-Mohamoy 301 Monro Rd.

(Address)

Frackville, PA 17932

(City, State, Zip Code)

N/A

(Phone Number)

RECEIVED

MAY 02 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- Does the preclusion of the §1983 Civil Rights Action ~~and~~ for an incarcerated individual with a sufficient Federal Constitution claim (with merit) restrict and hinder him/her from attacking their conviction for relief (overturned/vacated), violate his/her First Amendment Constitutional Right to seek redress of governmental grievance by petitioning to the Courts? Why or why not?
- Does Federal Abstention ONLY relate to unconvicted state criminal proceedings and not state appeal processes if injunctive relief is found to be necessary?
- If a continual violation of a Constitutional right of an individual (such as the First Amendment) is the product of an arrest, conviction, and continual incarceration, why must a state tribunal invalidate said conviction before any relief can be had under §1983 when the Constitutional right violation and harm is still occurring?
- Does the U.S. District Court reviewing a petitioner's §1983 Civil Rights Action have the jurisdiction and authority to issue a Federal Writ of Habeas Corpus during its review (on its own accord) to provide relief and/or remedy to the petitioner/plaintiff if a substantial/sufficient claim has been raised; or MUST the petitioner/plaintiff request for it to be issued?
- Does a defamatory news article existent and viewable on the internet satisfy claims for First Amendment and Fourteenth Amendment violations, if said defamatory article was released as part of a press release for a criminal indictment?
- If defamation is the Stigma of the 'Stigma Plus Doctrine'; does a conviction and continual incarceration without remedy satisfy the 'Plus' prong for the combination to qualify as a DUE Process violation of the Fourteenth Amendment to merit a court to issue relief? Why or why not?

* additional questions on reverse side



- Does the failure of a state tribunal (PA) to abide by its Criminal Procedure policies and Rules of Court violate the Due Process Rights of the criminal defendant's Fourteenth Amendment rights?
- Was the PA Supreme Court in error for not issuing extraordinary relief given the circumstances and claims before them ~~of~~ my case?
- Is this petitioner/plaintiff entitled to defamatory remedy and relief via name clearing hearing, press release, and damages?
- What is the ~~court remedy~~ appropriate remedy for Pretrial Motions that do not get a hearing or decision before the court's trial, verdict, and sentencing of a criminal defendant if they were timely filed?
- Does retaliatory prosecution in violation of the First Amendment hold sufficient weight to invalidate an arrest in the face of ~~Art~~ §8 of the PA Constitution's 'No good faith exception' to satisfy the scrutiny of the court's review for determination ~~of~~ of a Fourth Amendment violation of the U.S. Constitution?
- Does the inadmissible hearsay evidence rule in a criminal trial of PA apply to an affidavit testimony that was used as probable cause for the arrest if said testimony was in violation of the Miranda Doctrine?
- Does a cell search and seizure of a Pro Se litigant's legal notes and legal research related to his criminal and/or civil case (which is pending) violate the First Amendment chilled speech, Fourth Amendment illegal search and seizure, Eighth Amendment cruel and unusual punishment, Sixth Amendment's right to an uncompromised/confidential defense, or Fourteenth Amendment's Due Process and Equal Protection Clauses?
- Is the inmate grievance process a sufficient legal remedy for a Pro Se litigant that gets his legal notes to his civil and/or criminal strategy to his case (if the prosecution and/or civil defendants are included with the jail, and/or prosecuting township); when the legal notes seized could be the determining factor in his Pro Se representation to win against that party for relief?

Please Consider all questions.

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:

- I'm unsure how to answer this question correctly because of the complexity of the circumstances and legal claims and issues interwoven within my case(s) which I'm requesting for court review. However, the listed parties that would/should hold an interest in a court's decision are as follows:

- 1) Berks County, PA (Township)
- 2) Berks County Court of Common Pleas
- 3) District Attorney John Adams, Esq
- 4) Assistant District Attorney Jason Glessner, Esq
- 5) PA Supreme Court and Justices
- 6) PA CCP Administrator A. Taylor Williams Esq.
- 7) Judge Patrick Barnett of Berks Co. CCP
- 8) Eastern District U.S. Courts Honorable Judge Joel H. Slomsky
- 9) US Appeals Courts for Eastern Pennsylvania
- 10) West Reading Police Department
- 11) Officer Joseph Brown of West Reading Police Dept.
- 12) Officer Karie Good of West Reading Police Dept.
- 13) Reading Eagle Newspaper Company
- 14) Facebook, Inc.
- 15) Fox News Media Ent., Inc
- 16) GOOGLE, INC.

Myself the petitioner Ramsey Randall

* All general page#s are indicated in bottom right corner
* Appendix colors are individually indicated

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	5-9
REASONS FOR GRANTING THE WRIT	11-22
CONCLUSION.....	23

INDEX TO APPENDICES

APPENDIX A	- 3 pages of court orders supporting jurisdiction	A1, A2
APPENDIX B	- 4 pages of Defamatory News article submitted at Criminal trial by the petitioner Mr. Randall	B
APPENDIX C		
APPENDIX D		
APPENDIX E		
APPENDIX F		

Table of Authorities Cited

CASES	Page Number
- Bone v. Lafayette, 763 F.2d 295 (1985)	16
- Comm v. Doudhue, 357 Pa. Super 503 (1986)	22
- Comm v. Kirk, 220 Pa. Super 115 (1971)	22
- Comm v. Wansley, 248 Pa. Super 234 (1971)	22
- Craig v. Witucki, 624 F. Supp. 558 (1986)	16
- Dombrowski v. Pfister, 380 U.S. 250 (1965)	11
- Foretto v. California, 422 U.S. 806 (1975)	11
- Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)	14
- Greenwood v. Peacock, 384 U.S. 808 (1966)	19
- Hartman v. Moore, 547 U.S. 250 (2006)	11
- Heck v. Humphrey, 512 U.S. 477 (1994)	16, 17, 19, 20, 21
- Manuel v. City of Joliet, 137 S. Ct. 911 (2017)	12
- Miranda v. Arizona, 384 U.S. 436	12
- Norton v. Town of Brookhaven, 47 F. Supp. 3d 152 (2014)	11
- Paul v. Davis, 424 U.S. 693 (1976)	15
- Philadelphia Newspapers, Inc. v. Hepps, 475 U.S. 767	14
- Preiser v. Rodriguez, 411 U.S. 475 (1973)	16, 17, 19, 20, 21
- Price v. Johnson, 334 U.S. 266 (1948)	19
- Reid v. Seville, 1996 U.S. Dist. LEXIS 10319 (1996)	13
- Rosenbloom v. Metromedia, 403 U.S. 29 (1970)	13
- State v. Robins, 431 P.3d 260 (Idaho 2018)	13
- Stevens v. Rifkin, 608 F. Supp. 710 (1984)	13
- Wright v. Newsome, 795 F.2d 964 (1986)	13
- Zilich v. Lucht, 981 F.2d 694 (1992)	13
STATUTES AND RULES	
- § 652(E) - Publicity Placing Person in False Light	15

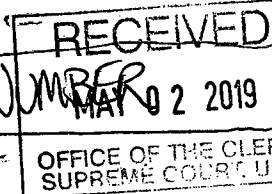
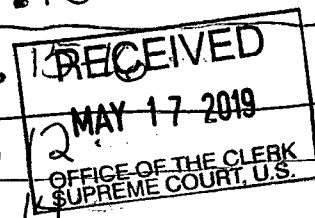


Table of Authorities continued on reverse side - - - - -

STATUTE AND RULES

PAGE NUMBER

- 4281367 Supplemental Jurisdiction	17 ~
- §911 Organized Crime	7 ~
- §5111 Criminal Enterprise	7 ~
- All Writs Act §1651	22 ~
- 4281983 Civil Rights Action	6-11, 13-14, 16, 18, 20-21 ~
- Article I §8 Po Const.	12 ~
- Miranda Doctrine	10, 22 - 5, 7, 12, 22
- Stigma Plus Rule	15 ~
- PLRA	18 ~
- Article III	17 ~
- - - PA Court Rules	
- Crim Proc. 540(E)(1)	21 ~
- Crim Proc. 580	21 ~
- Crim Proc. 600	21 ~
- Evidence 802 & 803	22 ~
- Continuing tort 4285524(7)	19 ~

OTHER TERMS

PAGE NUMBER

- <u>First Amendment</u>	
- Chilling Effect	11, 13, 18-19 ~
- Retaliation/Retaliatory Prosecution	9, 11-13, 17-18 ~
- Defamation	14, 17, 22 ~
- Habeas Corpus	6-7, 11-12, 16, 21 ~
- <u>Fourteenth Amendment</u>	
- Due Process	5, 11, 13, 18-19, 22 ~
- Equal Protection	5, 18-19 ~
- US Supreme Court Rule 10	5 ~

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**: *Pending see attached*

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at 17-2515; 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 _____ 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 A to the petition and is

☒ reported at 191 MM 2018; 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:

The date on which the United States Court of Appeals decided my case was ~~Feb 1, 2019~~ ~~Nov~~ ~~November 20, 2017~~
August 2, 2017

☐ 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: November 30, 2017, and a copy of the order denying rehearing appears at Appendix A-1.

☐ 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).

Other: Currently Pending in U.S. Appeals Court 3rd Cir.
18-2381 - §2254 WHC
18-3652 - Writ of Mandamus
Currently Pending in US District Courts 3rd Cir. 19-1342-§1983

☒ For cases from state courts:

The date on which the highest state court decided my case was Feb 6th 2019.
A copy of that decision appears at Appendix A-2.

☐ 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

- First Amendment retaliation by the agencies/agents of the Government
- First Amendment Defamation by the agencies of the Courts and national media
- Article I § 8 "No good faith exception" of PA Constitution regarding illegal/unreasonable searches and seizures
- Fourth Amendment Right of citizen to be free from illegal searches and seizures
- Fifth Amendment Substantive Due Process as a Pro Se litigant, Miranda Violation
- Sixth Amendment Counsel right to legal work protection as a Pro Se litigant
- Eighth Amendment right to be free from ~~excess~~ cruel and unusual punishment
- Fourteenth Amendment rights to Due Process and Equal Protection of the law
- 42 § 1983 Civil Rights Action
- § 2254 Habeas Corpus for State Prisoners
- PA. Rules of Criminal Procedure #s 540(E)(1); 580; 600 Speedy Trial Rights
- Restatement of Torts § 652(E) - Publicity Placing Person in False Light
- 42 § 1367 - Supplemental Jurisdiction
- Stigma Plus Doctrine
- Pa. CSA 42 § 5524(7) - Continuing Tort
- Crimes Code of PA 18 § 911 and 18 § 5111 - For Organized Crime and Criminal Enterprise
- "Chilling Effect" of First Amendment rights
- Abstention Doctrine
- Constitutional Law § 840.1 - due Process
- All Writs Act § 1651
- Pa R. Evid. 802 and 803 - Hearsay Rules
- Writ of Mandamus and/or Extraordinary relief (see Appendix A-2)
- Bill of Rights
- U.S. Constitution
- First Amendment chilling effect

U.S. Const. I Amend (Fas)

~~Declaration~~
Declaration of the
Petitioner

Attention to the Justices of the Court:

I am formally and respectfully asking for mercy in the court's Consideration. I am not trained or certified to practice the law, so on the level of providing the precise issue to warrant review is not an objective that I can achieve by attempting to mimic an attorney when I present my statements of this case.

In advance, I'd like to apologize for any typos or misspellings.

Even though the odds and chances ^{are slim} of having my petition seen by the court, let alone receive feedback; I'm openly informing you all that because of the vast number of claims and issues interwoven amongst each other... I truly will do my best to dwindle down the amount of reading you all would have to do ~~to~~ in order to get from beginning to end.

Because of the complexities of my case, my subpar knowledge of the court's expectations in presenting my case statement, and my unsurety of whether or not I should number each fact; I simply request that you liberally consider my simplest and briefest explanation that I can provide without being redundant. In short, it will be more of a chronological story, than it will be a numerical list of events.

Please Consider. I'm not perfect.

Respectfully,

~~Ramsey~~ ^{Ramsey}
~~Randall~~ ^{Prose}

RAMSEY RANDALL ND0295

"Do or do not, there is no try."
-Yoda "Star Wars"

"No attempt, is a failed attempt."
-anonymous-

RECEIVED

MAY 02 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATEMENT OF THE CASE

I, Ramsey Randall a Prose litigant in both civil and criminal actions am currently incarcerated in the PADOC's custody. I come before the court seeking clarification, understanding, relief, and remedy in accordance with my rights under the Bill of Rights and the U.S. Constitution.

I respectfully petition this court with a mixture of claims that will serve the interest of our country's citizens for years to come. I do so believe that in light of the honor and integrity of the U.S. Supreme Court, that my action before you holds a piece of each of the factors under U.S. Supreme Court Rule 10 that governs its consideration. My petition in itself is not ~~to~~ meant to ~~condescend~~ past judgments; it is however, intent to raise questions of law and fact that challenge precedential rulings against matters under our Constitution which ultimately affect the court's outcome with the ~~modernization~~ ^{Modernization} and advancement of time. Also media technology.

My petition's initial claim stems from; the First Amendment, ^{then} ventures in to the questions of Fourteenth Amendment Due Process and Equal Protection rights, accumulates defamation issues under state and Federal doctrines, hits statutory roadblocks, and subsequently brings me to this court.

This case background is as follows:

Ramsey Randall the petitioner (further more as "I") was held incarcerated in the Berk's County Jail System from approximately June of 2014 to November of 2014, for a parole violation not related to this petition.

During my time in the custody of Berk's County Jail System, I was interrogated by West Reading Police Officers Joseph Brown and Karie Good in violation of my Miranda Rights of the Fifth Amendment. This interrogation occurred approximately July of 2014 at Berk's County Jail System.

On approximately September 24th, 2014, while still in custody at Berks County Jail System, I filed a §1983 Civil Rights Action to the U.S. District Courts of Eastern PA regarding unconstitutional practices of the jail which hindered and abridged my First and Sixth Amendment rights to confidential attorney-client privilege communications. This action listed Berks County (Township), Berks County Jail Systems, Berks County Public Defender's Office and additional defendants. see EDPA 14-5091 JHS

On November 2nd, 2014; I was released from Berks County Jail System with no further state court action, and the §1983 Civil Rights Action against them was still pending.

On approximately February 17th 2015, I represented myself Pro Se at the Motion to Dismiss hearing in U.S. District Court before Honorable Judge Joel H. Slomsky. No determination or decision was rendered on that date which left my §1983 Civil Rights Action against Berks County, PA et al. pending.

On May 15th, 2015; I was arrested via Grand Jury indictment dubbed as 'OPERATION GUCCI' which was publicized as an Organized Crime/Gang sweep in the Reading Eagle Newspaper, Fox 43 NewsTV, Facebook and GOOGLE. The news article made no allegation of me being part of the labeled local gang; yet it alleged my involvement in the crimes. see Appendix B

On ~~May~~ approximately May 24th, 2015 in the custody of Berks County Jail my cell was searched by SOG officers, and multiple legal notes and case law citations related to civil action attack against the Berks County Jail System and my criminal defense to the pending case were seized, ~~and~~ photocopied and forwarded to the Berks County District Attorney's office. No warrant was produced during or before the search and seizure.

On May 28th, 2015 after going through the inmate grievance process, I filed a Writ of Habeas Corpus to the ~~Judicial~~ Magisterial District raising claims to question the constitutionality of my arrest and confinement; and also, the claim of First and Fourteenth Amendment violations for my legal defense notes and research being seized compromising my criminal defense strategy as a Pro Se litigant.

In June of 2015 I requested petitioned for summary judgment in the \$1983 Civil Action against the defendants in 14-5091 which was denied along with a subsequent dismissal of the action in whole in August of 2015. Reconsideration/rehearing was denied in September of 2015 closing the case.

Due to the conflict of interest existing between myself and Berks Co. and Berks County Jail System with us being oppositors in civil litigation, I was transferred from Berks County Jail, to Bucks County Jail, to Franklin County Prison in June of 2015.

In July of 2015, I was given a Preliminary Hearing in which my Writ of Habeas Corpus and its claim were not given a ~~se~~ hearing or ruling by the presiding Magisterial District Justice Timothy Dougherty.

On December 22nd of 2015, a Pretrial Suppression Hearing was held in the Berks County Court of Common Pleas before presiding Judge Keller where the Commonwealth prosecution withdrew and dropped the Organized Crime charges §911 and Criminal Enterprise charges §5111 with no compromise or remedy offered by the Commonwealth.

The Pretrial Suppression judge determined that the warrant affidavit of probable cause and the information/testimony provided therein was not in violation of the Miranda principle of the Fifth Amendment. There was no findings of law and fact supporting his decision/opinion in the face of the Commonwealth not providing any supporting evidence that I gave a consented, willing, intelligent confession to the affiants Joseph Brown and Karie Good of the West Reading Police Department.

The Pretrial Suppression determination gave no findings of law and fact regarding the material and prejudicial misstatements under oath by the affiant, nor was there findings of law and fact regarding the seizure of my legal notes to my criminal defense violating either of my constitutional rights claimed within the Writ for relief and remedy.

I appealed the decision to the PA Superior Courts approximately December 27th, 2015.

On approximately January 10th of 2016, I filed a Pretrial Motion to Dismiss all criminal charges for the Commonwealth's violation of my Speedy Trial rights as a Pretrial detainee.

On approximately February 14th, 2016 a hearing held in CCP of Berks Co. staying the determination of the Pretrial Motion to Dismiss until the conclusion of the PA Superior Court's review of my appeal.

On approximately February 21st, 2016 I filed a new §1983 Civil Rights Action in the US District Court for Eastern PA 16-1267 for relief.

On approximately March 17th, 2016 the PA Superior Court issued its opinion and order DENYING relief remanding back to lower court.

On approximately April 7th, 2016 the Eastern District Courts dismissed my §1983 Civil Rights Action. Appeal # 15-3975

On approximately May 17th, 2016 I was transferred from Franklin County Prison to Lancaster County Prison due to civil litigation conflict of interest against the Medical department and Franklin County Prison in the Middle District court of PA. see 16-696 MDPa

On approximately June 30th, 2016 I was given a Bench Trial as a Pro Se defendant before presiding CCP Judge Patrick Barrett where no Pretrial Motions hearing was held, and all my objections to the hearsay affidavit, ~~and~~ violations of my procedural rights, and impeachment of witnesses ~~was~~ were Denied as oral motions during the trial.

On approximately July 13th, 2016 a guilty verdict was rendered on all counts, and I was sentenced to 1-5 years to be followed consecutively by 1-5 years in a PA SCZ to be followed by 5 years of State Supervised probation on August 3rd, 2016.

The direct appeal to the verdict and sentence was subsequently denied by both PA Superior and ~~80~~ PA Supreme Court.

On approximately February of 2017, I again filed a §1983 civil action in the Eastern District Courts 17-1526 subsequently pursuing the matter to the US Appeal Courts 17-2515. Decision enclosed Appendix A-1

Between my arrest in 2015 up to 2018 I have filed approximately (4) four petitions for certiorari before this court without remedy or relief.

On approximately March 27th, 2018; I filed a §2254 Writ of Habeas Corpus for a state prisoner in custody after EDPA 18-961 §1983 Civil Rights action was dismissed for failing to state a claim. The §2254 Writ is currently in suspension until the determination of my state PCRA. See 18-2381 US Appeals 3rd Cir.

On approximately May 1st, 2018 my state PCRA was received as timely.

Said PCRA petition has not yet been scheduled for counsel appointment or hearing; but, it raises First Amendment Retaliatory Prosecution. Which means the PCRA process is pending in stagnation.

On November 29th, 2018; I filed a Pro Se Writ of Mandamus for extraordinary relief from the Common Pleas Court's failure to hold a hearing and issue a decision on a Pretrial Motion to Dismiss in accordance with PA Rules of Criminal Procedure 580. The same petition was filed to the U.S. Appeals Court of 3rd Cir 18-3652 which is pending determination of a panel's determination to appointment of Counsel.

On February 6th, 2019 the PA Supreme Court Denied the Writ of Mandamus and/or Extraordinary Relief. See Appendix A-2

And as of the current date, 4/23/2019 a new pending §1983 Civil Rights Action has been filed Pro Se in the U.S. District Courts for Eastern PA. see 19-1342

Thus, I bring this matter humbly before this U.S. Supreme Court.

section End

pg 5 of 5

REASONS FOR GRANTING THE PETITION

According to the touchstone/converse principles of the First Amendment of the U.S. Constitution and the Judicial precedential cases that have been ruled on by this court, and additional courts across the nation; the very events that have transpired are unconstitutional and should not stand. And although all courts of the United States know that the various First Amendment doctrines express that a violation without sufficient cause is prohibited and frowned upon; ~~it is~~ ~~appearing~~ appears that (PA) Pennsylvania's courts, judicial staff, prosecutors, and their government agencies and agents are the exception to the Supreme Law of the Land. Simply exempt.

Not only have I continually raised First Amendment claims for retaliatory prosecution, abridgement, chilling, and hinderance in a multitude of ways ranging from Pro Se Writ of Habeas Corpus, §1983 Civil Rights Actions, even orally in my criminal proceedings; Neither the state courts, nor have the Federal Courts of Pennsylvania given ^{weight} to my pleadings under the First Amendment right for me to be free from retaliation for filing a ~~Civil Action~~ Civil Rights Action, which is well established law. See Dombrowski v. Pfister, 380 US 479 (1965) and also, Hortman v. Moore, 547 US 250 (2006); Norton v. Town of Brookhaven, 47 F. Supp. 3d. 152; 2014 U.S. Dist. LEXIS 132836 (2014).

Additionally, I have maintained Pro Se status from 2014 up to date, (with no certification by the BAR); which Forella v. California, 422 U.S. 806, 819-820 (1975) addressed under the Sixth Amendment. Some part of both the First Amendment and the Sixth Amendment combined alone should at the least ^{have} warranted obsestion or federal injunctive intervention staying all proceedings. In just, even the liberal construction of my §1983 claims in my opinion did a disservice to elaborate my issues. Requesting for oral argument and appointment of counsel for assistance in retrospect were hastily denied.

If this court sees and acknowledges the events listed in the statement of the case; chronologically, following the aforementioned cases related to First Amendment retaliation and chilling, based on those 3 cases above all that resulted ~~follow~~ following the initiated prosecution process should be ruled as ~~unconstitutional~~ unconstitutional and in violation of my rights of the U.S. Constitution.

The arrest ~~was~~ does then violate both Art. I § 8 of the PA Constitution and the Fourth Amendment of the U.S. Constitution regarding a citizen's right to be free from illegal searches and seizures.

The act of the West Reading Police Department (the arresting officers), giving my custody to the Reading Police Department for my transport and commitment into the custody of (then civil action defendants) Berks County Jail System placed me in the proverbial "lion's den." This left me subject to additional retaliation and abridgement of my rights under the First Amendment; and also allowed my civil opponent to collaborate in chilling my efforts in the guise of a ~~hand~~ cell search. Which occurred.

Recently, this court issued a ruling that "detention without probable cause violates the Fourth Amendment"; see Manuel v. City of Joliet, 137 S.Ct. 911 (2017). In my case, the affidavit of probable cause/warrant used for my arrest was based on unsubstantiated confession in violation of Miranda rights (Miranda v. Arizona, 384 U.S. 436). This was my main point of attack and defense strategy within the legal notes seized.

In State v. Robins, 431 P.3d 260 (Idaho 2018) their supreme court ruled that "the case suffered from an improper pretrial remedy." Their decision resulted with a vacated conviction. Incoincidentally, I had raised this very issue in my criminal Pretrial Writ of Habeas Corpus. Does this make my claim any less meritorious because I am ProSe?

As written verbatim in my Pretrial Writ of Habeas Corpus (CR-0003823-15) brief/Memorandum of law:

"10. The adverse action suffered at the hands of the prison guard seizing the defendant's legal notes and documents ...

"is the advantage the prosecution receives for knowing what cases and what avenues the defense will raise on his/her behalf. Thus, defeating the element of surprise for the defense at any stage of the criminal proceedings; and also, having the upper hand at trial. More importantly, it violates the defendant's rights to Due Process of law guaranteed by the Amendments of the Constitution. see Zilich v. Lucht, 981 F.2d 694, 695 (3rd Cir 92); Reid v. Seville, No 96-2577, 1996 U.S. Dist. LEXIS 10319, *12-13 (ED Pa 1996); Wright v. Newsome, 795 F.2d 964, 968 (11th Cir. 86)."

No mention of this matter was made by the trial court at the Pretrial Suppression Hearing by the presiding judge.

On the ~~etc~~ civil litigation spectrum, my Pro Se petition for summary judgment was in part for that same cell search ~~being~~ and seizure by the officers of the defendant Berks County Jail System of the §1983 Civil Rights Action (14-5091 EDPA) which was still pending. My pleading in it was for judgment in my favor due to the compromise of my Pro Se civil offense and foul play chilling my research and litigation tactics. This was denied by Eastern District Courts.

My view on this, is that due to the First Amendment violation (chilling & retaliation) by the same entity which my pending §1983 Action was filed against; should have forfeit all rights in that action. Thus, granting me DEFAULT judgment by proxy and entitling me to all damages requested.

To my recollection, there has not been a case before this court to give clarification of law, fact, or opinion regarding a Federal Civil Rights Action plaintiff/petitioner (Pro Se or otherwise) that has been subjected to foul play of any kind under the First Amendment. Witness tampering excluded, I know of no case instance where I can refer to. This court would be creating new law; which may alter the overall view of the rights of a CIVIL Litigant.

Beyond the arrest; I was publicized as an Organized Crime/Gang member locally and nationally throughout the media. The media then

Stores this public^{article} on their internet sites and social media pages such as Reading Eagle News Paper page on Facebook. And GOOGLE stores it in its history's search engine for continual review.

The specific news article in my defamation claim on both state and Federal levels of court states:

"The 38 members of the group, which calls itself the Sixth Ward Organization, wear the same tattoos and spray graffiti in their neighborhoods."

-By Reading Eagle Newspaper Company employee Don Kelly as press released by DA John Adams of Berks County -

The Fox News printout is enclosed in US Supreme Court No 15-8558 as supporting evidence. See also Appendix B

Apart from not being convicted of being in this gang or criminal organization, the Commonwealth's prosecution falsely depicted me along with blatant lies of tattoos that I do not possess, nor ~~is~~ is there any proof to substantiate that I spray graffiti throughout any part of Berks County. I have no charges or convictions of vandalism. Nowhere in the article was I "alleged" to these things. Only accused of the "Financial Crimes" or being a participant thereof.

According to Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974) and Philadelphia Newspapers, Inc. v. Maurice Hepps, 475 U.S. 767 (1985) defamation of an individual, publicly violates the First Amendment, and should not stand.

Furthermore, Defamatory statements made by an agent of the government in connection with unconstitutional arrest and prosecution which injures reputation of person about whom statements are made constitutes deprivation of liberty interest in which is actionable under 42 § 1983 (paraphrased); Stevens v. Riffin, 608 F.Supp 710 (1984).

The article in which I attach supporting every claim raising this matter shows DA John Adams of Berks County ~~at~~ behind a podium and microphones as the government agent issuing this news press →

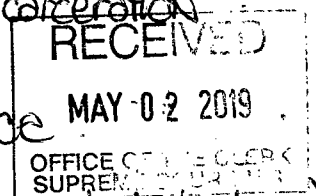
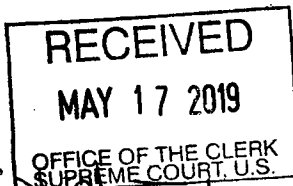
release on the May 15th, 2015 arrest date. See PA's Restatement of Torts § 652(E) - Publicity Placing Person in False Light.

The Stigma Plus Doctrine is the principle that defamation by a government official is not actionable as a civil rights ~~action~~ violation unless the victim (Mr. Randall) suffers not only embarrassment, but also the loss of a property interest.

The Stigma Plus test appears two pronged. First, the defamation by a government official. ~~At~~ DA John Adams is and was under the color of state law when his statements were released. Such should satisfy the stigma prong of the Stigma Plus rule. Next, is the second prong which explains that the defamation victim must suffer a loss of a property interest.

I ask this court to evaluate specifically what losses qualify to satisfy the ~~two~~ second prong of the Stigma Plus rule amongst a short list of things that hold value to a citizen of the United States under the constitution.

- Loss of physical freedom due to incarceration
- Loss of employment
- Loss of home/apartment/residence
- Loss of self employed income
- Loss of personal property (i.e. clothing, tools, heirlooms)



All of which I have suffered plus more.

It has been stated in many cases "Reputation alone, apart from some more tangible interest such as employment, is not 'property' by itself to invoke procedural protection of due process." Paul v. Davis, 424 U.S. 693 (1976)
"Injury to reputation must be combined with some other deprivation of liberty or property under Fourteenth Amendment for defamation to violate ~~the~~ amendment." Bowe v. Lafayette, 763 F.2d 295 (1985)

"In reviewing cases, the United States Supreme Court has an obligation to test challenged judgments against the guarantees of the First and Fourteenth Amendments, and in doing so it cannot avoid making an independent constitutional judgment on the facts of the case; First Amendment questions of 'constitutional fact' compel the Supreme Court's de novo review." Rosenbloom v. Metromedia, ... →

The First Amendment allows the citizen to petition unto the courts for a redress of grievance(s) done unto them by an agent/agencies of the government. The §1983 Civil Rights Action is one of the avenues to seek relief. Moreover, it is the vehicle to pursue relief and remedy from actors ~~under~~ under the color of ~~the~~ Law. The Writ of Habeas Corpus has been specified as the vehicle to challenge the constitutionality of one's confinement.

As the first question presented a question under the First Amendment, the clarification in which I look to the court for stems from what appears to be a clear restriction and blockade for relief and remedy in cases such as Heck v. Humphrey, 512 U.S. 477 (1994) and Preiser v. Rodriguez, 411 U.S. 475 (1973); In which those cases state that the Habeas Corpus is the vehicle to receive federal relief from a state conviction.

If the actor(s) that violated my federal rights under ^{the} Constitution are indeed agents of the state under the color of law, federal jurisdiction should supercede state ~~to~~ jurisdiction. But based on Heck v. Humphrey, 512 U.S. 477 (1994), the federal courts have a hands off approach until a petitioner ~~gets~~ has his conviction or imprisonment invalidated. ~~that~~

In the face of common english understandings, this translates in short that regardless of how severe the constitutional violation or harm is, an incarcerated individual MUST continue to suffer in the ~~the~~ current circumstances until the state (the pain inflicter) ceases that harm.

In my case, issues, and circumstances this evaluation of the ~~court~~ federal court's power and authority to act is contradictory. The case of Craig v. Witzki, 624 F.Supp 558 (1986) stated, "Section §1983 was intended to provide federal remedy independently enforceable whether or not it duplicates parallel state remedy; Congress did not impose any procedural prerequisite for filing §1983 actions; to impose state procedural requirements on §1983 claim would diminish broad remedial purpose intended by Congress."

So, is this incorrect or unfactual as to federal court power?

42 § 1367 is Supplemental Jurisdiction, which allows the federal courts to assume jurisdiction over state claims. Subsection (a) of § 1367 says, "Except as provided in subsections (b) & (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties."

I wholly believe that the use of Heck and Preiser has limited the federal courts ~~from~~ what SHOULD transpire in accordance with the principles of the U.S. Constitution. The federal courts SHOULD use its power, authority and jurisdiction to overturn/vacate a conviction, or order a release of a prisoner when it is found that it was in violation of the U.S. Constitution. Without the protection of the U.S. Constitution and the federal courts, the citizen's rights within each state are subject to bias, prejudice, retaliation, defamation, wrongful imprisonment, unlawful incarceration and 200 plus years of other wrongs and harms done unto them by state actors under color of law, which is the ENTIRE judicial system in its official capacity.

I wonder to further point out the contradiction of Federal vs. State
I point out a transcending and trending issue in our nation.

The laws on marijuana use and/or possession have changed and advanced with the evolution of our people's desires. It is a vote of the people in those states that allows it to transpire. However, Federal laws trump the state's law when its provisions and statutes are violated. This exhibits that Federal power is absolute within reasonable allowances ~~by~~ the state. So, if a federal law is broken within a state, then the Federal courts have the jurisdiction to prosecute.

Compare this analysis to court petitions. Specifically the purpose of the § 1983 to the Writ of Habeas Corpus's meaning to the individual petitioner, and what the ultimate goal is for that individual. 10 out of 10 comparisons

will show that they both are intended to seek relief from some wrong they believe occurred. Both are considered civil actions. Both allow remedy and relief to transpire. And both have the ability to exercise supplemental jurisdiction.

This is not simply to say that every §1983 Civil Rights Actions should automatically be accepted as the appropriate vehicle. However, the reviews that already exist such as the PLRA requirements gives the courts in it a large latitude and leeway to order a remanding for any action that does not meet the required exhaustions.

I petitioned to the trial court (state) via Writ of Habeas Corpus for the violations of the U.S. Constitution, ~~and~~ and was denied relief. Why am I further restricted from using the §1983 to attempt to gain relief? I do not understand ~~the~~ the necessity to allow the state multiple chances to remedy a Constitutional violation of the U.S. Constitution, when the federal courts have all the same power, if not more to ~~and~~ address it.

As my argument and claims stand, I hold the position that my First Amendment right to be free from retaliation, abridgement or chilling for filing a Civil Rights Action via §1983 gave me the protections of the U.S. Constitution over the PA Constitution. And in that, I should have been exempt from ~~before~~ being forced to use the Writ of Habeas Corpus to bring forth the same issues as I did in my §1983 Civil Rights Actions.

The First Amendment. My First Amendment rights under this United States Supreme Court has been violated. It should bear ~~not~~ no particular distinguishment between me using either the §1983 Civil Rights Action or the Writ of Habeas Corpus for me to gain remedy and/or relief. Until the matter of recovering damages comes into play, ~~and~~ my entitlement to petition unto the courts for violations of my U.S. Constitutional rights should be secured and guaranteed by the First Amendment.

At this current time this is not so.

As a Pro Se litigant in both civil and criminal proceedings all of the past events hold heavy consideration as to whether ~~or~~ or not my Due Process rights and Equal Protection Rights of the Fourteenth Amendment.

ment have been violated. The Magna Carta (1215) established this right in pre-Supreme Court creation years. With the domino effect showing the facts that even after the initial First Amendment violation of retaliation and the chilling of my pursuit of a civil action, I do not believe that I have been ^{given} Equal Protection of the Law to assure me Due Process in either my civil or criminal cases. I continue to suffer irreparable harm, also known as a continuing tort 42 § 5524(7).

As stated in 1966 prior to Heck or Preiser, the case of Greenwood v. Peacock, 384 U.S. 808 states, "Persons who are denied rights guaranteed to them under federal law may vindicate these rights in appropriate cases by various remedies in federal courts, such as direct review by United States Supreme Court, obtaining injunction or habeas corpus, bringing suit for damages under § 1983, or invoking criminal sanctions under 18 USC §§ 241." It further states, "The most obvious remedy is the traditional one emphasized in the line of cases from Virginia v. Rives, 100 US 313, 25 L ed 667 to Kentucky Powers, 201 US 1, 50 L ed 633, 26 S. Ct. 387 - vindication of their federal claims on direct review by this Court if those claims have not been vindicated by the trial or reviewing courts of the state."

Price v. Johnson, 334 US 266, 92 L ED 1356 (1948) quotes, "The writ of habeas corpus should be left sufficiently elastic so that a court may, in the exercise of its proper jurisdiction, deal effectively with any and all forms of illegal restraint."

If I am not mistaken § 262 of the Judicial Code, 28 USC § 377 gives Federal courts power to issue all writs in appellate instances.

As a pro se civil and criminal litigant should I ^{have} been entitled to the liberal construction of one? I ask because I do not know.

The Courts are placed to uphold the Constitution. Right the wrongs done by the government. Create laws for the nation's well-being. And also, to provide clarification on interpretations of the law.

It does not seem that the United States Supreme Courts have established a distinguishing line between granting relief as one specific remedy and granting damages as a separate remedy in matters of U.S. Constitutional violations on all facets.

In reality, relief, remedy, and damages are steps in a process titled Justice. First, comes the relief (i.e. judgment) acknowledging that a constitutional violation has occurred. Second, the remedy to the relief (i.e. overturned conviction) vindicating/rectifying the constitutional wrong. Last, is the recovery of damages of however they are ordered.

Both the §1983 and Habeas Corpus have a format where the relief requested should be listed. Whether or not the petitioner requests for damages in his/her relief request, this should not prohibit, restrict, or bar ANY petitioner's right to use either to redress a constitutional wrong. Even with the specifics of the §1983 being the courts preferred vehicle to recover damages against a person acting under the Color of law; the threshold remains that a constitutional violation must be found to have been sufficiently pleaded and judged as one in order to even receive remedy. This is before an evaluation of damages to be granted takes place.

Myself for the perfect example:

~~I request the relief of my conviction being found to be unconstitutional.~~

- 1) ~~I request that my conviction is found to be unconstitutional as my relief.~~
- 2) ~~I request that my conviction be overturned and I get immediately released from Commonwealth's custody as the remedy.~~
- 3) ~~I request to be ^{rewarded} compensated damages for all of the constitutional wrongs that I have suffered.~~

Simply put, the judgment on the claims in my favor is relieving the argument/fight of ~~me~~ my stance of being wronged. Remedying the wrong is two parts -- the immediate most logical and rational fix being ~~released from~~ given back my freedom -- followed by any pursuit of damages.

The Heck and Preiser conclusions of the §1983's use and/or purpose does not allow this sort of evaluation and review.

The §1983 is to provide relief for a constitutional wrong in violation of the U.S. Constitution. The Writ of Habeas Corpus is to provide relief for a constitutional wrong in violation of the U.S. Constitution. The First Amendment allows me to use either to redress a governmental grievance. It does not say that I MUST use one or the other to receive the relief and remedy. The principle goal is relief and remedy.

An aspect of an individual's right to pursue a violation of their constitutional rights in PA is two years from the date of the occurrence. This is the federal statutory timeline. If I am left to Heck and Preiser as the gauge for gaining relief, I cannot pursue my §1983 action for my rights being violated until I am released from prison. This comes without question as to if my rights were violated during my pretrial detention, or if a violation occurred after my conviction. Therefore, the §1983 serves no purpose in my case due to the fact that parole is not a right but a privilege. There lies no certainty as to when I will be released. However, if a §1983 judgment finds that my conviction and/or incarceration was in violation of my U.S. Constitutional rights, a court order ruling this and my release from custody because of its unconstitutionality can only be appealed.

Furthermore, even this outcome would not guarantee me to recover damages without meeting the court's or jury's particulars based on nominal, punitive, and compensatory. A hearing on damages after relief and remedies does not seem a far stretch from Pretrial, ~~trial~~, and sentencing.

With respect to this court's appellate review I will briefly address the PA Supreme Court's denial of my Writ of Mandamus and/or Extraordinary Relief. see Appendix A :-

PA Rules of Criminal Procedure 580 states, "ALL pretrial motions shall be determined before trial."

My Pretrial Motion to dismiss was ruled on over 1 year and 9 months after my trial, conviction, and sentencing. The trial court had every opportunity prior to trial to schedule a hearing on it; yet, it never happened.

My Pretrial Motion to Dismiss was in regards to the violation of my timeline to have a Preliminary Hearing after my arrest and arraignment, and the violation of my speedy trial rights. See PA Rules of Crim Proc. 540(E)(1), 600

I filed this petition under the all Writs Act § 1651.

The fact that I was not given a fair Pretrial Hearing on this matter violated my Due Process rights of the U.S. Constitution's Fourteenth Amendment and eliminated my appellate rights to interlocutory appeals before my trial. None of this was considered by the PA Supreme Courts. See Commonwealth v. Wansley, 248 Pa. Super. 234; 375 A.2d 73; 1977 Pa. Super. LEXIS 1971 and also Commonwealth v. Kirk, 220 Pa. Super. 115, 283 A.2d 712, 1971 Super. LEXIS 1119 (1971); Commonwealth v. Donahue; 357 Pa. Super. 503; 516 A.2d 373; 1986 Pa. Super. LEXIS 12591 (1986)

Briefly, I'd like to add that Pa. R. Evid. 802 & 803 state that Hearsay is not admissible at trial with certain exceptions. I do not believe that an affidavit of "he said" confessions in violation of Miranda rights without any proof to disprove that the confession was not, is a violation of the Fifth and Fourteenth Amendments.

I would like to reiterate my belief that any/all relief granted should start with the First Amendment violation of my U.S. Constitutional rights by arresting me in the midst of Civil Litigation against Berks County, PA before the pending action was closed or judged on. All events beyond, is additional compiled violations under the U.S. Constitution which entitles me to Equal Protection of the Law and Due Process of the Fourteenth Amendment.

A ruling in my favor on the First Amendment retaliation claim will hopefully relieve any obligation to speak or address any of the subsequent smaller pretrial violations except the defamation claim.

With that said, I request that it be so ordered that my First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment rights of the United States Constitution have been violated.

I request that an order be issued consolidating all state and federal actions pending with me as a pro se petitioner and be granted and overturned and vacated conviction and sentence with prejudice and for me to be immediately released from the Commonwealth's custody.

Fed. R. Civ. Proc. 9(c) → on conclusion next page

Fed. R. Civ. Proc. 9(g)

- 1) I request for a name clearing hearing press conference before the nation's media entities.
- 2) A subpoena to Facebook, Inc. to re-activate my page as it was prior to May 15th, 2015
- 3) The appointment of an attorney for fiduciary matters
- 4) A non-disclosed hearing/meeting to discuss damages that may be recovered for both the civil government officials and the civil media entities for defamations
- 5) Any and/or all relief that the court deems appropriate in the eyes of justice.
- *6) Access to the 15-8558 case file to allow me to retrieve business plans/ideas that I originally requested as relief under Fed R Civ. Proc. 9(g) in that petition.

In granting no relief will result ~~in~~ in continual irreparable harm unto me.
I declare under the penalty of perjury that all is true and correct.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ramsey G. Randall / Prose/

Date: 4/24/2019