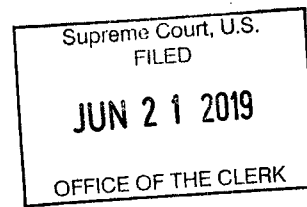


19-126



No.

In The

SUPREME COURT OF THE UNITED STATES

Gary Oram, Jr.,

Petitioner,

v.

The City of Dillon, Ceth Haggard,  
Jeremy Alvarez, and Jacob Johnson

Respondents,

On Petition for Writ of Certiorari  
To The United States Court of Appeals For The  
Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Gary Oram, Jr.  
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### (A). QUESTIONS PRESENTED

1. Are the Courts able to find a judicial resolution in a §1985(3) claim against one private citizen, after all other individuals in the action are released from liability?

2. Is it a violation of fair and impartial rights, if magistrate is denied jurisdiction by a party then acts to deny a motion magistrate has no authority to approve of, pursuant to the scope in 28 U.S.C. §636. The Tenth Circuit has found these acts to void the proceeding. In the above entitled the Ninth Circuit's opinions conflict with this precedence. Which court is correct in its application of law?

3. Is it constitutional pursuant to double jeopardy laws to punish an individual twice for the same offense?

(B). PARTIES TO THE PROCEEDINGS

The parties in the court whose judgment is sought  
to be reviewed are:

Petitioner:

Gary Oram,

v.

Respondents:

The City of Dillon,

Attorney of Record:

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Jeremy Alvarez,

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Jacob Johnson.

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RULE 29.6 CORPORATE  
DISCLOSURE STATEMENT

Pursuant to Rule 29.6, there are no corporations  
involved in this proceeding.

## PROCEEDINGS

Gary Oram, Jr., v. The City of Dillon; et al., No. 18-35038, United States Court of Appeals for the Ninth Circuit.

Gary Oram Jr., v. The City of Dillon; et al., No. 2:15-cv-00047-BMM, United States District Court for the District of Montana.

The City of Dillon v. Gary Oram, Jr., No. DC-14-3592. Beaverhead County Court for the 5th Judicial District of Montana.

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#### D. CITATIONS OF OPINIONS

In Montana State Cause No. DC-14-3592, the 5th Judicial District of Montana reversed Dillon City Court verdict of assault, relieving Petitioner of liability, final judgment, March 25, 2015.

In Cause No. 2:15-cv-00047-BMM:

Magistrate denied jurisdiction, January 19, 2016.

Magistrate sanctioned Petitioner, June 08, 2016.

Magistrate denied Petitioner's Motion for Judgment, June 15, 2016.

Magistrate denied Petitioners Motion for Review of June 15 order, by an Article III Judge, August 10, 2016.

Magistrate denied all Petitioner's Motion[s] to Compel, September 07, 2016.

District Judge vacated Jury Trial from the Bench, relieving The City, Alvarez, Haggard of Liability, December 20, 2016. Issued show of cause Order, to show why Case should remain open against single remaining defendant.

Magistrate denied Motion for Reconsideration of December 20, 2016 Order, January 23, 2017.

District Judge dismissed claim against Johnson, August 23, 2017.

District Judge denied Motion for Reconsideration, Motion in Equity, January 09, 2018.

## E. JURISDICTION

Petitioning for timely review of The Ninth Circuit's decisions February 19, 2019, and denial of re-hearing and re-hearing en-banc, May 28, 2019, Petitioner, Gary Oram, Jr., respectfully refers the Supreme Court to timely jurisdiction under 28 U.S.C. §2101(c).

## F. PROVISIONS

### CONSTITUTIONAL

1st Amendment -- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

4th Amendment -- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

5th Amendment -- No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor

shall private property be taken for public use, without just compensation.

7th Amendment -- In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

14th Amendment -- (Section 1) All Persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### MONTANA CODE:

Montana Code Annotated (MCA): §45-5-201. Assault.

(1) A person commits the offense of assault if the person:

- (a) purposely or knowingly causes bodily injury to another;
- (b) negligently causes bodily injury to another with a weapon;
- (c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or
- (d) purposely or knowingly causes reasonable apprehension of bodily injury in another.

## UNITED STATES CODE

28 U.S.C. §636 Jurisdictions, Powers, and Temporary assignments.

(b)(1) Notwithstanding any provision of law to the contrary—

(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law.

(B) a judge may also designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial [1] relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

42 U.S.C §1983 Civil Action for deprivation of rights.

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

to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. §1985(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance

of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

## G. STATEMENT OF THE CASE

### FACTUAL BACKGROUND

On January 30, 2014, Jacob Johnson approached Petitioner, Oram, and pushed Oram with physical force away from a Dillon City Police Car. After Johnson pushed Oram a second time, Johnson then head-butt Oram in the face.

Having all the information, and knowing that Johnson made physical contact with Oram to begin the altercation, Defendant Officers, Haggard and Alvarez disregarded the information and the language in the arresting statute, and arrested Oram pursuant to M.C.A. §45-5-201.

At a later date, Alvarez conducted a video deposition with Johnson. Johnson confirmed he pushed and head-butt Oram without provocation.

A week later, February 07, 2014, Johnson attached another individual at the same location. Johnson claimed however, the individual Hans Sevalstad, attacked him after saying, "I'm a friend of Gary Oram."

Sevalstad was arrested pursuant to M.C.A. §45-5-201. The City Court in Dillon dropped charges of assault against Sevalstad at a later date, and pursued the prosecution against Oram.

After extensive hardships, and an appeal to Montana 5th Judicial District Court, upon appeal the 5th Judicial District Court of Montana reversed the Dillon City Court verdict of Assault, March 25, 2015.

#### PROCEEDINGS BELOW

Upon timely application September 14, 2015, District Court in the Federal District of Montana obtained jurisdiction for Defendants cloaked with color of law pursuant to 42 U.S.C. §1983, and subject matter jurisdiction for the one defendant not cloaked with color of law, Johnson, pursuant to U.S.C. 42 §1985(3).

Magistrate was denied jurisdiction January 19, 2016. Magistrate denied to entertain a class action, several motions that requested full relief and for reconsideration with review of an Article III Judge.

Magistrate sanctioned Petitioner, \$82.50, and \$659.75, June 08, 2016.

District Court used magistrate's Finding of Fact, and Conclusions of Law to vacate jury proceeding from the bench, December 20, 2016, relieving The City, Haggard and Alvarez of liability, and continued against the single remaining defendant, Johnson.

Oram submitted Motion for Reconsideration, showing court, the single remaining defendant was not cloaked with color of law, and pursuant to 42 U.S.C. §1985 District Court could not pursue a claim of conspiracy against only one individual. Magistrate denied the motion, January 23, 2017.

District Court released Johnson from Liability, August 23, 2017.

District Court denied Motion for Relief from Final

Judgment January 09, 2018, and taxed Petitioner in the amount of \$654.70, and \$1077.75

Upon timely appeal, the Ninth Circuit obtained Jurisdiction pursuant to 28 U.S.C. 1291, January 16, 2018.

The Ninth Circuit disregarded magistrate's jurisdictional precedence in the Tenth Circuit, disregarded the basic prerequisite for conspiracy . . . i.e. it takes two or more persons to form liability, and disregarded double jeopardy laws, February 19, 2019.

When all defendants to a suit at law are released from liability, the decision to pursue an action under §1985, against the sole remaining defendant shows a departure from the usual course.

The Ninth Circuit Court of Appeals has entered a decision that conflicts with the Tenth Circuit Court's decision on the same important subject matter.

When fees are in excess of a judges order, those fees once taxed violate a person's double jeopardy rights.

The aforementioned actions are so far departed from the usual course of judicial proceedings and call for an exercise of this Court's supervisory power.

#### H. REASONS FOR ALLOWANCE OF THE WRIT

The lower courts' decisions show a fairly blatant disregard of controlling Supreme Court precedence and are of questionable correctness. Decisions that may have wide-spread deleterious effects on legitimate governmental interests, particularly on law enforcement and the practices of law. Considering ideological leanings of the justices, the criminal and



the civil justice systems, and litigants who repeatedly face the issues, these decisions appear to lack relevant precedence and undermine the desired uniformity of federal law. Absent review they may persist.

In its decision-making process, upon review the Ninth Circuit has cited several irrelevant cases, and precedence that support Oram's claims, such as *United States v. Lopez*. Where an unknown man held police at gun point, got in a car and sped away. Police later found the car parked, and when a man fitting the gunman's description used a key to open the door, then got in the car and sped away. Police were justified in his arrest, and charge with accessory after the fact.

In the above entitled all parties were positively identified and interviewed before the arrest occurred. Lopez has no relevance in this action.

District court and the Ninth Circuit cite *Yousefian v. City of Glendale*.

"Robert Yousefian called the police to report that he had been attacked by his father-in-law, Matavos Moradian. Everyone agreed that Yousefian struck Moradian in the head with a glass candle-holder. Yousefian claimed he did so to defend himself, after Moradian began to hit him with his cane, while Moradian and his wife told police that no such provocation had occurred."

Officer's arrested Yousefian for assault.

Yousefian supports Oram's fourth, fifth, and fourteenth amendment claims. In this case, Defendant's Police Reports, and a sworn deposition from Johnson, show that with no provocation Defendant Johnson pushed Oram on two separate occasions, before

Johnson head-butt Oram in the face. After having this information, the Officers arrested Oram pursuant to Montana Code Annotated (MCA): §45-5-201.

Assault. (1) A person commits the offense of assault if the person:

- (a) purposely or knowingly causes bodily injury to another;
- (b) negligently causes bodily injury to another with a weapon;
- (c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or
- (d) purposely or knowingly causes reasonable apprehension of bodily injury in another.

Quoting this Supreme Court, in *Consumer Product Safety Commission et al.*, "We begin with the familiar canon of statutory construction that the starting point for interpreting a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive."

For Defendants to have "probable cause," pursuant to the statutory construction of the arrest, they had to arrest the individual that purposely or knowingly made physical contact of an insulting or provoking nature. Since it is shown that individual was Johnson, the arrest of Oram was conducted without "probable cause."

The Ninth Circuit cites *Espinosa v. City & County of San Francisco*. As in the above entitled, Officers of the Police Department and the City moved for Summary Judgment. Unlike above, district court denied

the motion, viewing the evidence in a light most favorable to the non-moving party. When the City and the Officers appealed, the Ninth Circuit affirmed, quoting, *Santos v. Gates*. "Finding it premature to decide the qualified immunity issue, because whether the officers may be said to have made a 'reasonable mistake' of fact or law depends on the jury's resolution of disputed facts."

Surely this cite supports Oram's claim that when district court summarily dismissed his claim, they deprived his Seventh Amendment right to present disputed facts before the jury.

The Ninth Circuit cites *Ashcroft v. al-Kidd* in its decision-making process. In *Ashcroft* this Court reversed the district court's and the Ninth Circuit's opinions, finding *Ashcroft* did not violate clearly established laws. The irrelevance here is shown because the Defendant Officers knew the language of the arresting statute, and disregarded it, and due process while performing the arrest.

The Ninth Circuit cites *Lacey v. Maricopa County*, which relies on (see) *Ashcroft v. Iqbal*. "We remand this case to the district court, both sides will have an opportunity to prove or contest the "facts" alleged in the complaint and set forth in this opinion." These cases support Oram's 7th Amendment claims. The decisions to deny a jury trial to try the facts, conflict with the Supreme Court's controlling precedence.

Citing *Lacey*, both the district court and the Ninth Circuit have addressed Oram's conspiracy allegations under U.S.C. 42 §1983. Johnson was not cloaked with authority of law, §1983 is inapplicable to Oram's claim[s] of conspiracy. Oram brought suit against the private citizen's illegal collusion with police officials

under U.S.C. 42 §1985, which states it takes two or more individual actors . . . Showing the Ninth Circuit's decision to affirm district court's pursuit of a conspiracy claim from December 20, 2016 to January 09, 2018, against only one defendant, Johnson, is both statutorily and constitutionally corrupt.

The Ninth Circuit cites *Johnson v. City of Seattle*. In *Johnson*, Plaintiffs claimed the police were at fault for injuries they suffered from private individuals in a riotous Mardi Gras crowd. Citing *Monell v. Dep't of Soc. Serv. of the City of New York*, the Ninth Circuit agreed with the district court that the Plaintiffs failed to demonstrate any violation of their constitutional "due process" rights caused by either the city's policy, or any action by the individual defendants. Because the Plaintiffs could not identify the individuals in the riotous crowd that assaulted and battered them, nor anything in City custom or policy that deprived them of a right, see *Monell*, at 691, 98 S.Ct.

In the above Officer Defendants identified Defendant Johnson January 30, 2014, and were aware that Johnson purposely or knowingly made physical contact of an insulting or provoking nature with Oram, before Johnson head-butt Oram in the face.

Further, after the arrest, one of three third-party witnesses Oram had subpoenaed to testify at jury trial, prior to district court granting Defendant's motion for summary judgment, watched two Dillon Police Officers kicking Oram in the head, face, legs and ribs several times, while Oram was incapacitated lying in a pool of his own blood on the sidewalk. (See Appendix A. p44, 50-1.)

The Officer's reports fail to mention these "facts."

Oram's recollection of the events are different from the Officer's. When there is a different account of events among the parties, the presiding precedence is that the third-party account will be deemed as the true account, providing a question of fact for the jury, *Wilkins v. City of Oakland*.

A week after the Defendant Officers arrested Oram January 30, 2014, on February 07, 2014, three Dillon Police Officers responded to a call from a trailer park in Dillon. Where Johnson told two other Dillon Police, and Defendant "Haggard" that he was at the same location as the previous week when a man Johnson claimed he had never seen before approached Johnson and said, "I'm a friend of Gary Oram" before the man pushed Johnson then struck Johnson in the face. Police later identified the unknown man as Hans Sevalstad, and arrested Sevalstad pursuant to MCA §45-5-201.

Within the course of a week Johnson was in an altercation with two different individuals on two separate dates and times at the same location. During the first instance, Johnson stated he pushed then head-butt Oram in the face. During the second instance, Johnson stated an unknown man pushed him then struck him in the face. On both of these instances Dillon Police left Johnson at his liberty.

The arrests made pursuant to statutory construction in MCA §45-5-201.

"[I]n interpreting a statute a court should always turn to one cardinal canon before all others. . . . [C]ourts must presume that a legislature says in a statute what it means and means in a statute what it

says there." *Connecticut Nat'l Bank v. Germain*. The Defendant Officer's contradictory use of the Defendant's arresting code between the two instances, shows that an illegal seizure occurred during one of the two instances, the individual arrested was deprived of his fifth amendment, and fourteenth amendment due process and equal protection rights. A question of fact remains to ascertain which individual was deprived of their substantial rights.

The Ninth Circuit addresses Oram's due process claims citing *DeShaney v. Winnebago County Dep't of Soc. Serv.* Where this Supreme Court held that "a State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause." *Id.* at 197, 109 S.Ct. 998. This Court reasoned as follows:

"[N]othing in the language of the due process clause itself requires the State to protect the life, liberty, and property of its citizens against invasion by private actors. The clause is phrased as a limitation on the State's power to act, not as a guarantee of certain minimal levels of safety and security. It forbids the State itself to deprive individuals of life, liberty, or property without 'due process of law.'"

If Johnson physically touched Oram at the outset of the confrontation, then the Officer's arrest of Oram was a violation of Oram's constitutional rights. A question of fact remains in this instance to ascertain who initiated the violence. Questions of fact are uniquely the providence of the jury. *See Santos v. Gates*.

Every class of citizen of the United States has a right to be free from the violence of other private citizens. The classification of Oram's equal protection

claim involves “every citizen.” After showing the district court this class, Oram attempted to joinder Hans Sevalstad as a second Plaintiff in this action. Even though a magistrate judge lacks 28 U.S.C §636(b)(1) (A) jurisdiction to dismiss or permit maintenance of a class action, Magistrate Jeremiah Lynch dismissed Oram’s motion to “Joinder and Define.” Which would have defined the class, and permitted the maintenance of a class action, December 17, 2015. (Dist. Doc. 23)

Oram was informed of Sevalstad’s February 07, 2014 encounter with Johnson at a later date, by Sevalstad’s Butte, Montana, Attorney, Frank Joseph. Oram had never met Hans Sevalstad. Because Oram was named in Dillon Police Reporting activities of February 07, 2014, Joseph subpoenaed Oram as material witness to Sevalstad’s defense in Dillon City Court. However, upon collaboration with Johnson, the City dropped charges of assault against Sevalstad.

Sevalstad was subpoenaed to testify at jury trial in federal district court. (See Appendix A. p42-45 at 45.) Because Oram and Sevalstad had never met before, Johnson’s claim that Sevalstad stated “I’m a friend of Gary Oram,” is an act of conspiring with others in an attempt to deprive Oram’s constitutional rights. The second incident involving Johnson shows a violation of the *Monell* Rule. at 690–91.

In the decision making process the Ninth Circuit cites *R & R Sales, Inc. v. Ins. Co. of Penn.* Where Plaintiff R & R Sails requested “Brandt fees” or Attorney fees pursuant to *Brandt v. Superior Court*. District court determined that R & R had violated disclosure requirements of Federal Rules of Civil Procedure

(Rule) 26(a) and 26(e). The Ninth Circuit affirmed that because R & R violated disclosure requirements, R & R did not have a right to attorney fees. If a police record or report cites Oram's name on it, as a material or conspiratorial actor, then Oram has a substantial right to review that information and all information connected to said record or report, upon initial disclosure. Rule 26(1)(A)(ii) provides a compulsory obligation when a party intends to use this information at trial. Defendant's violated this Rule when they did not supply all the police records connected to Oram's §1983 claims in the first instance, and his §1985 claims during the second instance.

In order to obtain these records Oram submitted Rule 34 discovery requests, requesting all dispatch records, and police reports, in an unredacted form, for every patrol car that arrived on scene during the January 30, and the February 07, incidents. The City provided a partially redacted dispatch record for one patrol car. In both Defendant's Police Reports of the incident, they claim their patrol car was parked at the Metlen Bar, before Johnson pushed and then head-butt Oram in the face. However, the partially redacted dispatch record shows that the patrol car the Defendant Officers were in did not arrive at the location until after the altercation, and the arrest. (See Appendix A. p46-7). The City and Defendant Officers refused to provide dispatch records for the other Patrol Cars on scene January 30, and denied to provide all records, and reports from the February 07, incident.

Oram moved to dismiss pursuant to "default" for the Defendant[s] violation of disclosure requirements that amount in a "failure to properly defend."



Magistrate Jeremiah Lynch denied this motion. Stating there could be no violation of disclosure rules without a Rule 37 motion in the record, (See Appendix A. p16-20 at. 17.), stating no risk of prejudice existed at that stage in the proceedings because Oram was free to make the motion pursuant to Rule 37. (at Appendix A. p19).

Oram then moved to compel the production of dispatch and police records from both incidents, and dismissal under Rule 37. Magistrate Lynch denied the motions in a series of Text Orders connected to the District Docket. (See Appendix A. p22-4.)

In its opinion the Ninth Circuit cited *Parsons v. Ryan*. Where:

“The Federal Magistrates Act, 28 U.S.C. §§ 631-39, governs the jurisdiction and authority of federal magistrate judges. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1118 (9th Cir. 2003). The Act provides that [u]pon consent of the parties, a full-time United States magistrate judge... may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court. 28 U.S.C. § 636(c)(1). Thus, two requirements must be met before a magistrate judge may properly exercise civil jurisdiction: (1) the parties must consent to the magistrate judge's authority and (2) the district court must ‘specifically designate[ ]’ the magistrate judge to exercise jurisdiction. *Columbia Record Prods. v. Hot Wax Records, Inc.*, 966 F.2d 515, 516 (9th Cir. 1992).” see also 28 U.S.C §636(b)(1)(A).”

The parties did not consent to the magistrate's jurisdiction, (See Appendix A. p39). After having been denied full jurisdiction magistrate Jeremiah Lynch acted to deny several motions where Oram requested full relief. Magistrate then acted to deny several motions of reconsideration, where Oram specifically requested Article III review of a district Judge. (See Appendix A. p37.) This to include Oram's motion for reconsideration of Order December 20, 2016, a motion denied by Magistrate Lynch that effectively ended litigation for the City and the Officers. (See Appendix A. p35.)

For a judge to have jurisdiction over a motion judge must have the capacity to rule for or against all parties to the action. *The Fair v. Kohler Die and S. Co.* The question before this court is, is it a fair proceeding when a judge who has no authority to provide the relief requested, denies said relief? If magistrate judge cannot supply the relief requested in a motion, surely magistrate has no jurisdiction to deny it.

The Tenth Circuit has held that if a magistrate acts without jurisdiction, it voids the specific action. *Bulloch v. United States*. The Ninth Circuit's decision in the above conflicts with this precedence. The second pressing issues is the Ninth Circuit's disregards to its own precedent. The question having been respectfully submitted to this Supreme Court to ascertain if the magistrate's actions culminate in a denial of Oram's first amendment rights for "formal" redress, and fifth amendment rights to "due process," in a court of competent jurisdiction.

On June 08, 2016, Magistrate Lynch sanctioned Oram to pay "Brandt fees" in the amount of \$82.50 to the City, and \$657.75 to the Officer Defendants, when,

with only six days notice Oram failed to present himself at a deposition. (See Appendix A. p24-7 at 25-6). After final judgment court ordered Oram to pay "Brandt fees" in the amount of \$654.70 to the City, and \$1077.75 to the Officers. (See Appendix A. p40-1.) In the District of Montana local rule 54.2 states, "Attorney fees will only be allowed upon order of a judge." This court has in its possession every district court order pertaining to the action. (See Appendix A. p7-24,29-38.) With no order of a judge in the district action granting "Attorney fees," other than the judgment of June 08, 2016, taxation after the fact appears in excess of a judge's order, and in violation of Oram's fifth amendment double jeopardy rights. See *North Carolina v. Pearce*.

On January 30, 2014, Oram became nauseated and euphoric with no apparent reason for the sensation. Oram was having trouble walking and had fallen several times before he saw a Police Patrol Car in front of the Knotty Pine Bar. Attempting to gain assistance from law enforcement, Oram attempted to lock himself into the back seat of the car. When the back door would not open, and an unknown individual pushed Oram away from the car, Oram stumbled forward toward the Metlen Bar, a Dillon City block away from the Knotty Pine. Looking for help from an acquaintance "Cowboy Mick" a friend of Oram's, Oram was nearing the door of the Metlen Bar when Oram was again attacked by an unknown individual, who was later identified as Johnson. When Oram became cognizant again he was bleeding profusely from the face, being kicked by Police Officers while lying on the sidewalk. After they stopped kicking him, already in hand-cuffs, Oram was lifted off the ground by an Officer with a name tag that read J. Horrocks. Horrocks

an officer of the Dillon Police Department drug Oram past one Dillon Police Patrol Car, and violently shoved Oram into the back seat of a second Dillon Police Patrol Car.

Samuel Hayden was walking to work January 30, 2014, at about 1:00 am. Approaching the Metlen from the opposite direction as Oram, Hayden witnessed a Dillon City Patrol Car arrive in front of the Metlen, with its overhead lights already flashing. Moments later Haden witnessed a second Patrol Car arrive on scene with its lights already flashing. Rushing to see what was occurring, Haden watched first one Dillon Police Officer take Oram to the ground and begin kicking Oram. Soon after a second Dillon City Police Officer joined the first officer kicking Oram who was lying in a pool of his own blood on the ground.

If Defendant Johnson was involved, Haden was not able to see this part of the altercation, as he only arrived on-scene to witness the officers brutally beating Oram. (See Appendix A. p44, 50-1)

After Oram was released from Beaverhead County Detention January 30, 2014, at 14:00, (2:00 pm) he immediately sought medical treatment at Beaverhead County Hospital. Where Oram was treated by Medical Doctor Ramona Potter. Photographs of what Oram looked like in hospital registration, and weeks later can be found at Appendix A. p48-9.

Dr. Potter was subpoenaed to testify at jury trial. (See Appendix A. p42-4 at 43.) A medical doctor is a material witness pursuant to Federal Rule of Evidence 803, providing the courts even more questions of fact.

Several days after the incident January 30, Defendant Officer Alvarez conducted a video deposition with Johnson. After Officer Alvarez swore Johnson to

his oath of truthfulness, Johnson explained on video how he witnessed Oram lifting up on the back door of the patrol vehicle. Johnson states he approached Oram and pushed Oram away from the vehicle. Johnson states Oram disregarded this. Johnson states he smoked an entire cigarette watching Oram. After distinguishing the cigarette, Johnson states he approached Oram again, and again pushed Oram. Johnson states when Oram regained his footing, Johnson head-butt Oram in the face. This video deposition (DVD) is what helped the 5th Judicial District of Montana, overrule Judgment in City Court. It was presented upon the district court. Oram presented the DVD, with proper motion to transmit physical exhibit upon the Ninth Circuit. The Ninth Circuit denied the motion, and denied to entertain the information. (See Appendix A. p3-6 at 6).

The video deposition contains a sworn oath of truthfulness. Johnson claimed he made physical contact of an insulting and provoking nature with Oram. The Defendants having this information before the arrest pursuant to MCA §45-5-201, creates a question of law.


Indeed, 'when the words of a statute are unambiguous, then, this first canon is also the last: 'judicial inquiry is complete.'" Connecticut Nat'l Bank v. Germain 503 U.S. 249, 254.

The other questions created by this deposition is that Johnson states he only head-butt Oram in the face. Why then did Medical Doctor Ramona Potter at Beaverhead County Hospital treat Oram for bruising to his abdomen, and bruising related to fractures in his ribs, arm, and leg, as well for fractures to his skull and eye socket orbital, and deformities to his ear and inner ear canal?

In the months that followed Oram underwent several surgeries for a hematoma to his right ear at Rocky Mountain Ear, Nose, and Throat in Missoula, Montana. All told medical expenses were in the six-figure range and the encounter with Johnson and Dillon Police January 30, 2014, left Oram permanently disfigured.

### CONCLUSION

The officer's, the district court's and the Ninth Circuit's conflict with constitutional and statutory constructions, with this Supreme Court, and other circuit court decisions, justify review.

A handwritten signature in cursive script that reads "Gary A. Oram Jr". The signature is written in dark ink and is positioned above the printed name.

Gary Oram, Jr.

Pro Se

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