

No. 19-1396

In The
Supreme Court of the United States

RICHARD C. STEPHENS,
Son, Henry & Dessie Stephens, Deceased

Petitioner,

FILED

MAY 11 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

CHAD F. KENNEY; JENNIFER H. MADDALONI;
PETER G. MYLONAS; BETTY G. (SMITH) STEPHENS
Respondents

On Petition for a Writ of *Certiorari* to the
United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

PETITIONER

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Date: May 15, 2020

A. QUESTIONS PRESENTED FOR REVIEW:

1. Whether the United States Court of Appeals for the Third Circuit erred in affirming the Dismissal on Complaint; in violation of the Petitioner's Constitutionally Guaranteed Rights under the 5th, 6th, 13th, 14th Amendments, Articles, Statutes, Precedential Decisions, and Judicial Conduct Canons; with a **False Judgment**, to shield Agents of the Court from all accountability by using entitlement to **Immunities** as the defense; in the **2013** color-of-law, concealed, schematically conspired real property theft and elder abuse, the Court characterized as a **2016** Prior Litigated Probate Estate Distribution when by all Respondents' pleadings this theft was never litigated and the Owners by Certified Deed were not notified and alive, making our Family's hard work de facto slavery?

2. Whether it is an inherent violation of fair & impartial, 6th Amendment for a **Judge** to dismiss a case on complaint, without presentation of the case when the adverse parties are a Citizen and **Judge**, citing Judicial Immunities?

B. LIST OF INTERESTED PARTIES AND CORPORATE DISCLOSURE

All parties are listed in the Case Caption. There are no corporations involved in this matter, no parent companies and no subsidiaries to list.

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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

D. OPINIONS & ORDERS BELOW

The Petitioner respectfully requests a Writ of *Certiorari* be issued to review the case Judgment entered February 20, 2020, by the United States Court of Appeals for the Third Circuit, **Appendix A**. And the underlying Order from the Eastern District Court of Pennsylvania March 15, 2019, **Appendix B**.

E. STATEMENT OF JURISDICTION

Per the United States Supreme Court **Rule 10(a)(b)(c)** (Considerations Governing Review on Writ of *Certiorari*), the Petitioner moves the Supreme Court as the last judicial bastion of hope in its ordained and inherent powers to render the justice intended by Constitutional Law through its supervisory and precedential authority. The United States Supreme Court has jurisdiction, pursuant to **28 U.S. Code § 1254(1)**.

On March 16, 2020, the Petitioner filed a Motion to Recall the Mandate issued March 13, 2020, Leave to File Petition Out of Time and the Petition for Rehearing *En banc*. Petitioner believed he had 45 days from the Judgment to file the Petition for Rehearing *En banc* due to a Respondent being a United States Officer per **Fed. R. App. P. 40(a)1(c)** which would have made the deadline April 6, 2020. On April 20, 2020 the 3d Circuit Denied recalling the Mandate and Leave to File Petition for Rehearing Out of Time.

F. MAJOR CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED AND VIOLATED: (showing the crimes magnitude, not all included)

United States Constitution *Article II Section 4:*

"The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors."

United States Constitution *Article III Section 1:*

"The judicial Power of the United States shall be vested in one Supreme Court, and such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts shall hold their Offices during good behavior, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office."

Fifth Amendment, Rights to Own Property:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentation of an 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 offense 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."

Sixth Amendment, Rights to Fair Trial:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

Thirteenth Amendment, Section 1 & 2, Abolition of Slavery:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Congress shall have the power to enforce this article by appropriate legislation."

Fourteenth Amendment, Section 1, Civil Rights:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.”

42 U.S. Code §1981 (Equal Rights Under the Law)

(a) STATEMENT OF EQUAL RIGHTS

“All persons within the jurisdiction of the United States shall have the same right in every State to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by **white citizens**,...”

42 U.S. Code § 1982: (Property Rights of Citizens):

“All citizens of the United States shall have the same right, in every State, as is enjoyed by **white citizens** thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.”

42 U.S. Code § 1983 (Civil Action for Deprivation of Rights):

“Every person who, under the color of any statute, ordinance, regulation, custom, or usage of any State, subject, 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,...”

42 U.S. Code §1985 (Conspiracy to Interfere with Civil Rights):

PREVENTING OFFICER FROM PERFORMING DUTIES;

“If two or more persons in any State conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof;...”

OBSTRUCTING JUSTICE;

“If two or more persons in any State conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, ...”

DEPRIVING PERSONS OF RIGHTS;

“If two or more persons in any State conspire... to deprive, either directly or indirectly, any person or class of persons of the equal protection of the laws, or equal privileges and immunities under the laws;...”

42 U.S. Code §1986 (Action for Neglect to Prevent):

“Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having the power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act is committed, shall be liable to the party injured;...”

18 U.S. Code § 241 (Conspiracy against Rights):

“If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State,... in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;...”

18 U.S. Code §242 (Deprivation of rights under color of law):

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or because of his color, or race, than is prescribed,...”

28 U.S. Code Section § 47 (Disqualification of Trial Judge to Hear an Appeal):

“No judge shall hear or determine an appeal from the decision of a case or issue tried by him.”

28 U.S. Code §144 (Bias or Prejudice of Judge):

“Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.”

28 U.S. Code Section § 455(a) (Disqualification of justice, judge, or magistrate):

“Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

Code of Judicial Conduct Canon 1,

“A Judge Should Uphold the Integrity and Independence of the Judiciary”

Code of Judicial Conduct Canon 3,

“A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently”

18 U.S. Code § 4 (Misprision of Felony):

“Whoever, knowing the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be”

18 U.S. Code § 645 (Embezzlement & Theft Court officers generally):

“Whoever, being a United States marshal, clerk, receiver, referee, trustee, or other officers of a United States court, or any deputy, assistant, or employee of any such officer, retains or converts to his use or the use of another or after demand by the party entitled thereto, unlawfully retains any money coming into his hands by his official relation, position or employment, is guilty of embezzlement....”

18 U.S. Code § 654 (Officer or employee of United States converting property of another):

“Whoever, being an officer or employee of the United States or any department or agency thereof, embezzles or wrongfully converts to his use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be,...”

18 U.S. Code § 872 (Extortion by officers or employees of the United States):

“Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall;...”

18 U.S. Code § 1506 (Theft or alteration of record or process; false bail):

“Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceedings, in any court of the United States, whereby any judgment is reversed, made void or does not take effect; or...”

18 U.S. Code § 1509 (Obstruction of court orders):

"Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall..."

18 U.S. Code § 1621 (Perjury Generally):

"Whoever—(1)having taken an oath ... or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true...;"

18 U.S. Code § 1623 (False declarations before a court):

"(a) Whoever under oath... or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code; in any proceeding before or ancillary to any court ... knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration..."

**G. STATEMENT OF THE CASE FACTS MATERIAL TO
CONSIDERATION OF THE QUESTION ON VIOLATIONS OF THE
CONSTITUTION, FEDERAL STATUTES & PRECEDENCE**

At issue is a False Judgment and underlying False Order to protect Court Agents using the defense of Immunities as protection from accounting for their 2013, color-of-law, concealed, conspiratorial scheme **real estate theft** and financial elder abuse. By 'False', it is unequivocally meant that the Order and Judgment contorts, omits and misrepresents the case facts as outlined in the Orphans' Court Docket Book Report. These False Verdicts deliberately cherry-picked facts and entangle actions that took place in 2013 with actions that took place in 2016 to obstruct justice.

The Respondents misused the Delaware County Court to conduct the schemed property theft unbeknown to the Owners (Petitioner & his elderly Father). This case is *res ipsa loquitur* "the case speaks for itself" in that the Records & Certified Property

Deed makes the theft an unmitigated matter-of-fact thus the only defense is Immunity.

The Petitioner humbly beseech the United States Supreme Court pursuant to **42 U.S. Code § 1983** and the Constitution to at a minimum Remand this case back to the 3d Circuit for an *en banc* honest consideration of all the facts which include recognition of the indispensable Certified Property Deed. By deduction, based on the presented facts, the Courts below did not believe Immunities are warranted; therefore, in an effort to protect their colleague they have rendered False Verdicts in violation of Laws and the Petitioner's Constitutional Rights.

This case demands the re-establishment of the Certified Property Deed as the historically intended relevant legal document for transferring property. And at a minimum the administration of the SLU Mental Status Exam before declaration of Incapacity. And all notification laws adhered. The schemed theft in violation of the series of **42 U.S. Codes §s1981** *inter alia* was conducted in the following (5) Elements:

- (1) Illegal adjudicated incapacity of Father 2013 without required by law notification to my Father or Heirs. Countermand by Tests and a MD Psychiatrist in 2014.
- (2) Unlawful appointment of an abusive, incompetent, uncooperative, (gov. documented) unvetted Guardian, 4th wife, 20 years junior without the required by law notification, to those *sui juris*.
- (3) Illegal Expedited, Private Sale for Cash of the 305 Buck Lane, without the by Certified Deed Owner(s) knowledge, to an untraceable LLC below market value for \$305K resold in nine months \$810K.
- (4) Financial elder abuse embezzlement of the net proceeds from the sale as \$86K is unaccounted.

(5) Cover-up and concealing of the crime during a **2016** Undue Influence, Mistake, Fraud, Duress-Lack of Testamentary Capacity defective WILL contest which greedily enabled the theft of 821 S 57th Street the Petitioner paid the back taxes on to stop the Sheriff Sale.

These factual (5) Elements are supported by the Orphans' Court Docket Book Report and other Government Documents. This crime is straightforward. The Petitioner cannot over emphasize that the **2016** defective WILL contest (Element 5) is not the instant case issue; it is a relevant collateral crime to solidify the illegality, collusion and cover-up of the Respondents.

On a Motion to Dismiss from the Complaint without full presentation of the case, the 3d Circuit had the requirement to review the case *De novo*/Plenary and accept as true all allegations and all reasonable inferences, anything less would be a deceptive manifest injustice. All facts are supported by the court and government evidence presented and available on review. **McTernan v. City of York, Pa 577 F.3d 521, 526, 530-31 (3d Cir. 2009)** and **AT&T v. JMC Telecom, LLC, 470 F.3d 525,530 (3d Cir. 2006)**.

Pre-Element: That the Discovery of the 2013 Theft was after the 2016 Defective Will Contest

1. That on September 16, 2016, I paid to the Delaware County Court \$150.00 and completed all the requirements for the Appeal to the Pennsylvania Superior Court of the unethical WILL Contest Bench Trial held May 18, 2016. The records should have been delivered in 60 Days (est. Nov. 15, 2016), and it was the duty of the Delaware County Clerk of Court to transmit the records. The Orphans' Court Records were not delivered until shortly after the Petitioner's inquiry, only then did the documents

appeared on December 6, 2016. The Respondents' in an act of perjury accused the Petitioner of late filing, as justification to dismiss the Appeal. The delayed transfer shows collusion between the: Clerk of Court, Attorney, and Guardian to Obstruct Justice and their Guilty Minds and Acts (*mens rea*) (*actus reus*) of the criminally condemning records. (*Id.* Brief pg. 7, ¶1)

2. From the ***Delaware County Orphans' Court Docket Records***, I discovered the color-of-law theft conducted by the Respondents. The loss of 305 Buck Lane was not an act of betrayal by my Father as this act was involuntary and he was **non**-complicit and unnotified of this deceitful crime. Knowing the written and oral agreements made by my Parents was intact and not illegally supplanted by my Parents and the property's Deed was **NOT** in the records (as practice would dictate); I went to the Delaware County Recorder of Deeds and got a certified copy of the Deed. The act of not including the Deed in the records again shows *mens rea, actus reus*. (*Id.* Brief pg. 7, ¶2)

Element I: That the first phase in the collusive scheme theft of real property was the color-of-law Adjudicated Incapacity.

Element II: That the second phase in the collusive scheme theft of real property was the color-of-law Appointment of the unvetted Guardian.

3. That on September 17, 2013, Mylonas filed a multi-perjurious baseless Petition for Adjudication of Incapacity and appointment of (Smith) Stephens as a Plenary Guardian of Henry Stephens and Estate. The evidence of incapacity was not only false but inadmissible as no one provided in-person court testimony as required to be cross-examined by the Judge or a Representative for Henry Stephens. No notification

as required by law was given Henry Stephens or his Sons, clearly a predetermined collusive non-judicial act. (*Id.* Brief pg.8, ¶3)

4. That Paragraph 6 of the Petition states:

"Petitioner, Henry Stephens has in the past denied any illness; however, he is undergoing treatment for said illness."

The Petitioner was (Smith) Stephens, not Henry Stephens. This statement puts

Judge Kenney on notice that

this is a hostile action. Despite

this notice, Judge Kenney

made no effort to safeguard the

Constitutional Rights of my

Father, especially without any

representation or heirs at the

Hearing. Courts have

consistently held that partial

periodic memory loss due to

Alzheimer's, don't establish a lack of capacity. It is common knowledge that

treatment indicates control, not incapacity. (*Id.* Brief pg.8, ¶4)

5. That Paragraph 8 of the Petition states:

"Petitioner is unaware of any income or estate of the alleged incapacitated person other than his interest in the marital home."

In part, this statement is a flat out lie in that the Petitioner (Smith) Stephens' adult daughter and son were living in 821 S 57th Street (purchased 1977) and (Smith)

Extract

No. 115 - An Indenture Deed or Transaction
For & Between Ch. U. K. and Mr. P. H. M.

This Indenture Made the 6th
day of December in the year of our Lord one thousand nine
hundred and sixty five (1965) Between
CHARLOTTE P. HARTMANN, Singlewoman

(hereinafter called the Grantor), of the one part, and
HENRY STEPHENS and MARY E. STEPHENS, his wife

(hereinafter called the Grantee), of the other part
Witnesseth, That the said Grantor for and in consideration of the sum of
Twenty-Nine Thousand Dollars lawful
money of the United States of America, unto her well and truly paid by the said
Grantee at and before the sealing and delivery of these presents, the receipt whereof is
hereby acknowledged, he is granted, bargained, sold, alured, enfeoffed, released and
confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, release and
confirm unto the said Grantee their Heirs and Assigns, as tenants
by the entirities.

Stephens was collecting (embezzling) rent from that location as well as 28 N Lindenwood Street (purchased 1963). With the possible exception of one, all approximately 15 properties, 21 rentals were purchased and paid-in-full before 1978 (my Mother's Death). Also (Smith) Stephens called the Haverford Township Police October 10, 2012, to report Deeds to four (4) properties she owns missing, which was also a lie to the Haverford Township Police because she owned no properties and work for none. 305 Buck Lane was purchased on December 6, 1965, and paid-in-full in 1985, over thirteen years before the 1998, 4th marriage to the 20 years junior Respondent. (Smith) Stephens had No Interest even under Pennsylvania Succession Law in 305 Buck Lane as it was Non-Marital Property and deeded to the Original Family Unit. (*Id. Brief pg.8, ¶5*)

6. That on September 23, 2013, Judge Kenney signed the Preliminary Rule/Decree on Petition for the Adjudication of Incapacity and Appointment of a Guardian. The Hearing was scheduled for October 21, 2013, and the Sheriff could serve notification to Respondent (Henry Stephens). The Petition also said:

"Petitioner shall provide notice of these proceedings to all persons who are *sui juris* that would be entitled to share in the estate of the alleged incapacitated person's estate if he died intestate..." per **20 Pa. CSA § 5511(a).**"

No notification was given the Son or Father! Why serve your "Husband" notification by Sheriff if it wasn't a hostile action; and not for the benefit of my Father? Evidently, my Father had enough competent judgment to know this action was not to his benefit and against his will; therefore, they concealed the crime. (*Id. Brief pg.9, ¶6*)

7. That on October 4, 2013, the Sheriff's Dept. served Notice of the October 21, 2013 Hearing Date on the interceptor or (Smith) Stephens, Wife, not Henry Stephens. There is no evidence Henry Stephens ever got a notification, which would have been unacceptable to a **nonparticipating** in the crime Judge. Also, the time between the mock 'notification' and the Hearing is legally insufficient as 20 days is required, not 17 days. (*Id. Brief pg. 9,¶7*)

8. That on October 21, 2013, the Decree was signed by Judge Kenney, declaring Henry Stephens, an Incapacitated Person and appointing (Smith) Stephens as Permanent Guardian of Henry Stephens and Estate; **this action was illegally uncontested and procured by fraud therefore not technically an adjudication.** Note that the False Judgment and Order also imply she was made Executrix simultaneously—as an entangled justification for the theft. Guardian and Executrix for the same person at the same time appears a **legal impossibility** as you cannot be living and dead at the same time. (*Id. Brief pg.9,¶8*).

9. That Paragraph 1 of the Decree is untrue; as an opportunity was **NOT** given for all persons to be heard. Due diligence would have produced records (Deed, Police Incidents, Real Estate Records, among other documents) to show this Guardian was without regard for Henry Stephens. (*Id. Brief pg.9,¶9*)

10. That in Paragraph 2 of the Decree, the Guardian was to be **BONDED** before the Sale of Real Property.

"Bond will be set by the Court before taking possession or control of the proceeds of any Real Estate or Other Capital Assets."

No such Bonding was petitioned for, further indicating the **superficiality**, facade color of this collusive scam. (*Id.* Brief pg.10, ¶10)

11. That a simple inquiry into the family properties sold within the last few years should have ALARMED the Court that (Smith) Stephens did not have the best interest of Henry Stephens in mind and that she was incompetent as a fiduciary. (*Id.* Brief pg.10, ¶11)

12. That in Paragraph 3 of the Decree it is ORDERED that:

"Any WILL of Henry Stephens shall be presented to the Court for its inspection at the time of filing of the Inventory."

The Judge's authority over the Will represents a **Conflict of Interest** in that Judge Kenney also adjudicated the defective WILL contest Bench Trial in 2016. Judge Kenney did not recuse himself as morally and ethically required by the Judicial Conduct Codes, nor did he make the prior actions known, as in doing so would have exposed his theft of 305 Buck Lane. (*Id.* Brief pg.10, ¶12)

13. That in Paragraph 6 in the Decree, the Guardian was to get permission before entering into a Written Agreement to Sale property, **NOT** to request ratification.

"The Guardian shall not enter into any Agreement for the Sale of Real Estate without Court approval."

No such prior Court permission was sought or given in the Records—again evidence of conspiracy and the superficiality of this color scam (*Id.* Brief pg.10, ¶13)

14. That CAPACITY is determined by a physician and most appropriately by a Psychiatrist preceded by objectively administered tests. That on December 10, 2014, a year hence Judge Kenny's color adjudicated incapacity an MD PSYCHIATRIST at

the Coatesville, VA Medical Center, issued the proper Mental Status Examination (MSE) and made absolutely **NO** diagnosis of incapacity; and found Henry Stephens okay to continue as an outpatient. Specifically citing – **INSIGHT: Fair; JUDGMENT: Fair** (*Id. Brief pg.11, ¶14*)

In speaking to one of my Father's doctors, he told me the 'Near and Distant Past' was not his words and not how he would have described it. The other doctor, unknown to me, out of Exton, Pa would not take my call as her evaluation proved false. (*Id. Brief pg.11, ¶14*)

15. That on October 30, 2013, Notification of Mental Health Commitment Form Copy was sent to PA State Police and Sheriff. (*Id. Brief pg.11, ¶15*)

Element III: That the third phase in the scheme to defraud the Petitioner Out of his real estate property was the color-of-law Sale of 305 Buck Lane.

16. That the Respondents entered into a Standard of Agreement for the Sale of 305 Buck Lane without Court approval that was dated November 12, 2013, just 21 days after the baseless adjudicated incapacity of Henry Stephens. This action is indicative of a 'pre-drawn conclusion' or **prior agreement** with Respondents and a Buyer. (*Id. Brief pg.12, ¶16*).

17. That on November 20, 2013 (less than one month after the Adjudicated Incapacity) Mylonas and (Smith) Stephens filed an illegal (absolutely no legal right) multi-falsified Petition for Permission for an **EXPEDITED** Sell of 305 Buck Lane for '**CASH**' in a '**PRIVATE SALE**' to '**1517 Ashton, LLC**' 114 Black Bass Lane West, Media, PA 19063 (untraceable) for '**\$305K**' and after a few renovations and a new

roof resold for **\$810K** within nine months. These facts speak for themselves as not for the benefit of Henry Stephens. Note also this action was not a **PROBATE** of a Will as the False Judgment and Order indicates. (*Id.* Brief pg. 12, ¶17)

18. That Paragraph 3 of the Petition for Permission to Sell states that the Owner of the premises is the incapacitated person, totally illegally ignoring the Certified Deed and fact that the property was not solely owned by the Father, Henry Stephens but owned by the Family Unit of December 6, 1965. (*Id.* Brief pg. 12, ¶18)

19. That the Petition for Sale misrepresents' 305 Buck Lane as Marital Property. Marital Property is acquired during the marriage; property acquired before the wedding and prior paid-in-full is **NON-MARITAL PROPERTY**. (*Id.* Brief pg. 13, ¶19)

20. That no cost-benefit/analysis or accounting was provided in the records to show the savings of the new residence over 305 Buck Lane, not even a square footage analysis. No material justification for the Sale was provided; thus, any comment that this was for the benefit of Henry Stephens is baseless. (*Id.* Brief pg. 13, ¶20).

21. That on November 22, 2013, Judge Kenney issued a Preliminary Decree for a Hearing on December 16, 2013, on the sale of 305 Buck Lane. (*Id.* Brief pg. 13, ¶21)

22. That on December 16, 2013, the Final Decree signed by Judge Kenney on the Petition to Sell Real Estate (**uncontested**). No Judge in all Anglo-Jurisprudence would authorize the sale of property without first examining the Deed; thus, this act is non-judicial or criminal by any standard. (*Id.* Brief pg. 13, ¶22)

Element IV: That the color-of-law scheme to defraud includes the Financial Elder Abuse by the Embezzlement of the excess net proceeds from the illegal sale of 305 Buck Lane.

23. That according to Paragraph 13, in the Petition for Permission to Sale:

"... the remaining net settlement proceeds from the sale of the current marital home into an interest-bearing saving account for the exclusive benefit and care of Henry Stephens, an incapacitated person."

Net Settlement proceeds were never acknowledged or decipherable from the Guardian's Inventory and Annual Reports. This requirement never happened and (Smith) Stephens did not manage enough net proceeds for a **Portable Commode** for my Father, as indicated in the VA Medical Progress Reports, after receiving \$266K, again displaying the superficiality of these actions and her absolute disregard for my Father describing him as 'Her Elderly Father' in an incident report dated August 17, 2010. (*Id.* Brief pg.14, ¶23)

24. That from Public Records and Information in the Orphans' Court Docket Book Report, I was able to determine that approximately \$86K is unaccounted. The Net Proceeds to Seller was \$266,169.39, and the purchase of the new home at 816 W Cobbs Creek was \$179,900 this means that a bank account for approximately \$86K should have been set up as excess remaining net settlement proceeds not otherwise utilized for the acquisition of a new home. (*Id.* Brief pg14, ¶24)

25. That the purchase price of 816 W Cobbs Creek was \$179,900.00 cash and was last sold in 2010 for \$120,000, and in general, the prices for Real Estate had come down from the inflated prices. The amount paid appears to be a lost \$60K premium. (*Id.* Brief pg.15, ¶25)

26. That the Guardian's Inventory was to be filed within 90 days after the appointment of October 21, 2013, thus the due date for the inventory was around or before January 21, 2014, and before the sale, yet the Inventory was not done which violated the Court and State Orders. (*Id.* Brief pg.15, ¶26)

27. That it was not until March 17, 2015, over a year later that a Warning Letter was sent to (Smith) Stephens from Maddaloni, the Clerk of Court/Register of Wills, regarding late filings on the adjudicated incapacity. Again, over a year indicates the entire superficial sham scheme was to steal, in total disregard for the welfare of Henry Stephens. (*Id.* Brief pg.15, ¶27)

28. That the financial numbers in the Guardian's Inventory are FALSIFIED to show the \$305K that 305 Buck Lane sold for— included 821 S 57th Street as if it was a NEW PURCHASE. The fact is, at a minimum, 86K is unaccounted for, and this incomplete and grossly untimely Inventory should not have been accepted. Nonetheless, Maddaloni Clerk of Court and Judge Kenney supported (Smith) Stephens to be **Executrix** in 2016. (*Id.* Brief pg.15, ¶28)

29. That on December 31, 2014, Mylonas sent NOTICE-SIX REQUEST to file both Inventory and Annual Report that he gave (Smith) Stephens on April 14, 2014, and had not heard from (Smith) Stephens. (*Id.* Brief pg.16, ¶29)

30. That on March 20, 2015, Mylonas submitted a Motion for Leave of Counsel of (Smith) Stephens. The same day Judge Kenney scheduled a hearing for April 15, 2015. (*Id.* Brief pg.16, ¶30)

31. That on April 2, 2015, the following items were filed all Falsified severely Inadequate & Deficient in Known Content: (a) Guardian's Inventory, (b) Annual Report 10/21/2013 to 12/31/2013, (c) Annual Report 1/1/2014 to 12/31/2014. These items were complete shams that would alarm anyone if the welfare of Henry Stephens was the purpose of assigning a Guardian. (*Id. Brief pg.16, ¶31*)

32. That on April 14, 2015, an ORDER was given by Judge Kenney for Mylonas — Leave to Withdraw as Counsel, said Petition may be considered withdrawn and is Ordered that said Motion is denied as Moot. (*Id. Brief pg.16, ¶32*)

33. That based on the Guardian's Inventory, Annual Reports, and their delinquent submission, there is no way anyone would have recommended or allowed the (Smith) Stephens to be an Executrix except to cover-up a crime and continue to steal property they had no right too. (*Id. Brief pg. 16¶33*)

BEGINNING THE 2016 DEFECTIVE WILL CONTEST

Element V: The fifth phase in the scheme to defraud is actions of Concealment, Cover-up and Obstruction of Justice

34. That on December 1, 2015, Mylonas and (Smith) Stephens filed a falsified Petition for Grant of Letter Testamentary, that DENIED the concealed Adjudicated Incapacity of Henry Stephens by Judge Kenney: all actions unbeknown to me. **This falsification is a significant critical issue of genuine material impact; that is not fully recognized and treated as insignificant in the False Judgment and Order.** (*Id. Brief pg.17, ¶34*)

35. That I requested the Register of Wills to waive the necessity for a Bond just as (Smith) Stephens was not required a Bond. I did not understand the need for

demanding me to be Bonded on two properties that were in Sheriff Sale before I paid the back taxes. (*Id.* Brief pg.17, ¶35)

36. That I requested a seven days extension of time to file the Formal Caveat as I was having difficulty in acquiring medical evidence of my Father's condition due to records logistics and privacy. I was told the VA Medical Center had transferred the bulk of the records to Ohio and appeared to have been intimidated into not cooperating without a Court order. (*Id.* Brief pg. 17, ¶36)

37. That on the afternoon the Formal Caveat and Bonding was due Maddaloni DENIED the request for an extension and required the Formal Caveat and Bonding that afternoon in a mean-spirited attempt at obstruction of justice; a tactic repeated by the Superior Court of Pennsylvania. (*Id.* pg.17, ¶37)

38. That Maddaloni was part of the *Ex Parte* Hearing and deceptive Malicious Abuse of Process trick, tantamount to blackmail, or extortion. The method was that I had to withdraw the Caveats to recover sentimental Family property (allowed not to be listed as Estate Inventory on the Petition for Letters Testamentary and also possibly to evade taxes). The tax evasion of 821 S 57th Street allowed the property to be listed on the Letters for \$25,000 when a recent City of Philadelphia AVI assessment valued the property at \$67,900. (*Id.* pg.18, ¶38)

39. That on January 26, 2016, Maddaloni signed the Certificate of Grant Letters for (Smith) Stephens against my protest. Note: Maddaloni, is the same person that issued the over a year past due **Warning Letters** to (Smith) Stephens as **Guardian** for Inventory & Annual Reports, and therefore knew the Petition was materially

falsified and (Smith) Stephens was incompetent and uncooperative yet still made her **Executrix.** (*Id.* Brief pg.18, ¶39)

40. That a Hearing was scheduled for January 27, 2016, there was no hearing as the Register of Will ORDERED (Smith) Stephens to be the Executrix the day before on the 26th. (*Id.* Brief pg.18, ¶40)

41. That on March 8, 2016, Maddaloni, as Clerk issued a Preliminary Decree using the Docket Numbers **575-2016** as opposed to the correct Docket Numbers **575-2013** to conceal the case history. (*Id.* Brief pg.18 ¶41)

42. That IAppealed the decision of the Register of Wills to make (Smith) Stephens Executrix and not knowing any of the prior histories from 2013, Judge Kenney adjudicated the Appeal. Judge Kenney validated an invalid defective WILL that listed properties, not the Testators to bequeath. I appealed his Opinion to the Superior Court only to have the Appeal dismissed in a manifest injustice for failure to follow all rules of appellate procedure in that I cited 19 errors of fact, law, or discretion. Unexpectantly, all my Applications for Relief were denied the same day the Brief was due; thus, the Brief was rush submitted unedited. (*Id.* Brief pg. 19 ¶42)

43. That Maddaloni Clerk of Court deliberately delayed the transfer of the Orphans' Court Docket Book Report, as noted in the statement of fact paragraph 1.

These statements are not all-inclusive; therefore, I beseech the Supreme Court to draw further inferences.

H. REASONS FOR GRANTING WRIT

Whether Judicial Immunity, nullifying a citizen's 5th, 6th, and 14th Amendments, quashing Articles and Judicial Conduct Canons inter alia by False Verdicts, is a warranted entitlement of Judgeship?

Whether it is an inherent violation of fair and impartial, 6th Amendment for a Judge to dismiss on Complaint, without presentation of the case when the adverse parties are a Citizen and Judge, citing Immunities therein contriving a False Verdict?

ARGUMENT 1 (14th Equal Protection & 6th Fair and Impartial)

1. CONTRADICTORY 3D CIRCUIT JUDGMENT

The 3d Circuit based its False Judgment from the False Order of the District Court in characterizing a no notification to the Deed Owners schemed Theft, as a Probate Distribution. Thus, there is consistency in contorting, omitting, and misrepresenting the instant case to justify Judicial Immunity and conceal the crime.

The District Court Order is self-contradictory. The first sentence of the Background Section is contorted in that the instant issue is the **2013** property theft of 305 Buck Lane that had nothing to do with probating a defective Will in **2016**.

“Plaintiff charges that Defendant conspired to deprive him of property when probating his late father’s will which left the bulk of his father’s estate to his father’s fourth wife, Betty Stephens.”

While this sentence is partially true, it refers to the 2016 Court, indirectly sanctioned theft of 821 S 57th Street and attempted theft of 28 N Lindenwood Street. This under duress, mistake, undue influenced, if genuine defective WILL bequeath everything to (Smith) Stephens even my Mother’s Portrait and items not the Testator’s to bequeath.

Bulk is used in the Order to detract from the illegality of the defective Will. A half-truth Court Verdict equals a whole-lie.

Probate is the process of proving before a competent judicial authority that a document offered for official recognition and registration as the Last Will and Testament of a **deceased** person is genuine.

Since the base major premise used of "Probating" in the first sentence of the Order is falsely used and unrelated to the instant issue of Property Theft the **verdicts** can only be unrelated and irrelevant.

In paragraph 2 on page 1 the Court duplicitously in contradiction, acknowledged:

"As alleged, in October 2013, Judge Kenney determined that Plaintiff's father was incapacitated because of dementia and appointed Mrs. Stephens to be his guardian and the executor of his estate. In November 2013, Judge Kenney approved Mrs. Stephens's decision to sell one of the father's properties (which was once promised to Plaintiff), finding that it was "in the best of [Plaintiff's father] and all parties in interest."

Notice the deception by deliberately not mentioning there was **no notification** given the Petitioner or his Father as required by law for these actions. The property Judge Kenney authorized for sale was the Crown Jewel 305 Buck Lane in 2013, which was by Deed the Petitioner's and his Father's. The determined incapacity was untrue and countermand by a MD Psychiatrist.

Deeds precedes and supersedes other documents and represents all legal interests to the property. A person can only be deleted (cut-out) from a deed with their approval. And as directed by law, the share of the deceased owner is split equally to the remaining, by Deed, Family Members Only. This means the Henry and Dessie Stephens Family Unit and absolutely no one else in-part or in-whole can be added or deleted without the consent of all the Owners.

Stating the Sale was for the benefit of my Father; nothing could be further from the truth as the Respondents' falsified petitions claimed End-Stage Dementia, and there were other financial resources available without selling our Crown Jewel property that keep him active and motivated in planting flowers, shrubs and caring for the property. The heartless residential move from his (our) pride and joy had to act to humiliate my Father and accelerate his demise, again this had nothing to do with probating a defective WILL.

The Order also states that the theft of 305 Buck Lane has been litigated; however, all Respondents denied this property theft was ever litigated in their identical **Statements of Related Litigation** shown;

"This case has not been before this Honorable Court previously, and there are no pending, completed or related cases to this matter."

Then, in the Discussion on pg. 3 states:

"[a]nd prevent Plaintiff from inheriting properties promised to hi[m]. This allegation amounts to little more than an impermissible attempt by the Plaintiff to relitigate his probate claims rejected by the state court."

Again, this is not relevant to the 2013 property theft of 305 Buck Lane that was **not** to be inherited but was by Deed the Petitioner's and his Father's, rights to the survivor. Then on pg. 4 states:

"Plaintiff's claims against Judge Kenney and Maddaloni arise solely from their actions probating his father's will on matters obviously within their jurisdiction."

This is not true; the issues complained of is the theft of 305 Buck Lane as alleged and recognized in the first sentence, second paragraph. Just these four passages

demonstrate the False District Court Order in violation of the Petitioner's Constitutional Rights to fair and impartial, to own property, equal protection, due process and just compensation.

The implication is that the 2013 real property theft, is not within any jurisdiction; thus, these were non-judicial acts spawning the need for a False Order and Judgment. This falsely contrived District Court Order issued under Penalty of Perjury warranted the legitimate request for recusal, which **should not** have been denied by the District Judge.

The 3d Circuit Panel's Judgment too is full of similar false contorted, misleading and omitted facts; contrived under penalty of perjury therefore the need to restore Constitutional Integrity by the United States Supreme Court.

ARGUMENT 2 (14th Equal Protection & 6th Fair and Impartial)

2. ROOKER-FELDMAN, ELEVENTH AMENDMENT

Only by mischaracterizing the instant case as prior litigation and without fraud are the Rooker-Feldman Doctrine and the Eleventh Amendment inappropriately partially applied. This is almost acknowledged in the following quote from the 3d Circuit's Judgment:

"Insofar as Stephens may have raised claims against Register Wills Maddaloni and Judge Kenney that are not barred under the Rooker-Feldman Doctrine or the Eleventh Amendment, the District Court correctly determined that these claims are barred by judicial immunity."

The **Rooker-Feldman Doctrine** is inapplicable, stating: 'with exceptions of fraud, the losing litigants are prevented from using the District Courts as a court of appeal.' The instant case is color-of-law fraud/theft and has never been litigated;

therefore, dismissal on the merit for failure to state a cause under Rooker-Feldman represents an error of law and in facts showing bias and prejudice in the issuance of False Verdicts.

Furthermore "a **void 'judgment'** as in authorized theft, is one entered by a Court which lacks jurisdiction or an ORDER procured by fraud, and can be attacked at any time, in any Court, either directly or collaterally, provided that the party is properly before the court." In **Long v. Shorebank Dev. Corp.**, 182 F.3d 548, 561 (7th Cir. 1999) Long's complaint demonstrated that the defendants engaged in "fraud that actually prevented Long from participating in the trial and circumvented a trial on the merits of her eviction." Accordingly, the Court concluded that Long was properly before the Court "because a void judgment may be attacked at any time, in any court, either directly or collaterally."

Rooker-Feldman Too Broadly Applied. In **Exxon Mobil Corp. v. Saudi Basic Industries Corp.** 544 U.S. 280, 284, 291, 125 S.Ct. 1517, 1521-22, 1526 (2005), the Supreme Court indicated that the Federal Courts had been applying the Rooker-Feldman Doctrine too broadly, and consequently, it clarified that the doctrine is confined to "limited circumstances."

An independent claim excludes Rooker-Feldman. Accordingly, in **Philadelphia Entm't & Dev. Partners**, 17-1954, 2018 WL 358216 (3d Cir. Jan. 11, 2018) Circuit Judges Chagares, Restrepo, and Greenberg ruled:

Thus, as understood by the Third Circuit in PEDP, a federal court has jurisdiction "as long as the 'federal plaintiff present[s] some independent claim,' even if that claim denies a legal conclusion reached by the state court."

The bona fide independent claim is the never litigated **color theft of 305 Buck Lane.**

The Fraud & Opportunity Exception to Rooker-Feldman. Stated in **Sun Valley Foods Co. 801 F.2d 186 (6th Cir. 1986)** A Federal Court "may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistak[e]" **Resolute Insurance Co. v. State of North Carolina, 397 F.2d 586, 589 (4th Cir. 1968)**. Although the Petitioner's instant case does not seek the review of a contested judgment, as there is none, he does seek justice for his Judge authorized stolen property by a color-of-law scheme.

Additionally, where the plaintiff has had no opportunity in state proceeding to raise his federal claim, the Rooker-Feldman doctrine is not applied. The real property theft was not considered during the defective Will Contest; therefore, I presume, not appealable to the Superior Court of Pennsylvania, that against protest Denied all my Applications for Relief and dismissed the case for failure to follow all the rules of appellant procedure.

Similarly, the Eleventh Amendment Immunity is a Red Herring. The Petitioner cites several cases, as follows:

Lombardo v. Pennsylvania, 540 F. 3d 190. 194-95 (3d Cir. 2008). "A State's immunity from suit is not absolute..."

Monroe v Pape, 365 U.S. 167 (1961) "On the merits, to establish personal liability in a 1983 action, it is enough to show that the official, acting under color of state law, caused the deprivation of a Federal Right."

Hafer v. Melo, 502 U.S. 21, 26 (1991) "State officers may be held personally liable for damages under § 1983 based upon actions taken in their official capacities."

Scheuer v. Rhodes, 416 U.S. 232 (1974) "The Eleventh Amendment does not in some circumstances bar an action for damages against a state official charged with depriving a person of a federal right under color of state law and the District Court acted prematurely and hence erroneously, in dismissing the complaint..."

Additionally, **42 PA § 8522(3) Exceptions to Sovereign Immunity is when Care, custody, or control of the personal property is exercised** as in the instant case of color-of-law appointed Guardian.

Monell v. Dept. of Social Services City of New York, 436 U.S. 658 (1978)
"...confirms that local governments were intended to be included Page 436 U.S. 659 among the "persons" to which § 1983 applies."

There is no law authorizing the theft of citizens' property. Legal Theft, is an oxymoron that does not exist. The Respondents were Play Acting as if they were operating in their official capacity. An act done in the complete absence of all jurisdiction i.e. theft cannot be a judicial act. **Piper v. Pearson, id., 2 Gray 120.** It is no more than the act of a private citizen, pretending to have judicial power, which does not exist at all. In such circumstances, to grant Absolute Judicial Immunity before assessing liability is contrary to the public policy expectation that there shall be a Rule of Law.

ARGUMENT 3 (6th Fair and Impartial)

3. MOTIVES INFORMING THE JUDICIAL MISCHARACTERIZATION

This is not a bigotry case – but racism is cited as a visceral, contributing factor. But for, the lack of respect, Judge Kenney could have resolved this case but he compounded the crime. The instant case is a post-civil rights acts era case of First Impression, even if propped-up by a manipulated yet greedy opportunist, incapable of the crime alone.

Court race bias has been noted by a long-established Chief Justice of the 3d Circuit that stated, any Judge that fails to accept the facts of race bias in judgments is lying to him/herself or others. Those that claim not to be prejudice lack essential self-awareness. The longest-serving current Supreme Court Justice says:

“Dishonesty is demonstrated through the denial of one's racism and sympathetic extensions of help. Dishonesty lulls black people into a false sense of security, assuring them that they are safe when they are not.”

This is a profound statement in many ways. Most citizens naïvely believe, as I, the Courts are blind or at least fair and impartial in abiding by their mandate to justice. I risked my life in Iraq on those principles. It should also be noted that the race language of Federal Statute **42 U.S. Code § 1982** is one reason this Petition for Writ of *Certiorari* is moved; “...shall have the same right, in every State, as is enjoyed by **white citizens.**”

Afro-Americans make up less than 13 percent of the American ‘Melting Pot’ population. I suspect odd are 98% that white-collar crimes against the vulnerable, poor and powerless have a high degree of success in not being pursued and exposed. Afro-American elderly citizens are particularly easy targets. The other impactful motives for theft and the cover-up are Greed, Mental Health Issues, and Peer

Pressure. These facts necessitate the might of the Supreme Court and the Department of Justice to restore the Constitution to a respectable equilibrium in dispensing Justice.

In sports when home-court advantage is combined with hometown referees, fair and impartial goes out the window. Unequal Status as in a Citizen v. Judge; for a Judge to adjudicate provides a legitimate perception of bias in violation of fair and impartial.

In refusing to acknowledge and consider the titled deed to the property, my Father and I are relegated to de facto 2nd class citizenship without Constitutional Civil or Property Rights tantamount to de jure Slavery in violation of the 13th Amendment.

ARGUMENTS 4 (5th Right to Own Property, Just Compensation)

4. LEGAL STANDING COUNTERMANDS COURT OPINIONS

Neither the District Court nor the 3d Circuit has declared the Petitioner is without legal standing. The Petitioner's legal standing is the Certified Property Deed and his Birth Certificate. In appearing not to acknowledge the Deed in mischaracterizing the instant case must be of no consequence. The fact is that my ownership is conceded by not dismissing the case for Lack of Standing but for Immunities.

Standing has three elements:

- (1) The Petitioner has suffered a concrete injury (theft of property);
- (2) That injury is fairly traceable to actions of the Respondent Respondents (43 Documented Statements of Fact); and
- (3) It must be likely—not merely speculative—that the injury will be redressed by a favorable decision (*res ipsa loquitur* the evidence speaks for itself only one honest conclusion can be reached).

Since the Petitioner has Legal Standings, which has not been denounced, the Court Verdicts must be voidable.

ARGUMENT 5 (5th Right to Own Property, Just Compensation)

5. RIGHTS MORAL & ETHICAL IMPERATIVE

The Petitioner has a reinforced moral and ethical imperative. The Deed was not a benevolent Parental gesture, but an act of enforcing a oral binding contract, an agreement made for sacrificing my youth to work in the family grocery store 7 days a week 14 hours a day including holidays and on properties for years. My only recreation was a few hours of participation in school-related organized sports, mainly Track & Field, and when I won a full-scholarship to LaSalle, my Mother told me that 305 Buck Lane was mine as the cost for college approximated the cost of the house. I was the only Son to go to college. And because I was the only son to work in the store so many years and on the properties accumulated into my twenties, my Father told me that 305 Buck Lane was mine repeatedly in my youth and as an adult. I am sure he told (Smith) Stephens that as well, and that motivated the schemed Theft. Imagine the many times I was told these properties were mine and that you will have something unlike the other kids out playing that will have nothing. The Petitioner is, therefore, the owner of the property legally by Certified Deed, morally by years of work and ethically by promise and full scholarship. I want the Supreme Court to understand, this is not an unmerited plea for an unearned justice from someone of privileged. The Deed represents the partnership, my sacrifice and my Parents living

and dying declaration, which continues to speak honestly and powerfully from the grave.

ARGUMENT 6 (6th Fair and Impartial)

6. JUDICIAL IMMUNITY NOT WARRANTED:

That the grounds for Judicial Immunity must be established as it was not designed to insulate from all aspects of public accountability as Judges are subject to criminal prosecution as are other citizens, **O'Shea v. Littleton, 414 U.S. 488, 503(1974)**. If the Court assesses that a conspiratorial, schemed real property theft warrants Judicial Immunity, then the Court must delineate the Case honestly.

Judicial Immunity was to protect Judicial Independence, insulating Judges from frivolous and vexatious actions by disgruntled litigants. The instant case it is about the unmitigated felonious theft of Real Estate Property being scandalously mischaracterized as a Probate Distribution.

Judicial action is the determination of the rights and interests of **adverse parties**. Judicial action is taken only when a Justiciable controversy arises or where a claim of right is asserted against a party who has an interest in contesting that claim. The secret actions of Judge Kenney cannot be characterized as Justiciable controversies as only one (1) position (side) was heard; thus, at best, the action was an illegal rubber-stamping administrative non-judicial confirmation.

Judicial Immunity arose out of public interest; however, this act of faith and trust has been and will be challenged by the immoral, unethical, and 'turned' criminal opportunist. As well-intentioned as the Immunity Doctrine is, 15 Judges have shown

the call of greed in abusing that trust is genuine. Judge Robert Wodrow Archbald was impeached and removed from office for improper business relationships with litigants. He was also from the 3d Circuit; however, this was done in 1912 over 108 years ago. From the perjurious Verdicts the need to exercise the Constitutional Article powers is great and long overdue. It is common knowledge that Pennsylvania is the 5th most corrupt state in America. The crime of 1912 appears feeble in comparison to the instant case.

Our duty to impeach and remove is made manifest in **Article II, Section 4**, and **Article III, Section I**. The Judicial arch has gone from Good Behavior to behavior with Malice and Corrupt to the instant case Criminal Property Theft possibly leading to the early demise of a citizen, what next? Judicial Immunity appears to be devolving into a Doctrine of Impunity from even criminal acts, lowing the bar so that forethought and integrity of decisions is yielding to and inviting of criminality. The practice of misrepresenting case facts to fit a predetermined outcome must end. The natural peer pressure to dismiss the crimes of a fellow Judge on the complaint appears a pressure beyond the integrity of the Judicial Honor System. Felonious Judicial acts must be vetted separately. The Doctrine of Immunity is leading some Judges and Agents to a false sense of Above-the-Law criminality in rendering False Verdicts in conflict with due process, equal protection of the laws, just compensation and a fair and impartial hearing.

Malfeasance excludes Immunity and is the grounds for removal from office, as explained in **Daugherty v. Ellis, 142 W. Va. 340, 357-8, 97 S.E.2d 33, 42-3 (W. Va. 1956)** as follows:

“...Malfeasance has been defined by appellate courts in other jurisdictions as a wrongful act **which the actor has no legal right to do**; as any wrongful conduct which affects, interrupts or interferes with the performance of official duty; as an act for which there is no authority or warrant of law; as an act which a person ought not to do; as an act which is wholly wrongful and unlawful; as that which an officer has no authority to do and is positively wrong or unlawful; and as the unjust performance of some act which the party performing it has no right, or has contracted not, to do...”.

Judge Kenney in the schemed theft committed many acts of malfeasance, however, to adjudicate and condemn a citizen incapacity (without testing) when they were not and to authorize the sale of their (our) life sustaining property without notification or consent are crimes beyond malfeasance this is tantamount to immurement or being buried alive—beyond cruel and unusual! These actions disregard not only the dignity and value of my Father and me and our work; they express complete rejection of our existence. Actions far beyond the power of racism to deny and oppress but a violent act of criminal destruction while robed in justice yet smirking with injustice, as if there is nothing I can do.

This case is of extreme importance and public interest because it provides the Supreme Court an opportunity to finally ‘without the rightful dissention’ as Justice Stevens in **Mireles v. Waco, 502 U.S. 9 (1991)** or Justice Powell in **Stump v. Sparkman, 435 U.S. 349 (1978)** to set much needed current threshold boundaries

on Immunity which will have a profound effect on society and the Judicial System for years to come!

It can be argued that any Judgment by a Judge bears Immunity, and thus, the must need for Judges' actions & behaviors to be "Beyond Reproach" imbued in the Judge's Code of Conduct Canons to include; the must exhibit perception of honesty and integrity. In the instant case, Judge Kenney and the Respondents have broken many laws as if being a Judge entitles him to break the law in complete violation of Judicial Canons. The irony is that Judge Kenney's collateral duty as the Delaware County Judge was supposed to be as an advocate against elderly abuse. Every Judge should take this theft of property, from the unsuspecting poor, as a personal affront. That a member of their elite (intellectually and financially) sacred status would stoop so low. Judge Kenney gave agency to the Respondents' to inflict significant injury on society. Without honesty and integrity, the pursuit of justice through the Courts will be a fortuitous exercise. Judge Kenney's actions are the antithesis of the 6th Amendment of fair and impartial. The judiciary cannot perform as necessary in critical Good Faith Judicial Acts of Law and act as a Neutral Arbiter/Referee if they do not act with honesty and integrity within the law.

Property Rights are the genesis of the judicial system even before Civil Rights. **Theft** is the taking of another's property or services without that person's permission or consent with the intent to deprive permanently. Nowhere in all of Anglo-Jurisprudence is the fact of non-life dependent theft—accepted or excusable, and therefore such acts are done in the Clear Absence of All Jurisdiction. A judge knows

he lacks all jurisdiction when he attempts to **create** jurisdiction by a series of colorable actions. "When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost." **Rankin v. Howard (1980,)** 633 F.2d 844.

Judge Kenney and the Register of Will/Clerk of Court self-deposited or abandoned their position when they conspired with the ranks of the other Respondents.

In **Beard v. Udall, 648 F.2d 1264, 1270 (9th Cir. 1981)**, it was ruled: **Prior agreement** between judge and prosecutor would preclude any claim of Immunity because the agreement is not a judicial act. The speed of the wrongful acts committed by Judge Kenney with the other Respondents is indicative of the superficiality or color in this conspiratorial collusive theft, as noted. The Facts demonstrate it would be insane to conclude one could go through the process of the color-of-law adjudicated incapacity, the appointment of Guardian, and authorization of sale, along with the other crimes without conspiratorial collusion.

The Petitioner cites, **U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)** that states: we find that prosecutorial action is not above the law.

"...A free society can exist only to the extent that **those** charged with enforcing the law respect it themselves. "There is no more cruel tyranny than that which is exercised under cover of the law, and with the colors of justice."

In United States v. Lee 106 U.S. 196, 1S. Ct. 240 (1882)

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it..."

In **Truax v. Corrigan**, 257 U.S. 312, 332, "Our whole system of law is predicated on the general fundamental principle of equality of application for the law. 'All men are equal before the law.'....". In **Olmstead v. United States** 277 U.S. 438 *id. At 485, 48 S. Ct. at 575*

"If the Government becomes a lawbreaker, it breeds contempt of law; it invites every man to become a law unto himself; it invites anarchy...."

ARGUMENT 7 (14th Equal Protection Under the Law)

7. THE THEFT AS A SCHEMED CONSPIRACY

A **conspiracy** is an agreement between two or more persons to commit a crime in the future. It is beyond-a-reasonable-doubt that the Judge in:

- A. Ignoring Notification of Heirs,
- B. Ignoring Notification of Respondent (my Father, Henry Stephens),
- C. Allowing the Attorney Make All Orders for the Judge;
- D. Ignoring the History and Credentials of the Guardian,
- E. **Disregarding the Certified Deed to the Property**,
- F. Ignoring that a Psychiatrist determines incapacity capacity,
- G. Ignoring the over a Year Late Filing of Guardian Reports;
- H. Ignoring recusal due to prior litigation;
- I. Ignoring the Falsified Petition for Letters Testamentary of no adjudicated incapacity;
- J. Ignoring the Expedited, Private Sale, for Cash, to an untraceable LLC

among other things, can only be described as a Conspiracy. The bogus 'adjudicated incapacity,' was that one overt initial act that consummated the conspiracy. Parties may join the plot later and incur joint liability, as did the Register of Wills. The conspiracy was further solidified in the illegal sale, concealment, and cover-up. However, in **Whitfield v. United States (03-1293) 543 U.S. 209 (2005)** Justice O'Connor cites:

'We have consistently held that the common-law understanding of conspiracy 'does not make the doing of any act other than the act of conspiring a condition of liability.'

The facts are indisputable, as Mylonas wrote the Orders for Judge Kenney in the theft.

Although not necessarily Constitutional, Judges are entitled to Immunity by Doctrine. Therefore, those cited as co-conspirators are often absolved to maintain the façade of legitimate judicial action, although this absolution is contrary to settled law.

Whether from the Complaint or the Petitioner's Opening Brief to the 3d Circuit, the facts have not changed, nor have they been addressed by the Courts, and because of that, the defense of Immunity cannot be adequately readdressed. The Respondents are using this defense without identifying the acts from which they seek Immunity, which is property theft. The actions of the Judge must be *aired and decided* as sunlight is an excellent disinfectant.

ARGUMENT 8 (14th Equal Protection Under the Law)

8. THE CIVIL RIGHTS VIOLATIONS

The Civil Rights Act of 1871 is a Federal Statute, **42 U.S. Code § 1983**, and the criminal statute **18 U.S. Code § 242**, *inter alia*, which gives citizens the right to sue government officials and their agents who use their authority to violate rights guaranteed by Federal Law. It applies when someone acting "under color of" state-level or local law, has deprived a person of rights created by the U.S. Constitution or Federal Statutes. According to the Instructions for Civil Rights Claims under Section 1983; the Petitioner must prove both of the following two elements by a preponderance of the evidence:

First: That Judge Kenney was acting under color-of-state-law. This fact is affirmed by both ORDER(S) issued by the District Court and 3d Circuit and 43 Statements of Facts.

Second: While acting under color-of-state-law, Judge Kenney deprived the Petitioner of his real property without notification in violation of the 14th, 6th, and 5th Amendments and state law **20 Pa. C.S.A. § 5511(a)**. The illegal actions of the Judge to sell the property are affirmed in the District Court ORDER dated March 15, 2019. Since these two elements have been established and attested – it is required that liability be determine before any consideration of Immunity or Dismissal.

I. CONCLUSION

For the foregoing reasons, it is respectfully requested that the United States Supreme Court grant this petition for Writ of *Certiorari*. And dismiss the Rooker-Feldman Doctrine and the Eleventh Amendment as inapplicable so the Petitioner can focus on Property Theft and Judicial Immunity in the Brief. This case offers an opportunity for setting a floor in redefining and recharacterizing Judicial Immunity and other Immunities, too put meat on the bones of clear absence of jurisdiction. Deeds must be recognized in property litigation. That proper testing must precede adjudication of incapacity and notification must be given in accordance to Law. Suits brought against Judges for breaking the law and the rendering of False Verdicts to obstruct justice must be declared repugnant to the Constitution and Law and that both will be alternatively adjudicated due to the unfair burden these crimes place on colleague and the judiciary system. As one of the world's most esteem professional

bodies; self-policing is incumbent to keep the sacred Honor of Judgeship and U.S. Constitution.

I *Richard C. Stephens* declare under penalty of law that the foregoing Petition for Writ of *Certiorari* is true and correct.

Respectfully submitted,

Signed, 15th of May 2020



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Appendix A

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2136

RICHARD C. STEPHENS,
Son, Henry & Dessie Stephens, Deceased,
Appellant

v.

CHAD F. KENNEY; PETER G. MYLONAS;
JENNIFER H. MADDALONI; BETTY G. SMITH STEPHENS

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2-18-cv-04295)
District Judge: Honorable Paul S. Diamond

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 19, 2020

Before: KRAUSE, MATEY and COWEN, Circuit Judges

JUDGMENT
