No. 19-1292

In The Supreme Court Of The United States

Larry Meitzner

Petitioner

v.

Dana Nessel

Respondent (by substitution)

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

Larry Meitzner

Pro se

4209 Klee Road

Rogers City, MI 49779

(989) – 351 - 8204

QUESTIONS PRESENTED FOR REVIEW

Rule 14 .1(a)

1.Did the Defendants in 1:15-cv-12870, acting singularly or in concert, criminally falsify the per curiam of the Michigan Court of Appeals docket No. 304639, thereby denying the Petitioner his civil rights?

2.Did Judge Murphy, in his administrative position, by refusal to inquire into the actions of his subordinates in 1:15-cv-12870, become complicate in the cover-up?

3. Did the Michigan Supreme Court, or their staff, by denying the Petitioner's leave to appeal, become complicate in the cover-up of the Michigan Court of Appeals falsification?

4.Did Magistrate Judge Patricia Morris, through her repeated campaigns of snips and quips, misdirection, misinformation, obfuscation, and selective misuse of quotations in the three prior actions, unduly influence Judge Ludington's ORDER?

5.Has Judge Ludington become so wedded to his biased positions in the three prior actions, upset with Meitzner's repeated motion to recuse M J Morris, embarrassed with his case manager's (17) day late mailing, as to lose the objectivity needed to form an impartial opinion in *Meitzner v. Schuette*?

6.Has the Court of Appeals for the Sixth Circuit become complacent – ride with the tide, go with the flow - in allowing Judge Ludington's **ORDERS** to be affirmed? (*See:* 24 out of the 25 times . . . reversals in the 2008 thru 2013 terms[1])

7.Has the United States Supreme Court allowed itself to become embroiled in this civil rights conspiracy through the Machiavellian manipulations of its staff?

[1] Wikipedia article about the United States Court of Appeals for the Sixth Circuit.

LIST OF PARTIES TO THE PROCEEDINGS

Rule 14.1(b)(i)

Larry A. Meitzner Plaintiff

Bill Schuette, John/Jane Doe 1:18-cv-13950 (03/01/19)
/19-1360 (02/07/20)
Dana Nessel, by substitution[1] Current action

Robert P. Young, Jr et al.; (Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman; Diane M. Hathaway; Mary Beth Kelly; Brian K. Zahra.)[2]
1:15-cv-14444 (03/22/16)
/16-1479 (October 25, 2016)
/16-930[3] (April 3, 2017)

William B. Murphy 1:15-cv-13729 (05/20/16)
/16-1816 (Feb. 27, 2017)
[4]

Michael J. Talbot, et al: (Michael J. Riordan; Kurtis T. Wilder Larry S. Royster; "John Doe".) 1:15-cv-12870 (02/05/16)
/16-1362 (Sept. 01, 2016)
[4]

[1] Fed. R. Civ. P 25(d) Dana Nessel has received notification.
[2] Counsel only acknowledges (3) of the defendants, claiming since the remaining four are no longer with the Court, action against them is moot.
[3] 16 – 930 was to have been incorporated with Talbot and Murphy as part of a package.
[4] Talbot and Murphy have seemingly been purged from this Court's system.

LIST OF PROCEEDINGS

Rule 14.1(b)(iii)

Robert J. and Donna M. Clark
Husband and wife
Plaintiffs,
v.
Larry A. Meitzner
Defendant
10-002952-CH Michigan 53rd Circuit Court
Judgement entered Mar 25,2011

Robert J. and Donna M. Clark
Husband and Wife
Plaintiffs/Appellees,
v.
Larry A. Meitzner
Defendant/Appellant.
304639 Michigan Court of Appeals
Judgement entered August 16, 2012

ROBERT J. CLARK and DONNA M. CLARK
Plaintiffs -Appellees
v.
LARRY A. MEITZNER
Defendant-Appellant
145922 Michigan Supreme Court Entered Dec. 26, 2012

LARRY MEITZNER
Plaintiff
v.
MICHAEL J. TALBOT, et al (KURTIS T. WILDER, MICHAEL J. RIORDAN, LARRY S. ROYSTER, and JOHN DOE.)
Defendants.
1:15-cv-12870 United States District Court for the Eastern District of Michigan Northern Sector Filed Feb. 5, 2016[1]

LARRY A. MEITZNER
Plaintiff-Appellant
v.
MICHAEL J. TALBOT, et al. (KURTIS T. WILDER: MICHAEL J. RIORDAN; LARRY S. ROYSTER; JOHN DOE;)
Defendants- Appellees
16-1362 United States Court of Appeals for the Sixth Circuit Filed September 01, 2016

Larry Allen Meitzner
Petitioner
v.
Michael J. Talbot, et al, (Michael J. Riordan, Kurtis T. Wilder Larry S. Royster, John Doe.)
Respondents.
60-day def. correction Dec. 2, 2016
60-day def. correction Feb. 2, 2017
60-day def. correction Mar. 31, 2017
Status – indeterminate United States Supreme Court
Notice from Court: Filed out of time June 2, 2017[2]

[1] Affidavit says Feb. 5, 2016, but was mailed on Feb. 22, 2016
[2] The Court hybridized two different cases: *Talbot* and *Murphy.*

Larry A. Meitzner
Plaintiff,
v.
William B. Murphy
Defendant.
1:15-cv-13729 United States District Court for the Eastern District Of Michigan Northern Sector Filed May 20, 2016

LARRY A. MEITZNER
Plaintiff-Appellant,
v.
William B. Murphy
Defendant-Appellee.
16 -1816 United States Court of Appeals for the Sixth Circuit Filed February 27, 2017

Larry Meitzner
Petitioner
v.
William B. Murphy
Respondent
Status – Indeterminate United States Supreme Court Filed June 2, 2017[3]

[3] See [2] above.

Larry A. Meitzner
Plaintiff,
v.

Robert P. Young, Jr*. et al; (Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman*; Diane M. Hathaway; Brian K. Zahra*; Mary Beth Kelly.) See: Footnote [2] on page ii above.
1:15-cv-14444 United States District Court for the Eastern District of Michigan Northern Sector Filed March 22, 2016

LARRY A. MEITZNER
Plaintiff- Appellant
v.

Robert P. Young, Jr.* et al. (Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman*; Diane M. Hathaway; Brian K. Zahra*; Mary Beth Kelly.)
16-1479 United States Court of Appeals for the Sixth Circuit Filed Oct. 25, 2016

Larry Meitzner
Plaintiff – Appellant
v.

Robert P. Young Jr.*, et al, (Michael F. Cavanagh; Marilyn Kelly; Stephen J. Markman*; Diane M. Hathaway; Brian K. Zahra; Mary Beth Kelly.)
16-930 United States Supreme Court Filed April 3, 2017[4]
[4] 16 – 930 was to be incorporated with *Talbot* and *Murphy.*

Larry Meitzner
Plaintiff
v.
Bill Schuette
John/Jane Doe
Defendants.

I:18-cv-13950 United States District Court for the Eastern Division of Michigan Northern Sector Filed 02/01/19

Larry A. Meitzner
Plaintiff-Appellant
v.
Bill Schuette, John Doe, Jane Doe
Defendant – Appellee

19- 1360 United States Court of Appeals
For the Sixth Circuit Filed Jan. 07, 2020
Motion for en banc hearing denied Feb. 5, 2020

TABLE OF CONTENTS

Rule 14.1(c)

INDEX OF AUTHORITIES

14(c)

STATUTES

10. 28 U. S. C. Sec. 1746

11. 42 U. S. C. Sec. 241 B-14

12. 42 U. S. C. Sec. 1983 15

13. 42 U. S. C. Sec. 1985 15 A-2, A-3, D-8 D-9, D-14 E-2, E-3, E-8

14. Due Process Clause A-5

OPINIONS

1. 15-cv-12870 5, 18, D-8, E-2

2. 15-cv-13729 17

3. 15-cv-14444 D-8, E-2

4. 16- 1362 13, 14, H-1

5. 19-cv-13950 D-7, J-2

6. 304639 Mich COA Aug. 12, 2012 A-2, I-1

7. Clark v. Meitzner 823 N. W. 2d 603 Mich (2012) D-8, E-2

8. P.I.C.C No. 10-002952 I-1

RULES, REGULATIONS, REFERENCES

Table of Appendices

JURISDICTIONAL STATEMENT

Have the judges so far departed from the accepted and usual judicial proceedings or sanctioned such a departure by a lower court at to call for supervisory power by this Court? Rule 10(a):

Judge Ludington's abuse of Rule 12(b)(6)

. . . or a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court? Rule 10(c):

Judicial immunity for a criminal act.

Federal jurisdiction is asserted under 42 U. S. C. Sec. 1985 (2)–(3), 28 U. S. C. Sec. 1343[1] and U. S. C. Sec.1331.[2]

Appellate Court jurisdiction is exercised under 28 U. S. C. Sec. 1291.[3]

Supreme Court jurisdiction stems from Article III.[4]

[1] "The district court shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

[2] (a) "the district court shall have original jurisdiction of all civil actions wherein the matter in controversy exceed the sum or valve of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.

[3] . . .which gives courts of appeals jurisdiction to hear appeals from "final decisions" of the district courts.

[4] Sec. 2. Judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States . . . between citizens of the same state . . .

DATE OF DECISION

DISTRICT COURT
1:18-cv-13950
02/01/19

DISTRICT COURT – RECONSIDERATION
04/01/19

COURT OF APPEALS FOR THE SIXTH CIRCUIT
19 – 1360
Jan. 07, 2020

MOTION FOR RECONSIDERATION
Feb. 7, 2020

THE ISSUES

This petition contains multiple issues (judgements)(4) for review by the United Sates Supreme Court. Rule 12(4).

In his ORDER of 19 – 13950, Judge Ludington writes: "This case stems from a property dispute..." (*See*: Full text Appendix E.) Perhaps in the greater scheme of things, but Meitzner would rather narrow the perspective to the calls made by Christopher Lindsay [counsel for Mr. Clark in Michigan Court of Appeals action 304639] to the Michigan Court of Appeals and referencing the letters written to Meitzner on the topic of the transcript. (*See:* App'x F & I.) His calls/letters only emphasize the point that Meitzner's inadvertent (pro per) exposure of the (State) COA Rules shortcoming effected the Court Rules revision. This revision was the source of the umbrage leading John Doe to **falsify the per curiam** of the Michigan Court of Appeals. While there may be state statutes to cover this injury, the Petitioner references 18 Sec. 1506 since this is a federal action.

> 18 U. S. Code Sec. 1506 – Theft or alteration of record or process; . . .
>
> Whosoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, other proceedings, in any court of the United States, whereby any judgement is reversed, made void, or does not take effect; . . .

This has been Meitzner's position throughout 1:15-cv-12870/16-1362 *Meitzner v. Talbot, et al*; 1:15-cv-13729/16-1816 *Meitzner v. Murphy*; 1:15-cv-14444/16-1479 *Meitzner v. Young, et al;* 1:18-cv-13950/19-1360 *Meitzner v. Schuette,* regardless of the misdirection, obfuscation, or parsing of words by the SYSTEM. The United States District Court for the Eastern Division of Michigan, the United States Court of Appeals for the Sixth Circuit, and the United States Supreme Court have gone to great lengths and have taken extreme positions all in an attempt to deny Meitzner his due justice.

PREFACE

Michigan Court of Appeals

Docket No. 304639 Aug 16, 2012

Per Curiam

Page 1 Paragraph 2

"In 1992, plaintiffs were granted an easement across the property of Paul and Mary Schalk so that the plaintiffs could create a 16-foot wide road for the purpose of accessing a parcel of property they had purchased from the Schalks."

[There is nothing in that deed which specifies road width.][1]

[1] Also granting an easement for ingress and egress on the West 33 feet of the N E ¼ of N E ¼ Section 19, Town 34 North, Range 5 East. Liber 300 Page 417 Presque Isle County Recorded 92 Apr 27.

"According to the plaintiffs, the ground making up the easement floods and becomes exceedingly soft and difficult to traverse in the spring."
[No testimony of flooding.][2]

These would be classified as harmless errors: but errors, nonetheless. Whoever authored the per curiam had some knowledge of the issue, but not all of the facts.

Page 2

Para. 2 is also misrepresented, but Meitzner will stress Page 2 Paragraph 6. This falsifying the per curiam is the basis for all the following actions.

This is not a "harmless error" to be easily tossed aside. It is an intentional distortion of facts, generated by the same individual, lacking facts, but having an active imagination. The argument is well documented throughout these proceedings, so Meitzner will just give a thumbnail sketch.
1. "At trial Clark testified . . ."[2] The testimony was that they were measuring fertilizer, not working on the road.
2. "Plaintiffs entered photograph . ."[2] Page 2 paragraph 4 limits the topic to harassment. Irrelevant and inadmissible Trial Judge denied damage claims. Harassment was never specified in the complaint; this is a court embellishment to bolster the altered per curiam.

[2] Transcript of trial 10-002952 -CH April 20, 2011
Annette Leeck C S R 2295

3. Plaintiffs also presented testimony . . ."[2] A full read of the transcript would lead an observer to question the veracity of the testimony.

4. " . . . and that he had witnessed . . . "[2] "Objection. Hearsay. The Court. Good objection.[3]

Testimony the trial court would not allow, now becomes the basis for affirm.

Page 2 Paragraph 5

"A trial court's findings of fact are reviewed for clear error." *Cipri v. Bellingham Frozen Foods, Inc.* 235 Mich app. 1, 8-9 596 N.W. 2d 620 (1999)

"A finding is clearly erroneous when, although there is evidence to support it, this court is left with a definite and firm conviction that a mistake has been made." *Id* at 9.

An inference by a reasonable, knowledgeable individual could be made that a reversal is forthcoming; except for the altered per curiam in paragraph 6.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISRICT OF MICHIGAN

CASE No. 1:15-cv-12870

The petitioner laid out the facts and supporting docu-

[3] Transcript of trial 10-002952-CH April 20, 2011 Annette Leeck C S R 2295 Page 124

ments showing the falsification. "The above named individuals did, singularly or working together, falsify a presentation of the Michigan Court of Appeals, specifically docket No. 304639."[4]

Except for counsel dropping John Doe from the action, petitioner will not attack counsel's arguments, but will concentrate on Magistrate Judge Morris's Report & Recommendations to show her resistance to the action, which alleges wrongdoing by her brethren of the bench.

M J Morris ignores the Civility Principles Administrative Order No. 08-AO-009, Filed 2008 Jan. 23. Court's Responsibilities to Attorneys 2) "We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with attorneys, parties or witnesses.

I.

". . . basis of Meitzner's claim is somewhat unclear[5] . ." The basis is quite clear: they did falsify the presentation. ". by rendering a ruling with which Meitzner disagrees[5], ." Meitzner disagrees with the falsification by the court.

[4] Page ID 1-1

[5] M J Morris's constant use of the ambiguous modifiers demeans Meitzner's position.

Footnote 2: "While somewhat unclear[5] Meitzner seems to be suggesting[5] that Defendants failed to mail a copy of their motion to dismiss to his home".[6]

"Defendants filed a certificate of service indicating that they had served Meitzner at his Rogers City address."[7]

"Even assuming[8] that Meitzner was not timely served[9] with Defendants' motion to dismiss, he was able to file his response with minimal delay, and there is no such evidence by such a delay."

M J Morris's **B. Motion to Dismiss Standard** was 2 ½ pages long, filled with numerous citations meant to overwhelm a lowly pro per. 11 citations with 4 *Ids.*

Page 5

"Meitzner suggests[5] that the Michigan Court of Appeals issued an erroneous ruling[10] by affirming the decision of the trial court."

[6] Parsing of words: Meitzner's claim was that the Defendants had not filed **on the plaintiff**, as required by the **Complaint and Summons** (*See:* Appendix N.) within the specified time of 21 days.

[7] But not within the timeframe.

[8] No "assuming" about it, the facts are clear: *See* [9] below.

[9] Since Meitzner was not timely served, there should have at least been a hearing to resolve the motion of default judgement. M J Morris has taken upon herself to redefine the procedures.

[10] More parsing of words. It was not an "erroneous ruling," but a falsified per curiam by the court.

Page 6

Defendants moved to dismiss Meitzner's complaint "under Fed. R. Civ. P. 12, though do not specify under which Subsection of Rule 12 they believe it should be dismissed."

Never fear, M J Morris to the rescue.[11]

Page 7

"... this presumption of truth does not apply to allegations which are threadbare or implausible." M J Morris is trying to insinuate that the Petitioner's claim fits the mold without actually say it.

Page 8

"... that the Michigan Court of Appeals 'falsif[ied] a presentation.' " M J Morris blends this truth in with select parsing of words to distract. "... basis for the affirm [sic]", committed "a wrong."

Page 9 Footnote 4

"Meitzner appears[5] to referencing his offer of cash reward." Elsewhere she calls it a bribe. Meitzner prefers his original phrase: self-imposed sanctions. Another place: "Bounty of $1000 to your favorite charity." Still another ".. reward is [if?] a court of appeals employee will identify ... " The offer of sanctions was limited to the

[11] See *Burrell v. Henderson* 434 F. 3d 826**(6th Circuit 2006)** where the clerk showed the petitioner how to file for default judgement, while refusing to answer questions from the defendant.

The default judgement was reversed.

Michigan judicial system. M J Morris has a fixation on the offer of self-imposed sanctions, when she, with all her power sit helpless to order them.

Page 10

"Meitzner's communication also range into the unintelligable." How much abuse does an appellant have to take?

Page 11

He alleges that the Court of Appeals "created evidence" to "justify their preconceived ruling," and considered evidence that was "irrelevant and therefore inadmissible." Again, M J Morris selectively and effectively uses the quotation marks to minimalize. even negate the true meaning of the phrases taken out of context. Will this reviewing body decide paragraph 6 is factual?

Page 12

"Even when read in the most charitable light . . . "
Feel the heat, feel the burn, feel the hostility. The usual wording is "favorable to."

Page 14 Judicial immunity

". . . including court clerks, who act in the "performance of judicial or quasi-judicial function" are shrouded with absolute judicial immunity." M J Morris takes her cue from *Ashelman v. Pope* 793 F. 2d 1072 (**9th Cir.** 1986):

"Our examination of the doctrine of judicial and prosecutorial immunity convinces us to construe more

broadly the availability of immunity." Both her citations were 6th Cir. cases. What about other cases? "This Court has been quite sparing in its recognition of claims to absolute . . ." *Forrester v. White* 484 U. S. 219. "Supreme Court has made it clear that the doctrine of immunity should not be applied broadly and indiscriminately." *Gregory v. Thompson* 500 F. 2d 59 "It confused an administrative or ministerial action with a judicial act". But nowhere does she quote "must bear the burden to show such immunity is essential."

Rooker-Feldman

Here too, M J Morris takes the defendant's word that this is a viable defense although they offer no proof, only pleadings.

Page 18 FRIVOLOUS

"Attached to Meitzner's response to Defendants' motion to dismiss is a letter addressed to 'Janice', presumably an employee." PRESUMABLY? More demeaning! Janice's name and title were clearly typed at the bottom.

"Like the remainder of Meitzner's pleadings, this language is somewhat unclear and subject to multiple interpretations." No comment

"However, Meitzner's statement in this letter suggests that he may recognize the frivolous nature of his claims . ."

If the claims were frivolous, she should have denied the claims for that reason. They were not; she did not.

The only way the claims could be frivolous would be for the Defendants to refute the claims. Fed. R. Civ. P. 8(b)(2). The defendants did not refute the claim.

Page 19

"Sanctions may be appropreate against a litigant who file suit against defendants who are "clearly immune" from liability" *See:* page 9, above.

The threat of sanctions is as effective as the actual sanctions. (Citations omitted.) Are they "clearly immune?" This is part of these actions: are they immune for clearly criminal acts?

This is the basis – EVERY person, who.

Meitzner ends his Plaintiff's reply to Recommendations, 21 hand written pages, encompassing 8 objections, filed November 12, 2015, with a recommendation that M J Morris recuse herself.

Since, by her own admission, there are points which are

UNCLEAR

to Magistrate Judge Morris, the Plaintiff asks that she recuse herself from making any recommendations on case No. 1:15-cvv-12870. This was followed by a formal Motion to Recuse filed on November 13, 2015.

This formal Motion prompted a reply from Judge Ludington:

ORDER OF REFERENCE TO UNITED STATES MAGISTRATE JUDGE

IT IS ORDERED that the following motion(s) are referred to U. S. Magistrate Judge Patricia T. Morris for a hearing and determination pursuant to 28 U.S.C. Sec. 636(b)(1)(A):

Motion for Recusal - #19

s/Thomas L. Ludington
Thomas L. Ludington
United States District Judge

Dated: December 3, 2015

Was this ORDER simply a procedural operation of the staff? Compare to the "Notice" in Appendix D-1 / D-4

M J Morris never set-up a hearing date, just as she never set-up the approval paperwork in 14444.

The Petitioner will not burden this Court with the 12 pages of M J Morris's

ORDER DENYING PLAINTIFF'S MOTION FOR RECUSAL (Doc. 19)

In her ORDER OVERRULING OBJECTIONS . . .

M J Morris writes on page 5, "He also moved to recuse Judge Morris from the case on November 19 2015. ECF No. 19. Meitzner (almost) hates to be a party-pooper but his records from the Bay City Clerk's Office clearly state that the Motion was filed on Nov. 13, 2015, 6 days earlier.

On page 7, M J Morris continues with her obfuscation: She writes "Here, because Defendants had already timely responded to the original complaint... "; then why did she write "even if he was not timely served...?"

MINI-SUMMATION

Judge Ludington should have realized from the extensive list of objections, he should have stepped in and had M J Stanford write a new, impartial, R & R.

JUDGE LUDINGTON'S ORDER...

The first noticeable point is that M J Morris has been replaced by Magistrate Judge Elizabeth A. Stafford. (Doc. # 23... Pg ID 183). The only highlight is that Judge Ludington acknowledges that Meitzner stated a Sec. 1983 claim but it is barred by judicial immunity.
This, as stated many times, is the basis for these actions:

SHOULD DEFENDANTS BE ALLOWED IMMUNITY FOR CRIMINAL ACTS ?

On page 6 of his ORDER, Judge Ludington creates the same faux pas as M J Morris. He writes: However, the filing of a motion under Federal Rule of Civil Procedure 12 defers the deadline for filing such a responsive pleading until after the motion has been ruled upon. More parsing and obfuscation! "Within 21 days after service of this summons on you... you must serve on the plaintiff an answer to the attached complaint, or a motion under Rule 12 of the

Federal Rules of Civil Procedure." Judge Ludington refuses to acknowledge the slight difference: filing versus filing within the 21-day timeframe. *See*: Appendix N.

On page 11, Judge Ludington writes: "Meitzner's allegations that Defendants acted with bad faith and malice in writing the opinion and entering judgement against him are insufficient to abrogate judicial immunity." If that was all it was, Judge Ludington would be correct, But the allegation was that of criminal conduct in falsifying the per curiam. Nothing M J Morris or Judge Ludington can write can change that **FACT.**

His reciting of the *Rooker-Feldman* credo offers no new insight into how this is revevant: pleadings, not **FACT.**

UNITED STATESCOURT OF APPEALS
FOR THE SIXTH CIRCUIT
Meitzner v. Talbot 16-1362
BRIEF FOR DEFENDANTS-APPELLEES

Counsel writes: "This is a simple case where a state court loser is asking the federal courts to reverse the state court judgements against him and punish the state judicial system for its ruling." Meitzner is amazed at how easy it is to parse words. Mr. Lindstrom would find it impossible to show evidence to support the statement "... to reverse the state court judgements ..." Meitzner is not a "state court loser," he is a STATE COURT VICTIM.

As with M J Morris's application of the doctrine, it is mere pleadings with no proof to support the allegations.

CASE No.16-1362

ORDER

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Before: GUY, CLAY, and GIBBONS

Circuit Judges

The Court echoes the ORDERS of M J Morris and Judge Ludington: immunity, *Rooker – Feldman*. The panel also falls into the trap that the Defendants offer no evidence that *Rooker* is a viable defense; just throw in some pleadings, cite some cases and let's go home.

Their lone citation of *Bush v. Rauch* 38 F. 3d 842, 847 **(6th Cir.** 1994**)**, was not even a case on point. The defendant worked as a juvenile placement officer for the county. His responsibility was much greater than John Doe's of typing up a per curiam.

II

United States District Court For The

Eastern District of Michigan

Case No. 1:15-cv-13729

Counsel for the Defendant cannot type the first line of the **STATEMENT OF FACTS** without generating an **ERROR"**

"This a 42 U. S. C. Sec. 1983 suit[1] . . . "

1 On the Civil Cover Sheet, Meitzner claimed this was a case involving "Civil Rights – Other Civil Rights" and cited 42 U. S. C. Sec. 1985, the conspiracy companion to 42 U. S. C. Sec. 1983. Forsake of discussion, Judge Murphy will treat the case as alleging a constitutional violation under 42 U. S. C. Sec. 1983." [This is Murphy's footnote.]

Murphy **DOES NOT HAVE THAT OPTION!!!**

"THE PARTY BRINGING SUIT IS MASTER TO DECIDE WHAT LAW HE WILL RELY ON."

The Fair v. Kohler Die 228 U. S. 22, 23

On page 2 of the **BRIEF IN SUPPORT . . .**, Murphy writes: Magistrate Judge Patricia Morris issued a report recommending dismissal of that action and cautioned Meitzner about the frivolous nature of his suit. Murphy is fighting old battles in his effort to prejudice the court. M J Morris also recommended that Meitzner's Sec. 1983 claim be denied, but Judge Ludington overruled that.

Murphy's heading on page 3, (1:15-cv-13729-TLL-PTM Doc #8 Filed11/20/15 Pg 8 of 12 Pg ID 38) is:

II. Meitzner has failed to state a claim Under 42 U. S. C. Sec. 1983. This is a prime example of starting out with a faulty argument and then to continue to expand that premise. It worked, for M J Morris uses the "failure to state a claim" ruse in her R & R. Meitzner's Complaint was

Respondeat Superior, which, as has been made clear, will not support a Sec. 1983 claim.

"At minimum, a Sec. 1983 Plaintiff must show that a supervisory official at east implicitly authorized, approved or knowingly acquiesced in the unconstitutional conduct of the offending subordinate." *Bellamy v. Bradley* 729 F. 2d 416 (1984) (citing *Hays v. Jefferson County* 668 F.2d 869 (**6th Cir.** 1982)).

"The master is liable for the acts of his servant which are committed during the course of and within the scope of the servant's employment." *Fitzgerald v. McCutcheon* 270 Pa. Superior Court 102 (1979)
"This liability of the employer may extend even to intentional or criminal acts committed by the servant." *Id.*

On page 4:
III. Judge murphy is entitled to absolute judicial immuniity . . . Again, Murphy starts out with a faulty argument and tries to make a federal case of it. Page 5: ". . .or failing to address alleged misconduct by the Court of Appeals panel - such misconduct occurred during the performance of his judicial function." The pragmatic approach for immunity is dispute resolution, which does not come close in Murphy's case.

Meitzner is perplexed by the filing **DEFENDANT'S MOTION TO DISMISS.** 1:15-cv-13729-TLL-PTM Doc. # 14 Filed 12/22/15 Pg 1of 6 Pg ID 68. The usual procedure is: 1) Complaint; 2) Reply; 3) Rebuttal. (Counsel for) Murphy has taken the process a step further – to only rehash his prior arguments. This is the same counsel who later in 1-18-cv-13950 stylized the summary judgement but Judge Ludington ruled as Rule 12(b)(6) dismissal.

MOTION TO RECUSE

On Mar. 4, 2016, Meitzner filed a Motion to Recuse M J Morris from this action: "By showing such bias and others, the Plainntiff moves . . . "

M J MORRIS'S R & R

Meitzner has pointed out above the many shortcomings of M J Morris's writings; she continues here. Petitioner will point out only 3:

Page 8

"If Meitzner believed that the Court of Appeals wrongly decided the matter of *Clark v. Meitzner*, his option for relief was to appeal that decision to the Michigan Supreme Court." Her next 6 lines are irrelevant since Meitzner had already gone that route: M S C Docket No. 145922.

Page 11

iii Rooker-Feldman

M J Morris again goes on the attack, throwing a multitude of citations but offers no hard facts that this defense is appropriate.

SANCTIONS

M J Morris's writing here extends to 6 pages, re-iterating her position in *Meitzner v. Talbot,* with the same ending: no action taken.

Page 17

"Rule 11 provides that a court "must not impose a monetary sanction ... on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned." ... "Because the Court has not previously issued a show-cause order in this matter, the Court does not order or recommend imposition of a monetary sanctions against Meitzner at this time"... "The Court thus declines to recommend a sanction against Meitzner pursuant to Rule 11 at this time, but cautions him that the submission of further frivolous."[1] filings ... "

[1] M J Morris still promotes the concept of starting with a faulty premise and continuing to try and build a case. None of Meitzner's actions have been adjudged as frivolous.

1:15-cv-13729-TLL-PTM Doc #19 Filed 05/20/16

Pg 1 of 15 Pg ID 126

JUDGE LUDINGTON'S

ORDER ADOPTING REPORT . . .

An interesting point in the heading is that M J Morris's name has been removed.

Pg 1 of 15

" . . . when Judge Murphy refused to act after Meitzner alerted him that three judges of the Michigan Court of Appeals issued an opinion adverse to Meitzner . . . " This is more fabrication by Judge Ludington to bolster his ORDER. The argument was not that the ruling was adverse, but was criminally falsified. This has been the favorite play of M J Morris, Judge Ludington, and Counsel for the several defendants: misstatements, twisting facts, obfuscation.

Pg 2 of 15

"On December 7, 2015 Meitzner moved for a default judgement against Judge Murphy. Meitzner believed that Judge Murphy's motion to dismiss was not an appropriate response to his complaint, entitling Meitzner to entry of default." This has to be one of the most blatant of Judge Ludington's twisting of facts. The motion was that the defendant had not filed **ON THE PLAINTIFF** within the timeframe set by the Court. As before, Judge Ludington confuses the difference between filing with the Court, and filing ON THE PLAINTIFF, because it suits his need.

The Court's footnote [1] shows the extent of Judge Ludington's confusion. Meitzner never sent multiple letters nor the same letter to Judge Murphy multiple times: one letter, 24 handwritten pages with 32 pages of documentation. Surely this could not be mistaken.

"Presumably, Meitzner wanted to let Judge Murphy know that the Michigan Court of Appeals panel ruled against him and that he was not happy about that." Presumably? Where did Judge Ludington conceive this notion? What Meitzner was not happy about was that Murphy, as administrator did not respond to the allegation of criminal conduct.

Pg 4 of 15

"I am writing in response to your letter dated February 25, 2013 to Ms. Lori Zarzecki . . ." What the response does not say is that Ms. Zarzecki wrote to Meitner first, and perplexing that she wrote out of the Grand Rapids office, while the action was based in Lansing. The conclusion Meitzner drew was she had been designated as a diversion – not knowing anything about the action.

Pg 5 of 15

"Presumably . . . " Another presumably!

"Meitzner's suit against the Michigan Supreme Court Justices . . ." Now Meitzner is confused. Why is Judge Ludington writing about 15-cv-14444, *Meitzner v. Young*?

When reviewing the above section, Murphy's honorific of Judge has been omitted. Meitzner considers him as in an administrative capacity, not judicial.

In *Meitzner v. Murphy,* M J Morris writes in two places of Judge Murphy's administrative duties, Judge Ludington also writes of the administrative duties, Meitzner includes a page from the Michigan COA web site, which expounds the administrative duties; yet the court, ignoring the pragmatic approach of dispute resolution, grants immunity.

In *Meitzner v. Murphy, 13729,* Doc # 8, counsel writes: "On November 17, 2015, counsel for Judge Murphy attempted to contact Meitzner by telephone to seek concurrence in this motion pursuant to E. D. Mich. L. R. 7.1(a), but was unable to reach him or leave a message. Time constraints dictate that this motion must be filed.

A fine bit of nothingness. What would lead counsel to think that Meitzner would concur. Second, he writes this on November 17, and files on the 20th. There was plenty of time to attempt a second call. Third, the Complaint clearly states that my telephone is still not working. He is safe.

M J Morris writes in a letter that William B. Murphy must reply to the Motion to dismiss - #8, by December 11. This is his motion, why does he need to reply? Meitzner received a second letter date December 7, stating that he needs to respond to the same motion to dismiss - #8, by December 11. *See*: Appendix O.

In *Meitzner v. Young*, Judge Ludington writes in his ORDER, 1:15-cv-14444-TLL-PTM Doc #16 page 2, " . . . neither Plaintiff nor Defendants filed any objections. . . The failure to file objections to the report and e in this motion recommendations waives any further right to appeal."

Objections were filed -10 hand-written pages – March 22, 2016 at Bay City, MI, the same day he filed his ORDER. If one takes M J Morris's date of March 3, 2016, add on the usual 5 days of mail delivery, plus the 14 days of response time, we wind up at March 22, 2016.

In other words - on time.

Point two: The United States Court of Appeals for the Sixth Circuit accepted the application for appeal. If they had agreed with Judge Ludington's version, they would not have agreed to hear the action.

SUPREME COURT INVOLVEMENT IN
MEITZNER v. TALBOT

Late October of 2016, the petitioner wrote Mr. Justice Breyer seeking an extension of the filing deadline for a Petition for Writ of Certiorari–1:15-cv-12870 / 16 – 1362- under Rule 13 of the United States Supreme Court. (2013 Ed.) When the green card was not returned, nor was a response received, I called down to D.C. The answer was: It was not received. (Subsequent USPS tracking showed the letter had been signed for by Willis Loo. Certified Mail item number 70150640000415050204, delivered November 4, 2016.) With time remaining the Petitioner refiled. *See:* Appendix M. No card, no response.

With heroic effort by a small print shop and a mad dash to a UPS collection center, the Petition was sent off in time. Only . . .

After the original submission and 2 corrected submissions, the Clerk rejected the Petitions as having been filed out of time, not just, but **2 months** late.

Petitioner filed an individual request to Madam Justice Kagan, as designated Justice for the Sixth Circuit; likewise it went unanswered. *See:* Appendix L.

The Court rejected Meitzner's Petition as having been filed out of time when the Court had confused two petitions. Months later, Meitzner received a letter telling him to refile. *See:* Appendix H.

IV.

THE INSTANT ACTION

In *Meitzner v. Schuette,* the Petitioner challenges both what Judge Ludington writes and his authority to write it.

A. THE AUTHORITY TO WRITE IT

The initial assignment of 1:18-cv-13950 to Judge Cox is well documented, as is the addition of Magistrate Judge Patricia T. Morris. The proceedings start out and progress along the usual path: filing, brief, reply from the defendant. (Note that Schuette, in his heading, refers to Judge Cox as the primary Judge.) The first two letters of notification setting up the hearing dates (*See:* Appendix D1 - D4) are probably standard court procedure. The problem starts with the reassignment to Judge Ludington. With Meitzner's contentious history, Judge Ludington should have recused himself: but as history has shown, the courts are rife with judges and justices who has refused to do so. "The due process Clause may sometimes demand recusal." *Rippo v. Baker* 580 U. S. _____ (2017); ". . . has a personal interest or bias . . . shall proceed no further therein . . ." *Cooke v. United States* 267 U. S. 519 (1928); "is whether the situation is one 'which would offer a possible tempta-

tion to the average . . . judge to . . . . lead him not to hold the balance nice, clean, and true.' " *Aetna v. Lavoie* 475 U. S. 813 (1986) (The trial court dismissed for failure to state a Claim.); This Court's precedents set forth an objective procedure when the likelihood of bias on part of the judge is too high to be constitutionally tolerable." *Williams v. Penn* 579 U. S. _____ (2016)

B. TIMING

The District Court acknowledges that Meitzner's Motion to Recuse Judge Ludington was in the mail before the ORDER was issued. If the Court had allowed a fax transmission of the Motion, the motion would have arrived prior to Judge Ludington's ORDER; the selective procedure of the Court effectively blocked the instant ability to communicate. If pro se Meitzner had access to the vaulted electronic filing system, likewise the Motion To Recuse would have prevailed. (There had been talk of establishing a portal at each county courthouse, but it has not materialized.) Third point: if Meitzner had envisioned in his wildest nightmare that the SYSTEM would more so fast, that Judge Ludington would leapfrog over his existing case low to usurp control and pass judgement on 13950 within a week's time, (probably a near record for an adjudication) he would have driven down the 162 miles to the District Court and hand delivered the Motion. But prudence in wintertime driving weighted against that.

C. WHAT JUDGE LUDINGTON WROTE

The ORDER affirms that Schuette's reply was "stylized" as a "summary judgement." The heading was in 16-point **BOLD** printing as a motion for summary judgement. On the third page, this font and declaration was repeated. Judge Ludington preferred the ubiquitous "failed to state a claim"; even then his argument falls short. The claim is obvious as stated in the complaint: conspiracy to violate Meitzner's right to a fair and impartial hearing. Judge Ludington tries to muddy the waters by claiming the conspiracy is between Schuette and John/Jane Doe.

D. REASSIGNMENT

By reading the letters to Chief Judge Hood, Appendix G, and her failure to reply, one could infer that there was a bit of hanky-panky going on that she does not want to get involved in. "By order of the court." But there was **no** order: only a bungled attempt to create one.

V.
SUMMERAZATION

As Meitzner has stated in **THE ISSUES** on page 2, the SYSTEM had gone to great lengths to deny the Petitioner his day in Court; read: cover-up of the action of one clerk of the Michigan Court of Appeals.

"When the correction of an error would create less mischief than leaving it go uncorrected . . . "

Title 42 Sec. 1983 states "Every person, who . . . " The statute is clear; the Court has taken the position that "every" does not mean what it says, although there are several Justices have written "Congress says what it means and means what it says," leaving no exemption. The dictionary explains the word: "(preceding a singular noun) used to refer to all the individual members of a set without exception." There are many state and federal laws using the word which do not exempt judges and justices.

Judge Ludington allows that Meitzner has stated a claim for Sec. 1983 in the 12870 action, but is barred by immunity. But is it? Does Judge Ludington let his passion of having his authority challenged overrule the facts in subsequent actions? Meitzner says YES. Every means EVERY.

Title 42 Sec. 1985 reads " . . . person, or . . . " yet the Court in *Grifffin v. Breckinridge* mistakenly requires a racial or class-based action. If Meitzner were required to amend his complaint to fit this requirement, he would add all the people who have been harmed by erroneous Court decisions: *Buck v. Bell, Minersville School District v. Gobitis, Koromatsu v. United States, Kelo v. City of New London, Collins v. Hardyman, Mireles v. Waco, Stump v. Sparkman.*

CONCLUSION

Mr. Justice Thomas spoke: "Those who come to engage in debates of consequence, and who challenge accepted wisdom, should expect to be treated badly."

Meitzner has forged a path, above, outlining his trials and tribulations: starting with the falsification of the per curiam docket No. 304639; the Defendants refusal to acknowledge the (not their) error; Judge Murphy not responding to the allegation of criminal conduct by his subordinates; the denial of the appellate procedure by the Michigan Supreme Court.

We change gears and ride into the Federal system: Magistrate Judge Morris showing her bias in the R & Rs, using select phrases, parsing her words to redirect meanings, demeaning expressions "range into the unintelligible," threatening sanctions, simply because Meitzner filed actions against brothers-of-the-bench. Judge Ludington follows her lead. Except for his "Meitzner has stated a Sec. 1983 claim," in 12870, he resorts to the ubiquitous "failed to state a claim;" Judge Ludington's case manager's delayed mailing of the ORDER, the Court reassigning the 49778 Zip code.

In 13729, Murphy writes: **Meitzner has failed to state a claim under 43 [sic] U. S. C. Sec. 1983.** Meitzner never filed under 1983, rather repondeat superior. Counsel for Murphy tries to set the agenda, but it is the plaintiff

who decides what law to file under. Counsel also tries to claim immunity under judicial function, but M J Morris writes of Murphy's administrative duties, as does Judge Ludington; Meitzner included an excerpt from the Michigan COA web site explaining Murphy's duty as administrative, yet Judge Ludington and the U. S. Court of Appeals gave him immunity. The Court gave Murphy everything he asked for, and one thing he did not: *Rooker-Feldman.* No evidence, no pleadings, just give it to him.

In 19-13950, Judge Ludington usurps control, bypassing BY ORDER OF THE COURT. No answer to the question: what local rule? (*See:* Appendix G.)

The Court of Appeals for the Sixth Circuit with its near-perfect record of 24 out of the 25[9] times its rulings were reviewed by the Supreme Court, they were reversed.

Can we say CHANGE OF VENUE?

Meitzner will only touch on Mr. Justice Beyer's failure to answer a request for extension of the filing deadline, Madam Justice Kagan's non-response to a directed petition, and the clerk's mixing and inappropriately rejecting the petition for 12870/ 16-1362.

This Court has suffered from the Machiavellian manipuation of its staff. Rather than a reverse and remand on each of the four individual complaints, Meitzner would suggest one appearance before the Court and argue one

time. If the Court feels that the criminal act of the clerk, the subsequent manipulation of facts by the District Court, and the obvious miscarriage of justice by this Court's staff is unworthy of consideration, write and tell me so.

Let's turn INJUSTICE, IN TO JUSTICE

The perplexing issue becomes: Does the Petitioner refile (*See*: Appendix H) the fraudulently rejected petitions under the original 2013 standards? Under the 2017 standards? Under the 2019 standards?