No. _____

In The
Supreme Court of the United States

GAVIN B. DAVIS,

Petitioner,

v.

SAN DIEGO COUNTY SHERIFF DEPT.,

Respondent.

On Petition For a Writ of Certiorari
To the United States Court of Appeals
For the Ninth Circuit

EMERGENCY APPLICATION FOR A STAY OF MANDATE PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI

GAVIN B. DAVIS, Pro Per
Petitioner & Federalist
615 "C" St., #325
San Diego, California 92101
(858) 876-4346
gavinprivate96@gmail.com

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The Parties are as follow:

Petitioner, Mr. Gavin B. Davis (the "Petitioner" or "Mr. Davis"), is an individual that is a citizen of the United States of America. He holds a Bachelor of Science degree from Cornell University; has completed approximately Four Billion Dollars (US$4,000,000,000) of complex corporate finance and real estate transactions; is a published author; is an industry speaker, including before such law firms as DLA Piper. Petitioner is a non-public figure who has fully maintained and sought a private, non-public life.

Respondent, San Diego County Sheriff Dept. ("SDCSD") is the chief law enforcement agency in San Diego County, comprised of approximately 4,000 employees, including both sworn officers and professional support staff. The department provides general la enforcement, detention and court services for the people of San Diego County; and, who may be Served via attorney-of-record, Mr. Ronald C. Lenert (CSBN #277434), County of San Diego Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101-2469, ph. 619-531-4860, fax. 619-531-6005, email: ronald.lenert@sdcounty.ca.gov.

INTRODUCTION

Pursuant to Rule 22, this Application is addressed to the HONORABLE ELENA KAGAN, Associate Justice for the Supreme Court of the United States and Circuit Justice for the Ninth Circuit. Further, this Application is timely made pursuant to 28 U.S.C. § 2101(f), subject to the Circuit Court's (i) judgment of February 21, 2019 (ECF 41); (ii) its denial (ECF 49) of Petitioner's FRAP 40 Rehearing Motion (ECF 43, February 21, 2019) of May 21, 2019; and, (iii) its denial (ECF 51, May 24, 2019) of the Petitioner's Motion to Stay the Mandate (ECF 50, May 21, 2019) pending Petitioner's Petition for a Writ of Certiorari to the Supreme Court of two (2) questions, without prejudice to due process, as presented for Certification by the Circuit Court (28 U. S. C. § 1254(2); ECF 48, May 19, 2019; and presented again herein) to Certify[1] two (2)

[1] It is believed that: (a) no Circuit Court has ever Certified a self-litigant's questions for Certiorari to the Supreme Court; yet, such is inherently prejudicial and not in the intention of impartiality and equality of person absent of knowledge or technical proficiency; and, (b) that the Supreme Court has never (not once) successfully access the Supreme Court in the affirmative, where all or nearly all "hole-in-one" probability self-litigant acceptances by the Court for Certiorari, were mostly political and/or to consolidate cases—how could this be?—how could no self-litigant ever, successfully have questions Certified for Certiorari by a Circuit Court; or, also, the Supreme Court never have granted certiorari and

questions to the Supreme Court for Certiorari, as rendered 'moot' (ECF 49).

Petitioner finds that the Circuit Court did not substantively engage on the briefing, prima facie; with the District Court not reaching the merits (even though Denied "*Bounds*" Access to Courts cases are of the "prima facie" variety); and, also not allowing amendment, falsely believing that because Petitioner was no longer in custody, no relief could be granted; or no injury had in fact occurred (utter blasphemy, and highly prejudicial).

Petitioner, Mr. Gavin B. Davis, a business professional and graduate of Cornell University (B.S. '00), was held on Excessive and Punitive bail, pre-trial, in violation of his 4th and 8th Amendments rights (9th Cir., 18-56202, pending certiorari (completed) filing (Rule conformed binding currently in process) to this Court); and, during such time was Denied "*Bounds*" Access to the Courts in violation of the Petition Clause of the First Amendment, being unable to timely and 'meaningfully' (operative to certiorari by the Court) move on cross-claim pursuant to (i) 42 U.S.C. § 1983, Deprivation of Civil Rights, a civil-criminal hybrid suit in equity and comity; (ii) for habeas relief, whether state, or federal (e.g. 28 U.S.C. §§ 2251, 2254-2255); (iii) to access legal

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affirmatively found relief in favor of a self-litigant? Such evidences clear prejudice to a reasonable person; especially given the advancements in each of: (i) technology; and, (ii) education, including advanced education, of citizens per capita.

materials to "assist" in his criminal defense; or, (iv) even to access rules of the court(s) to even begin to understand the predicament faced, held as unconscionable, and patently unconstitutional, prima facie. The "*Bounds*" cannon is comprised nearly entirely of cases not requiring any evidence of injury, held as self-evident.

STATEMENT OF FACTS

Petitioner's access to the courts was unlawfully denied in multiple capacities by Respondent San Diego County Sheriff's Department ("SDCSD"), including but not limited to not allowing the Plaintiff access to a law library, and denying the Plaintiff's ancillary services (e.g. attorney services) ability to reasonably access him during periods of pre-trial detainment (e.g. November 2017 until April 2018). As a result, the Plaintiff has occurred actual injuries including but not limited to the ability to effectively collaterally attack the opposition subjecting him to the custody of Defendant SDCSD. Plaintiff holds such clear denial of access to the courts by the Defendant to be a violation of his 1st Amendment right, as well as Due Process clauses of each of the 5th and 14th Amendments [(i.e. Constitutional violations)]. These violations, are actionable under Deprivation of Civil Rights and federal statute 42 U.S.C. § 1983, as moved, without the lower courts reaching the merits. Further, the manner in which the Petitioner's rights are being violated in being denied access to the courts, is the same as

other detainees and prisoners in the custody of Respondent SDCSD, and therefore subject to class action status [e.g. under FRCP 23].

Petitioner has a constitutional right to access the courts and to deny that access based upon his or her incarceration constitutes a violation of the Petition Clause of the 1st Amendment and the due process and equal protection guarantees of the 5th and 14th Amendments to the United States Constitution, as well as Art. I, § 15 of the California Constitution. The District Court does not dispute this. Therefore, the Argument turns to: (a) what is "adequate" versus "inadequate" in being provided "meaningful" access to the courts, which the Circuit Court does not engage upon in its disposition—and which this Court has not engaged upon in the "*Bounds*" cannon (*Bounds v. Smith*, 430 U.S. 817, 828, 97 S.Ct. (1997)) since *Lewis v. Casey,* 516 U.S. 343 (1996), over twenty (20) years ago;

Denying someone held in custody, whether pre-trial, such as the Petitioner, or post-conviction, "meaningful" access to the courts, including but not limited to (A) legal materials, (a) timely and reasonably accessible, (b) without third party filtering and limitations; (c) without limitation on quantity; (B) rules of court(s); and/or (C) prohibiting or inhibiting access to legal ancillary services, in order to either: move on cross-claim pursuant to (i) 42 U.S.C. § 1983, Deprivation of Civil Rights, a civil-criminal hybrid suit in equity and comity; (ii) for habeas relief, whether state, or federal (e.g. 28 U.S.C. §§ 2251,

2254-2255); (iii) to access legal materials to "assist" in his criminal defense; or, (iv) even to access rules of the court(s) to even begin to understand the predicament faced, held as unconscionable.

The two (2) questions as presented to the Circuit Court, are:

Whether a person held in pre-trial detention and custody by a state facing criminal charges in attempting to move pro per in cross-claim on timely collateral attack pursuant to either: (a) 42 U.S.C. § 1983, Deprivation of Civil Rights (a civil-criminal suit in equity and comity, de facto); (b) for habeas relief, whether (i) with the respective state; or (ii) pursuant to 28 U.S.C. §§ 2241, 2254, 2255; and/or (c) even in the attempt to either (i) understand their very predicament by timely being afforded access to reasonable legal materials (e.g. such as those of a law library including but not limited to rules of various courts (e.g. state, federal, local, chambers)); or (ii) to "assist" their criminal defense counsel, as afforded under the 6th Amendment can be Denied "*Bounds*" Access to the Courts as protected under the Petition Clause of the 1st Amendment by a municipal custodian such as the Respondent, the San Diego County Sheriff's Dept., or in not being provided "meaningful" access to the courts during such detention constitutes (i) Civil Rights violations, of (ii) an unconscionable FRCP 23 Class Certification dimension (A question of public importance (28 U.S.C. § 2101(e); and, in this capacity not addressed by this Court since the *Lewis* Opinion upon the *Bounds* cannon); and,

What actually constitutes "meaningful" Access to the Courts for a person either (i) held in pre-trial detention and custody; or, (ii) post-conviction—are there policies, such as this Petitioner alleges against the Respondent, whether uniform or not, that violate a minimum threshold standard as protected by the Petition Clause of the 1st Amendment, for example, the ability to access the rules of courts, or legal materials directly from a law library on timely cross-claim (e.g. pursuant to 42 U.S.C. § 1983, or state or federal habeas statutes to either or both understand their very predicament or attack such predicament, directly or indirectly (e.g. with an attorney)) (A question of public importance (28 U.S.C. § 2101(e); and, in this capacity not addressed by this Court with the specificity to uphold the protected Civil Rights diluted since the *Lewis* Opinion under the *Bounds* cannon)

In the Complaint (18-866, Doc. 1), Petitioner cites to the following, in Section F, "Statement of Facts":

at pg. 7-8, ¶ 10, R. at 39-40. "During the Plaintiff's most recent period of pre-trial detention (November 2017 until April 2018), Plaintiffs reasonable, and separately, legal, requests for access to the San Diego County Sheriffs Law Library for inmates were unlawfully denied (see Attachments: (a) SDCSD Inmate Requests on November 10, 2017; and (b) November 14, 2017 [(R. at 51, 56-58)]; each Denied by SDCSD Counselor #6026)." The district court in its order cites to a singular instance (18-866, Doc. 21, pg. 2, ln 19-20, R. at 6.),

diluting the Petitioner's fact pattern development. Further, in the Attachment, Petitioner makes an "Inmate Request," for Law Library access, while citing specifically to a pending 9th Circuit Interlocutory Appeal 17-55829 (from lower court 17-654) seeking an Injunction (i.e. a form of collateral attack to be afforded Due Process; as is that lower court case pending then, and now) (Doc. 1-2, pg. 5, R. at 57.). In addition, in the Attachment, Plaintiff, thereafter, elevated the "Inmate Request(s)" to an "Inmate Grievance" on November 16, 2017 (Doc. 1-2, pg. 2-4, R. at 53-55.); in which he each of: (i) requests access to the law library for "good cause and with legal right"; (ii) notes that the Defendant-Appellee's substitute, Legal Research Associates (LRA) forms (and process, see Doc. 1-2, pg. 7-10, R. at 59-62.) are insufficient (i.e. inadequate); (iii) indicates that he requires access to the San Diego Central Jail (SDCJ) Law Library for good cause including but not limited to: (a) pending federal Writ of Habeas, and (b) 42 U.S.C. § 1983 litigation against the prosecution of which he is the subject to the Defendant-Appellee's pre-trial detention and custody; (iv) states that such form is a Notice and Demand, while stating that TIME IS OF THE ESSENCE to immediately be provided access to the law library, or, in the alternative to be added as a (federal) defendant in litigation. (Doc. 1-2, pg. 3, R. at 54.) These additional facts directing to the Attachments are found in the Complaint (Doc. 1) at pg. 8, ¶ 11-13, R. at 40.

(d) at pg. 8, ¶ 14, R. at 40. Petitioner alleges or asserts that he has, "suffered actual injury, prima facie, as a result of being denied access to the law library facilities where he was

detained," in presenting, what he believes to be common sense, and the prima facie case. In the Argument section herein, Plaintiff, discuses what types of resources would be reasonably adequate; and, how such resources can be accessed as to what is reasonable to a reasonable person in order to have materially unimpaired access to the courts;

(e) at pg. 9, ¶¶ 15(a)-(d), R. at 41. Petitioner describes how the substitute for access to a law library and the resources expected therein by the Defendant-Appellee, specifically third-party, Legal Research Associates (LRA): filtered (inadequate, in relation to "assistance" such as law library clerk); frequency (once per calendar month, inadequate, prima facie); quantity of information (limited to fifty (50) pages per monthly request, inadequate, prima facie); timing (4-5 business days, inadequate, compared to daily business day access). The district court notes that, "Lack of access to a law library and alleged shortcomings of a legal assistance program alone are insufficient to support a claim for the denial of access to the courts. See, e.g., *Phillips*, 588 F.3d at 655; *Lewis*, 518 U.S. at 351" (18-866, Doc. 21, pg. 6, ln 15-17, R. at 10.)." Petitioner addresses this view of the district court in the Argument section of this Brief—as the *Lewis* Opinion is quoted grossly out of context in error, as the primary holding and qualifier in such case is "unless such prisoners have been substantially harmed by these deficiencies," and other material omissions. Further the *Lewis* Opinion overturned a wide sweeping Special Master Injunction changing the entire prison system in Arizona on technicality; while in

actuality, providing and supporting the Petitioner's claim as noted herein. However, a priori, Petitioner, in the Complaint has again, pled the "prima facie" case as follows: "Prima facie, the alternative provided to California state pro per criminal defendants, LRA, in lieu of access to a law library, is inadequate, clearly causing actual injury to the Plaintiff in his Habeas petition (9th Cir., 17-56310, Doc. 6 and 7), and other non-frivolous litigation against related parties (e.g. USDC SD Cal, 17-654, Davis v. SDDA et. al.) Without the ability to, and separately, materials to, conduct his own research, Plaintiff is left at a material disadvantage, thereby causing injury, prima facie, and Defendant SDCSD's discriminatory procedure (i.e. only providing pro per California criminal defendants with access to a law library) violates the Plaintiff's (and all parties in a similar situation) right to timely access the courts (*Trujillo v. Williams*, 465 F.3d 1210 (10th Cir., 2006); *Marange v. Fontenot*, 879 F.Supp. 679 (E.D. Tex. 1995))" (Doc. 1, pg. 9-10, ¶ 16, R. at 41-42.);

(f) at pg. 10, ¶¶ 17-18, R. at 42., Petitioner describes how his retained third party legal services firm for purposes such as: "legal research; legal runner, including court filings on cross-action [(i.e. "collateral attack")] to [*State of California*] *v. Gavin B. Davis* (e.g. USDC SD Cal, 17-654, *Davis v. SDDA et. al.*; USDC SD Cal, 17-2401, Writ of Habeas Corpus); process service; document preparation, and other attorney services," was prohibited from seeing him while in custody of the Defendant-Appellee. Petitioner at pg. 10, ¶ 19, R. at 42., adds, that, "The actions of

[Defendant-Appellee], compounded actual injuries to the Plaintiff, and were detrimentally impeding in further denying him access to the courts, including permissible cross-actions to the false charges he faces...and the tools and ability to timely research, review, prepare, file and move on collateral attack and in other capacities," presenting a factual allegation that should be obvious to a reasonable person in supporting the prima facie case.

In the Petitioner's Response (Doc. 16) to Respondent's Motion to Dismiss (Doc. 3) the Complaint (Doc. 1), Petitioner cites to the following: Petitioner "is not requesting "help" of the Defendant; he is seeking to have "adequate" Access to the Courts (*Bounds v. Smith*, 430 U.S. 817, 828, 97 S.Ct. (1997)); including use of a law library, and the resources thereof. Further, this right also confers on an detainee the right, on their own accord, to access and review cases in support of their legal positions; without filtering by a third party; in the absence, thereof, such as is alleged (Doc. 1, pg. 11, ¶ 22, [R. at 43.]), it is impossible to respond to an adversary's (e.g. the San Diego District Attorney, on collateral attack in USDC SD Cal, 17-654) legal positions." (Doc. 1, pg. 6-7, ¶ 6, R. at 38-39.) Petitioner is explicit, specific; and non-hypothetical, while having provided argument embedded herein, and further supported in the respective Argument portion on this Issue in this filing in support of his position.

In the Petitioner's Sur-reply (18-866, Doc. 20) to Respondent's Reply (Doc. 16) to Petitioner's Response (Doc. 16) to Respondent's Motion to

Dismiss (Doc. 3) the Complaint (Doc. 1), Petitioner cites to the following:

(a) pg. 3, ¶ 3, R. at 16. Petitionernotes that that in being unconstitutionally Denied Access to the Courts while in the physical custody of the Defendant; in multiple capacities, including but not limited to: "(a) regular access to a law library; (b) the legal resources (distinct; and unabridged/filtered) of such a law library; and, (c) the ability for one's self, to research and review such resources, whether [ ] in their own defense (including but not limited to collateral attack, which itself can include federal habeas relief)," and, whereby, "Plaintiff could not even receive and/or reasonably respond to such [Habeas] litigation (i.e. 17-2401)." On its face (i.e. prima facie), each of (a)-(c), are "meaningful";

(b) pg. 5, ¶ 7, R. at 18. Petitioner notes in reference to being unconstitutionally Denied Access to the Courts that, "all parties in custody [(which includes a pre-trial detainee such as the Respondent, but also lends support under FRCP 23 for class status)], actually have no reasonable way to even know (e.g. a law library; and, separately, the resources thereof, and timely, regular (distinct) access thereto) the 'full' procedure to exhaust their remedies; given, the very issue; being unlawfully denied access to resources able to assist in understanding the very predicament such parties, including the Plaintiff, did or do face." Here is but one example, the FRAP Rules published by the 9th Circuit are nearly 200 pages in length; yet, as cited, the Defendant-Appellee's substitute for a law library, and the resources thereof, Legal Research Associates (LRA) procedure limits the quantity of

information to 50 pages per calendar month—this would be clearly inadequate to most laypersons; and, to a reasonable member of a jury—the Petitioner contends that this is inadequate on its face, and represents each of actual injury, and the prima facie case.

(c) pg. 5, ¶ 7, R. at 18. Petitioner notes in reference to being unconstitutionally Denied Access to the Courts that, "the Plaintiff's movement on cross-action (e.g. USDC SD Cal, 17-654); in habeas (e.g. USDC SD Cal, 18-1382); and, on attack (e.g. 18-866 itself) only (strongly) evidences how he was being Denied Access to the Courts while in custody and without the ability to so move (therefore also evidencing injury, prima facie)." Indeed, if the Plaintiff was provided Access to the Courts, as Constitutionally afforded, then he could have filed these very pieces of litigation much earlier—and in not doing so, has evidenced injury and harm, prima facie. Such notion requires little to no inference on the part of the Court or to a reasonable person on a jury. It is the ability to move and its restriction(s); not, what the outcome there from may or may not be; the latter of which is each of unknown; and a secondary consequence to the violation.

In Petitioner's Response (Doc. 12, pg. 9, ¶ 16, R. at 29.) to Defendant-Appellee's Motion to Dismiss (Doc. 3) the Complaint (Doc. 1), "Plaintiff notes that he has clearly evidenced considerable diligence while incarcerated in attempting to work with the custodian and Defendant at such time. Plaintiff also notes at later dates, that: (a) his additional requests (i.e. Inmate Request or Grievances) were thrown away or not returned by

staff of the Defendant; and, (b) he was intimate[d] or threatened to not file anymore. Taken together, the reasonable efforts made by the Plaintiff to access the law library; and, thereafter, the Harassment, intimidation; and outright thwarting of Plaintiff attempting to access the law library," are facts and factual allegations supporting being unconstitutionally Denied "meaningful" Access to the Courts.

ARGUMENT IN SUPPORT OF THIS APPLICATION

This Court has jurisdiction pursuant 28 U.S.C. § 1651(a), "the Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law;" and, separately, whereby this Petitioner's Petition for a Writ of Certiorari is: (i) imminent, having lodged the two (2) questions for Certification by the Circuit Court (9th Cir., 18-56107, *Davis v. SD Sheriff Dept.*, ECF 48, May 19, 2019), rendered 'moot' by the Circuit Court's Oral Screening Memorandum summary disposition (ECF 49) of May 21, 2019, not reaching the merits of the argument put forth; thus, an Order Staying the lower court's Mandate in jurisprudence, avoids a Motion to Recall the Mandate.

"*Bounds v. Smith*, 430 U.S. 817 (1977), is the authority on the basic Constitutional right of accessing the courts while incarcerated (whether

pre-trial, drawing even greater importance as to Constititutional rights left unabridged, or subject to sentencing). For the nearly forty (40) years that followed *Bounds*, Denied Access to Courts cases, where construed liberally in favor of Plaintiffs attempting to access the courts while incarcerated; and, nearly always represented the prima facie case without having to explicitly evidence actual injury." (18-56107, FRAP 40 Motion, ECF 43)

"The second most authority on the basic Constitutional right of accessing the courts is *Lewis v. Casey*, 518 U.S. 343 (1996), which the Ninth Circuit Court upheld the district court's injunction in favor of the prisoners in such case; only, to be overturned on technicality via Certiorari at the Supreme Court, after it received Amicus Briefs from nearly every State not wishing to entirely overhaul their law library procedures (i.e. it was politically charged on technicality as well)—while one would hope that subsequent thereto, over the past twenty (20) years the basic Constitutional right of accessing the courts while incarcerated would have been clarified—instead, Plaintiff-Appellant indicates that *Lewis* has been misinterpreted and misapplied, leading to intercircuit conflicts; and, in its misapplication significantly watering down the Constitutional rights of those incarcerated (at the same time for-profit prisons have grown. In Plaintiff-Appellant's Opening Brief (ECF 4), and Supplemental Brief, he brings forth many citations from *Lewis* intended to clarify the basic Constitutional rights delineated and opined on in Bounds." (18-56107, FRAP 40 Motion, ECF 43)

In requesting that this Court Stay the Mandate of the Circuit Court in 18-56107, Plaintiff notes, that a party need not demonstrate exceptional circumstances to justify a stay (stating that it is "often the case" that mandates are stayed while seeking certiorari from the Supreme Court (*United States v. Pete*, 525 F.3d 844, 851 (9th Cir. 2008)).

Pursuant to FRAP 41, 1998 Amendment indicates that, "Paragraph (1) also provides that the filing of a motion for a stay of mandate pending petition to the Supreme Court for a writ of certiorari stays the mandate until the court disposes of the motion," which is taken as nearly binary in the absolute. Only in cases where (a) it is obvious that prejudice to the opposing party would occur, which also outweighs harm or injury to the party seeking such stay if the mandate were not stayed; or (b) where a court must consider the balance of equity, should a mandate be automatically not stayed. In this case, (i) the Respondent did not oppose the Stay (in fact it is estopped from doing so in its lack of response (in a similar capacity as the application of Rule 15.2 of this Court), nor (ii) did the Circuit Court provide any reasoning in its denial of the Stay (ECF 51); as a result, in the absence of a showing of either (i) or (ii), the Petitioner's Due Process has been violated, prima facie.

As a standard of review, Petitioner notes that this Court's Rule 23.3 provides that, "[e]xcept in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought" in

the court below; and, whereby Petitioner has done this (9th Cir., 18-56107, ECF 50, May 21, 2019), as Denied by the Circuit Court (ECF 51) on May 24, 2019.

In certain cases, "to obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010). Petitioner finds that in the (a) balancing of interests, the Respondent is not prejudiced in granting the Stay of the Circuit Court's Mandate as there is no ruling, injunctive or otherwise affecting any other party—yet—but in the contrary, this Petitioner has clearly shown that the Respondent's policies are unconstitutional and clearly violate the Petition Clause of the 1st Amendment in denying a substantial portion of parties in its custody "meaningful" (operative, and unreviewed as of yet by this Court) "*Bounds*" Access to the Courts; and, separately, (b) jurisprudence, as Granting a Stay of the Circuit Court's Mandate, especially in light of this Petitioner's great faith (see also, SCOTUS 18-1330, *Davis v. O'Connor,* as docketed by this Petitioner), avoids unnecessary future burden of recalling any mandate pending disposition by this Court.

Further, Petitioner notes that the two Questions as presented (without prejudice) are

clearly of Exceptional Importance; and, having the ability to resolve intercircuit conflict for future legal discourse (or to avoid such via this Court, subject to Due Process upon the Petition, rendering substantive opinion) (Petitioner considers Circuit Rule 35-1, in that this case does substantially affect Constitutional Civil Rights of national application; and there is an overriding need for national uniformity, as held in the *Bounds* cannon prior to *Lewis*).

REQUEST FOR RELIEF

The balance of equities and public interest strongly support that this Court Stay the Ninth Circuit Court's mandate in 18-56107, *Davis v. SD Sheriff Dept.*, resulting in no cognizable injury, let alone irreparable harm, to the Respondent; and, whereby Respondent's violations of the Petition Clause of the 1st Amendment are of a FRCP 23 class dimension, prima facie; and, therefore in the public interest.

A priori, Petitioner respectfully requests that this Court grant a temporary administrative stay of the court of appeals' mandate (9th Cir., 18-56107) pending the Court's consideration of this application, and that it direct a prompt response by respondents. See, e.g., *Little Sisters of the Poor Home for the Aged v. Sebelius*, 134 S. Ct. 893 (2013); thereafter,

Pursuant to a substantive review, or request for clarification(s), if any, of this

Application; Petitioner requests that this Court grant a 30-day stay of the court of appeals' mandate (9th Cir., 18-56107) in order for the Petitioner to prepare and file his Petition for a Writ of Certiorari to this Court of the two (2) questions as presented herein; or, upon such review and preparation, any question that this Petitioner, allowed Due Process, may pose.

Petitioner requests that this Court Grant any other relief that it deems appropriate.

If this Application is Denied for any reason, it will be renewed thereafter, to Associate Justice Hon. Brett Kavanaugh (Rule 22.4), without prejudice; having experience in Civil Rights and the First Amendment; as well as a history of hiring minorities and women as clerks (i.e. parties more likely to have their Civil Rights violated).

Respectfully submitted, on this day, May 28, 2019.

/s/ Gavin B. Davis

GAVIN B. DAVIS, PRO PER