

No. 18-9704

ORIGINAL

Supreme Court, U.S.
FILED

JUN 11 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

ANDRE JAVION PORTEE – PETITIONER

Vs.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES DISTRICT OF WEST VIRGINIA, 4TH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ANDRE JAVON PORTEEE

318 MOUNT STREET

MOUNT HOPE, WEST VIRGINIA 25880

1-304-877-0071

QUESTION(S) PRESENTED

1. Did the Natural Resources Conservation Service (NRCS) or Agency officials located in Beckley, West Virginia discriminated against the Petitioner on the bases of color (Black), sex , (male) age (52 then) national origin (African American), retaliation (reprisal) .
2. Did the NCRS or Agency officials, using and twisting laws around for their benefit to discriminate against the Petitioner to keep the Petitioner from moving forward in the program?
3. Did the NCRS or Agency officials, hack the Petitioner home, business landline number without just cause and or warrant?
4. Did the NCRS or Agency officials, twist around interpretations of applications, breeching the contract?
5. Did the NCRS or Agency officials after three years having ranked Petitioners property as rental property with a \$30,000 incentive, later removing Petitioner off the list, stating there was no documents in the file?
6. Did the received stamp three years before, reflect that the documents were in the file already and received?
7. Did NCRS or Agency officials, delay the processing of the Petitioner application in the Dunloup Creek Watershed Buyout Project from January 2012 through 2014.
8. Did NCRS or Agency officials, refuse to issue title insurance on the Petitioner property from January 2012 through 2014?
9. Did NCRS or Agency officials, change the Petitioner property from rental property to vacant property when he called for a status on his application and told him of changes in his ranking status in January 2012?
10. Did NCRS or Agency officials, removed the Petitioner name off a list of participants for the Dunloup Watershed Buyout Project in June 2012,
11. Did NCRS or Agency officials, refuse and or deny the request to clear the title and informed the Petitioner on December 2, 2013 that his application would be withdrawn as of December 13, 2013, if he could not clear title?
12. Does the State Auditor of land sales, not the sheriff auctions in the state of West Virginia give clean, good, marketable, titles to their purchasers?
13. Was the Petitioner title from the State of West Virginia a good, clean marketable, title from the State Auditor of land sales?
14. Did the lower courts erroneously decide in favor of a governmental agency that broke a contract between a Black American citizen and that agency?
15. Did the lower courts erroneously decide in favor of a governmental agency by ignoring the Petitioner had an original contract?
16. Was that contract made by an NCRS agent within the governmental agency that was nullified by an NCRS agent different from the original NCRS agent?
17. Did the lower courts erroneously decide in favor of a governmental agency by ignoring the Petitioner had an original contract that was breeched three (3) years later by an NCRS agent different from the original NCRS agent?
18. Did the lower courts erroneously decide in favor of a governmental agency that had an agent alleging there were no records in Petitioner file, then ignoring the contract when presented?
19. Did the lower courts erroneously decide in favor of a governmental agency that maliciously had the Petitioner complete a different application with language that could be misinterpreted ignoring the original contract therefore breeching?
20. Did the lower courts erroneously decide in favor of ignoring the Petitioner citizen rights, Amendment 14 in our Constitution?
21. Did the lower courts consider Exhibits presented?

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:

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 31, 2018.

☐ 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: March 25, 2019, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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.

Statement of Case

42 U.S.C. 2000d – 4a: US code – section 2000 d – 4a Program or activity and program defined

The Dunloup Creek Voluntary Floodplain Buyout Project (Buyout Project) was created in response to repeated devastating flooding in communities and settlements located along Dunloup Creek in West Virginia (WV), where public safety is a major concern. The location of the Buyout covers an area of approximately 200 acres, affecting approximately 290 properties in Fayette and Raleigh, WV. Historically, flood proofing measures were not effective in reducing flood damage in this area; the most cost-effective measure was a voluntary buyout, which was implemented through watershed Protection and Flood Prevention act, Public Law 83-566. In the watershed agreement, state and local sponsors provided 10% of the funding for the project, while NCRS provided 90% of the funding for the buyout Project, and properties were acquired until appropriated funding exhausted. Once the properties were acquired, they were placed in public ownership of the Fayette county commission and the City of Mount Hope, WV.

The purpose of the Buyout Project is to reduce flood damages by 100% for those property owners, who voluntarily sell their property and relocate outside of the floodplain, thereby reducing the risk to life and property while improving the quality of life for the community. Properties acquired were to be demolished and the watershed restored to its natural state. NCRS began taking applications for voluntary buyout in June 2009. Approximately 255 property owners completed applications for the project during the first signup period which ended September 2009. As of November 2013, approximately 117 homes had been acquired and removed from the floodplain. Applications for the Buyout Project were ranked to determine the order in which the properties were acquired; the highest ranked applications received the highest priority for purchase with the available funding. Rankings were based on the primary use of the property and the depth of flooding on the first floor of the structure.

The Petitioner lives and into business in Mount Hope, WV. He is a disabled Black American male, 56 years old. He is a member of a protected class, *McDonnell Douglas Corp. V. Green* 411 U.S. 792 (1973). He is the president of two corporations; Portee Ltd Corporation and Portee II Ltd Corporation. His corporate businesses involve various real estate activities, such as conducting in-house title searches, writing in house deeds, developing lands, and purchasing, renovating and selling properties.

Title VII of the civil rights act of 1964 burden shifting analytic framework established by the supreme Court in *McDonnell Douglas Corp. V. Green* 411 U.S. 792 (1973). The court has defined disparate treatment as situations where an Agency "simply treats" some people less favorable than others because

Of their race, color, religion, sex, or (other protected characteristic)." See *International Brotherhood of Teamsters V. U.S.* 431 U.S. 358, 335, n. 15 (1977)

Applying the *McDonnell Douglas* principles, the investigating agency must first determine if the Complainant can raise an inference of discrimination by establishing a prima facie case. The elements of a prima facie case may vary depending on the facts of the complaint, but often include the following;

1. The Complainant is a member of a protected class,
2. The complainant applied for and was eligible to receive the benefit sought;
3. Despite the Complainant's eligibility, he or she was rejected, referred elsewhere, or Treated differently, or otherwise subjected to an adverse action; and
4. The Agency / respondent accepted or treated more favorably similarly situated

Statement of Case

Who were not members of the protected class or classes, or there exists some other Evidence sufficient to create an inference of discrimination.

See Lawson V. CSX Transp; Inc., Inc. , 245 F.3d916 (7th Cir. 2001); McDonnell Douglas Corp; 411 U.S. at 802.

On December 4, 2008 See Exhibit 1. , The Petitioner purchased the property as a result of a State tax lien .The State property takes only 6 months to get a quick claim deed. All liens have been released; the new owner will have a clean, marketable, deed. (Very different at the Sheriff Tax lien) that takes 16 months to redeem. If having any liens on the state property it must be taken care of by the purchaser.

On June 30, 2009, See Exhibit 2.The Petitioner submitted an Application to Voluntarily Sell Floodplain Property and a copy of the deed, rent receipts for 9 months, rental contracts for the subject property to the NCRS field office located in Beckley, WV. The Petitioner identified the subject property as a rental property (see Exhibit 2A) second sentence from top line 2.This dwelling was a two family dwelling and the upstairs apt was done .The down stairs was being fixed up for rental (see Exhibit 2A line 10).The application has a (received stamp on the right side of application) and this is because the Petitioner gave all* documents that was needed for application .See exhibit 2a received stamp, initials MB , June 30, 2009,2:21 Time , NCRS Beckley , right side of page , bold square box.

On September 30, 2009, See Exhibit 3.NCRS sent the Petitioner a notification letter which stated that the "Complaint's application was "RECEIVED, according "to the information the Petitioner provided and the storm event modeling , his application was ranked number 167 on the list of properties to be (purchased by the NCRS)* . The Petitioner application was for rental properties and this was agreement between the two parties to sell. This NCRS agent was Greg Stone –Project manager in 2009 see bottom of memo signature.

Federal authority insurance or guaranty. 42 U.S.C 1982: US code –section 1982 Property rights of citizens

42 U.S.C 1985: US code –section 1985...

On December 28, 2012, See Exhibit 4. It is THREE YEARS LATER -2012 (RED FLAG 1*). And a different NCRS WORKER NAMED –Gary Redden took Mr. Greg Stone position. Mr. Greg Stone took a higher paying Job and moved up in the Dept. of Agriculture. The NCRS contacted the Petitioner by letter to confirm the information contained in his application; The Letter stated that there were (no* supporting documents) to verify that the subject property was utilized as rental property at the time the Petitioner his application for the Buyout project. Not true of the NCRS –

On June 30, 2009, See Exhibit 2.(RED FLAG 2.*)The Petitioner submitted an Application to Voluntarily Sell Floodplain Property and a copy of the deed, rent receipts for 9 months, rental contracts for the subject property to the NCRS field office located in Beckley, WV. The Petitioner identified the subject property as a rental property (see Exhibit 2A)NCRS REQUESTED THAT THE Petitioner submit documentation which indicated the property status would change to vacant residence and the ranking adjusted accordingly. This is the moment of breech, discrimination in the agreement 42 U.S.C 2000d: US code –section 2000d. 42 U.S.C 2000d The Petitioner gave all*documents.

Statement of case

Petitioner gave his Application in June 30, 2009 three years* before .See exhibit 2a received stamp, initials MB, June 30, 2009, 2:21 Time, NCRS Beckley, right side of page, bold box. See Exhibit 3. NCRS sent the Petitioner a notification letter which stated that the "Complaint's application was "RECEIVED, according "to the information the Petitioner provided and the storm event modeling , his application was ranked number 167 on the list of properties to be purchased by the NCRS . The Petitioner application was for rental properties and this was agreement between the two parties to sell. Most people do not keep documents for three years. Pigford V. Glickman –The USDA had committed and then exacerbated a vast array of civil rights

Violations over a period spanning nearly twenty years.

185 F.R.D. 82.86-89(D.D.C 1999)

Garcia V. Vilsack

130 S. CT. 1138 (2010)

Unlawfully discriminated against Hispanic farmers.

42 U.S.C 2000d: US code –section 2000d

Prohibition against exclusion from participation in, denial of benefits of and Discrimination under federally assisted programs on grounds of race etc.

Pigford V. Glickman

182 F.R.D. 341 (D.D.C 1998)

USDA settlement of discrimination against Black Farmers.

42 U.S.C 1983: US code –section 1983:

Civil action for deprivation of rights

42 U.S.C 2000d: Prohibition against exclusion from participation in, denial of Benefits of and discrimination under federally assisted programs on grounds of Race, color, or national origin.

42 U.S.C 2000d -4a: US code –section 4a

Program or activity and program defined.

2000 d -

42 U.S.C 1986: US code –section 1986

Action for neglect to prevent.

Federal authority insurance or guaranty.

42 U.S.C 1985: US code –section 1985

Amendment 14 - Citizenship Rights.

January 11, 2013, see Exhibit 5, (RED FLAG 3.)Appeal information for binding contract. Application definition of 6 months out of the recent year to be eligible for the incentive of rental property. The meaning of 6 months out of the year of 2009, does not have to start from January 1, 2009 but the word out of describes any 6 months as long as it was at least 6 months in that given year. The Petitioner gave April, May, June, July, August, September, October, November, December, (9 months). See Exhibit 6, 6a. The rental receipts were to be eligible for the incentive of rental property. The Petitioner, please remember the Petitioner was already ranked 167 for rental property three years before see Exhibit 3. Mr.Reeding removed, lost or lied about the original information, application, acceptance, and or (*NOT anything being in the file).See Exhibit 3, 2, 2a will show differently by showing the Petitioner was accepted *and ranked* for rental property .The stamp showing (RECEIVED) IS PROOF the Petitioner gave ALL his documents The Petitioner's file being removed was the start of many happenings to attempt to hold him back and or Discrimination.

Pigford V. Glickman –The USDA had committed and then exacerbated a vast array of civil rights Violations over a period spanning nearly twenty years.

Statement of case

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Race, color, or national origin.

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Program or activity and program defined.

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42 U.S.C 1986: US code –section 1986

Action for neglect to prevent.

Federal authority insurance or guaranty.

42 U.S.C 1985: US code –section 1985

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February 7, 2013 See Exhibit 7. Petitioner *Most important document* -This document in the final agency decision was not in the record but given by hand and certified with return receipt .It has been attempted to not be logically interpreted, and hide. This is a memo sent to the Congressman for thirty years in WV at that time. The Honorable Nick J. Rahall, II from Louis E. Aspey, II acting state conservationist the boss of Gary Redding.

Third paragraph 4th line states to the Congressman – ****It should also be noted; the incentive offer will be on rental property and not offered on classified vacant property. *****

42 U.S.C 1983: US code –section 1983:

Civil action for deprivation of rights

42 U.S.C 2000d: Prohibition against exclusion from participation in, denial of
Benefits of and discrimination under federally assisted programs on grounds of
Race, color, or national origin.

August 5, 2014 see Exhibit 8. (RED FLAG 4.*)Please compare the two documents Exhibit 7. And Exhibit 8. On the definitions and statements of the acting Conversations and the Worker Gary Redden whom has been discriminating and attempting everything he could possible do to take the Petitioner out of the program. Mr. Redding deceiving memo states - More over the letter clearly notified you that the \$30,000 incentive (would not be offered on vacant* property.) The memo to the Congressman states – ****It should also be noted; (*the incentive offer *(will be on rental property)* and {not} offered on classified vacant property. Mr. Redden is clearly twisting around the statement for his purpose or he cannot read .It continues and Gary Redden states therefore since your property was classified as vacant property rather than rental property, you were not entitled to receive the \$30,000 incentive as part of the purchase price for your property.

Statement of Case

Pigford V. Glickman –The USDA had committed and then exacerbated a vast array of civil rights Violations over a period spanning nearly twenty years.

185 F.R.D. 82.86-89(D.D.C 1999)

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42 U.S.C 2000d -4a: US code –section 4a

Program or activity and program defined.

2000 d -

42 U.S.C 1986: US code –section 1986

Action for neglect to prevent.

Federal authority insurance or guaranty.

42 U.S.C 1985: US code –section 1985

Amendment 14 - Citizenship Rights

October 22, 2013, see Exhibit 9. -NCRS cannot insure title for property.

December 1, 2013; we will consider your application withdrawn. The State Auditor of WV gives good, record, marketable title, no liens, contact the Deputy land Commissioner –State Auditor at -1-888-509-6568, 1-304-558-2262. RED FLAG 5. (*The Attorney at not one time explained *) that the Petitioner could get his own title insurance.

Exhibit 10. - November 20, 2013 RED FLAG 6. –Attorney James C. Blankenship states he disagrees with the Petitioner on a three year statute of limitation on WV code 11A-4-6.

WV code 11a-4-4 –right to set aside deed when one entitled to notice not notified. The law is self-explanatory in its self. (Before the expiration*) of (THREE YEARS*) following the delivery of the deed. There is a statute of limitations of three years and the law had nothing to do with the Petitioner claim.

Exhibit 11. – November 26, 2013 -Without the (issuance of title insurance from our local sponsor's legal counsel Attorney James Blankenship, NCRS cannot proceed with acquisition of your property. (*The Attorney at not one time explained *) that the Petitioner could get his own title insurance.

Exhibit 12.-December 2, 2013 –It does not appear that you can convey good, record, marketable title to the United States. (*The Attorney at not one time explained *) that the Petitioner could get his own title insurance.

Exhibits 9, 10, 11, 12, - Actions of attempting to keep the Petitioner from going forward.

Pigford V. Glickman –The USDA had committed and then exacerbated a vast array of civil rights Violations over a period spanning nearly twenty years.

185 F.R.D. 82.86-89(D.D.C 1999) Garcia V. Vilsack

Statement of case

130 S. CT. 1138 (2010)

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USDA settlement of discrimination against Black Farmers.

STATUTES

42 U.S.C 2000d: US code –section 2000d

Prohibition against exclusion from participation in, denial of benefits of and
Discrimination under federally assisted programs on grounds of race etc.

STATUTES

42 U.S.C 1983: US code –section 1983

Civil action for deprivation of rights

Conspiracy to interfere with civil rights.

42 U.S.C 1982: US code –section 1982 Property rights of citizens.

42 U.S.C 2000d: Prohibition against exclusion from participation in, denial of
Benefits of and discrimination under federally assisted programs on grounds of
Race, color, or national origin.

42 U.S.C 2000d -4a: US code –section 4a

Program or activity and program defined.

2000 d -

July 18, 2014 – see Exhibits 13. A, B Title Insurance of not James Blankenship but of First American Title Insurance Company. The Petitioner was always told he had to use Attorneys Blankenship title insurance. Look at all* Gary Redden Memos to the Petitioner and not one was telling he could get his own Title Insurance why?

July 18, 2014 – see Exhibit 13. C – A check for \$75,997.41 (without *) the \$30,000 dollar incentive for rental property.

August 13, 2017 –see Exhibit 14,A- Memo From: frontier communications, William Deaton to: The Petitioner about the hacking of Andre Portee the Petitioner home telephone service of an Attorney James C. Blankenship of the NCRS Department of Agriculture .No warrant and or action was done at all. Exhibit 15. August 14, 2017 – A motion why the Attorney James C. Blankenship for the NCRS Department of Agriculture is hacking the landline home number of the Petitioner?

Reasons for granting the petition.

This claim shows good cause, that USDA regulation 7 C.F.R 15 d.3 (a) and (b) has been violated and only The United States Supreme Court at this point only can reverse the wrongs.

No agency ,officer ,or employee of the United States Department of Agriculture shall ,on the ground of race ,color ,religion ,sex , age ,disability , or because all of part of an individual's income is derived from any public assistance program , exclude from participation in , deny the benefits of , or subject to discrimination any person in the United States under any program or activity conducted by the United States Department of Agriculture.

No person shall be subjected to reprisal for opposing any practice(s) prohibited by this part if filing a complaint or for participating in any other manner in a proceeding under this part.

Review is warranted because the opinion by the majority panel of the ninth circuit conflicts With the opinion of the United States district of West Virginia, 4th circuit violates federal laws.

Review is warranted because the majority decision conflicts with the opinions of the Black farmers of Virginia settlement.

Review is warranted because Mr. Reeding of the Department of Agriculture deceiving memo states - More over the letter clearly notified you that the \$30,000 incentive (would not be offered on vacant* property.) The memo from Louis E. Aspey, II acting state conservationist the boss of Gary Redden. * The Honorable *Congressman Nick Rahall II states – ****It should also be noted; {*the incentive offer *(will be on rental property)* and {not} offered on classified vacant property. Mr. Redden is clearly twisting around the statement. Please compare the two documents.

The National importance of the case not only to the Petitioner but to the country , others similarly is there have been many claims against the Department of Agriculture on their tactics ,discrimination, for many ,many years to present .All of these claims, settlements appear to not be stopping the horrible actions of the Department of Agriculture. This claim as the others should show in Punitive damages to make them listen. They should stop transferring agents that have been discriminating to other projects without some form of penalty and or classes to prevent future claims from happening. The average Pro se person with a low income would not have come so far to have their claim heard. You cannot afford an attorney at any point .You cannot get an attorney pro bono nowadays in the Supreme Court and the Dept. of Agriculture no this .All I wanted was to sell my building and continue in honor, my businesses as a disabled Black American male. I worked most of my adult life in the painters union in N.Y.as a shop steward. All I have been through has about destroyed all I worked for at this point. I bought a home to rent out and cannot complete it on my fixed income .This is what the \$30,000 was for to finish up. Many, many, others that are in programs from the Dept. of Agriculture are going through the same actions, but cannot fight for their rights. Some can get on a major suite but if it is not exactly what program you were in it may not happen. The agents are getting away with it mostly. If you make sure this agency changes for the people without all the negative, ongoing suits, then there will be no need for suits .All of the people are not complaining for no reason, these things are really happening. Just to many people and it appears to mainly people of color.

Amendment 14 in our Constitution has been violated .Attorney James C. Blankenship for the NCRS Department of Agriculture Attorney was illegally hacking the Petitioner home, office, landline phone number without warrant. Is this what our citizens should go through without good cause?

REASONS

A United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals .On the same important federal questions, in a way that has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this court supervisory power.

Application of the Bill of Rights should be applied. ".....certain protections of the Bill of Rights are so fundamental, that when a state denies them it denies due process of law guaranteed by the Fourteenth Amendment." Governmental agencies granted million dollar federal projects should be prevented from allowing powers within that agency from denying any citizen regardless of race sex religion national origin, etc. equal considerations when awarding compensation for participation in federal funded projects. This will prevent powers within the agency from benefiting rather than the Citizen.

Amendment 14 - Citizenship Rights.

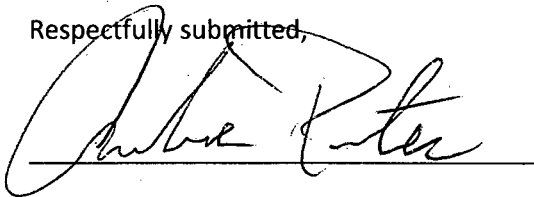
All persons born or naturalized in the United States, and subject to the jurisdiction Thereof, are citizens of the United States and of the State wherein they reside? No State Shall make or enforce any law which shall abridge the privileges or immunities of citizens Of the United States; nor shall any 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.

We the people need you,
You are the last hope.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John R. Carter", is written over a horizontal line.

Date: April 4. 2019