ORIGINAL

19-5090

No. _____

IN THE

Supreme Court of the United States

FRANCES DU JU,

Petitioner,

v.

STATE OF WASHINGTON, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the U.S. Court of Appeals for the 9th Circuit

PETITION FOR A WRIT OF CERTIORARI

FRANCES DU JU
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QUESTIONS PRESENTED

1. Whether the District Court's *Rooker-Feldman* doctrine, Judgment on the Pleadings, and "copy and paste" to dismiss this Malicious Prosecution case committed reversible errors in facts and law.

2. Whether District Court violated the Re-examination Clause of the 7th Amendment; and disregarded the Petitioner's constitutional rights secured by the 4th, 5th, 6th, 7th, 8th and 14th Amendment.

3. Whether absolute immunity and absolute quasi-judicial immunity apply to judges, court clerks, and State officers who are trespassers of the U. S. Constitution, Washington State Constitution and statutes.

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the courts whose judgments are the subject of this petition is as follows:

PETITIONER-PLAINTIFF: Frances Du Ju.

RESPONDENTS-DEFENDANTS who appeared in the U.S. Court of Appeals for the -9th Circuit:

(a) State of Washington,

(b) City of Vancouver, and

(c) Clark County who represents the Clark County agencies.

Name of the 14 Defendants in the U. S. District Court:

(1) State of Washington,

(2) City of Vancouver,

(3) John O'Neill,

(4) Clark County Sheriff's Office,

(5) Clark County Indigent Defense Office,

(6) Clark County Department of Corrections/Mabry Center; and

Petitioner sued the following Defendants in their personal capacities:

(7) Mr. Shaun Robertson,

(8) Brice Carolyn Leahy, Esq.,

(9) Jacob Thomas Randall, Esq.,

(10) Ms. Alicia Hensley,

(11) Ms. Shasta Bennett,

(12) Mr. Scott Weber,

(13) Mr. Derek M. Byrne, and

(14) Susan Lomax Carlson, Esq.

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CASES

BOOKS, ARTICLES, REPORTS

U. S. Constitution:

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OPINIONS BELOW

The U.S. Court of Appeals for the 9th Circuit's Memorandum was "submitted November 27, 2018", and issued on December 5, 2018; unpublished. (App. A).

"Order Dismissing Complaint and Denying Plaintiff's Motion to Proceed *in Forma Pauperis*" was issued by the U. S. District Court Western District of Washington at Tacoma on February 22, 2018; unpublished. (App. B).

On April 4, 2019, the 9th Circuit Court issued a 1-page Order stating that no Judge had requested a vote on whether to rehear the matter en banc; thus, the Court denied the Petition for Rehearing En Banc; unpublished. (App. C).

JURISDICTION

A Petition for a writ of certiorari is timely filed within 90 days from April 4, 2019. *See* Rule 13.1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. The United States Constitution involved.

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

5th Amendment: RIGHTS OF PERSONS. (App. E).

6th Amendment: RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. (App. E).

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

8th Amendment: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

14th Amendment: SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.

B. Washington State Constitution involved.

Wash. Const. art. I, § 3: No person shall be deprived of life, liberty, or property, without due process of law.

Wash. Const. art. I, § 7: No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Wash. Const. art. I, § 9: No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

Wash. Const. art. I, § 14: Excessive bail shall not be required, excessive fines

imposed, nor cruel punishment inflicted.

Wash. Const. art. I, § 20: BAIL, WHEN AUTHORIZED. (App. E).

Wash. Const. art. I, § 21: The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto.

Wash. Const. art. I, § 22: RIGHTS OF THE ACCUSED. (App. E).

Wash. Const. art. IV, § 28: OATH OF JUDGES. (App. E).

C. **United States Code involved.**

28 U.S.C. § 1331: The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 U.S.C. § 1343(a): CIVIL RIGHTS AND ELECTIVE FRANCHISE. (App. E).

28 U.S.C. § 1367: SUPPLEMENTAL JURISDICTION. (App. E).

28 U.S.C. § 1651(a): The Supreme court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S.C. § 1915(e)(2): PROCEEDINGS IN FORMA PAUPERIS. (App. E).

28 U.S.C. § 2201: CREATION OF REMEDY. (App. E).

28 U.S.C. § 2202: Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

28 U.S.C. § 2283: A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

42 U.S.C. § 1983: CIVIL ACTION FOR DEPRIVATION OF RIGHTS. (App.E).

42 U.S.C. § 1985(3): DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES. (App. E).

42 U.S.C. § 2000d-7: CIVIL RIGHTS REMEDIES EQUALIZATION. (App. E).

D. Washington State Statute involved.

RCW 3.50.430: All criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the city and may be upon the complaint of any person.

RCW 4.16.020(2): ACTIONS TO BE COMMENCED WITHIN TEN YEARS — EXCEPTION. (App. E).

RCW 9A.52.070(1): A person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building.

RCW 9A.52.090(3): In any prosecution under RCW 9A.52.070 and 9A.52.080, it is a defense that: (3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain.

RCW 10.01.160(3): PAYMENT BY DEFENDANT. (App. E).

RCW 10.01.160(4): REMISSION OF THE PAYMENT OF COSTS — PROCEDURE. (App. E).

RCW 10.31.030: SERVICE — HOW — WARRANT NOT IN POSSESSION, PROCEDURE — BAIL. (App. E).

RCW 10.79.040:

(1) It shall be unlawful for any police officer or other peace officer to enter and search any private dwelling house or place of residence without the authority of a search warrant issued upon a complaint as by law provided.

(2) Any police officer or other peace officer violating the provisions of this section is guilty of a gross misdemeanor.

RCW 10.101.010(3): DEFINITION OF "INDIGENT". (App. E).

RCW 19.86.020: Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

RCW 19.86.030: Every contract, combination, in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is hereby declared unlawful.

RCW 39.34.180(1): CRIMINAL JUSTICE RESPONSIBILITIES — INTERLOCAL AGREEMENTS — TERMINATION. (App. E).

RCW 59.12.090: WRIT OF RESTITUTION — BOND. (App. E).

RCW 59.18.367: UNLAWFUL DETAINER ACTION — LIMITED DISSEMINATION AUTHORIZED, WHEN. (App. E).

RCW 59.18.380: FORCIBLE ENTRY OR DETAINER OR UNLAWFUL DETAINER ACTIONS — WRIT OF RESTITUTION — ANSWER — ORDER — STAY — BOND. (App. E).

RCW 61.24.005(17): "Trustee's sale" means a nonjudicial sale under a deed of

trust undertaken pursuant to this chapter.

RCW 61.24.135(1): CONSUMER PROTEC-TION ACT — UNFAIR OR DECEPTIVE ACTS OR PRACTICES. (App. E).

STATEMENT OF THE CASE

This malicious prosecution case has lasted 5-1/2 years. It arose from the foreclosure of the Petitioner's family home (hereinafter "Premises"). At the June 21, 2013, Trustee's Sale, a man kept yelling "Wow! Wow! Wow! Stop! Stop!" to stop other people from bidding on the Premises. Defendant Mr. John O'Neill's $172,500 then became the successful bid while the bidding had not reached the "$1 more" stage. Mr. O'Neill's violations of RCW 61.24.135(1) and Chapter 19.86 RCW "CPA" robbed Petitioner of significant amount from the equity of the premises.

Mr. O'Neill filed a Complaint for Unlawful Detainer with Clark County Superior Court against the Petitioner's ex-husband Mr. Chwen-Jye Ju and Petitioner, without looking at who owned the premises. In 2003, Mr. Ju left the country to reside abroad; and stopped paying the court-ordered child support and spousal maintenance. This caused Petitioner severe financial hardship. Mr. Ju was not an owner of the premises; thus, the Superior Court did not have jurisdiction over Mr. Ju.

The Petitioner's Answer and Affirmative Defenses requested Jury Trial and addressed "Jurisdiction and Venue"; and her argument at the August 9, 2013, hearing emphasized "Jurisdiction" and "Color of title". RCW 59.18.380 requires the Court "direct the parties to proceed to trial within thirty days". The Honorable Daniel L. Stahnke's issuance of the August 9, 2013, Order for Writ of Restitution violated 7th

and 14th Amendment, RCW 59.18.380 and Court rules. His Writ of Restitution's "returnable in 10 days" also violated RCW 59.12.090's 20-day returnable time frame. This unconstitutional and anti-statute Writ should be void. The 5-1/2 years of prosecution and appeal resulted from this Writ of Restitution, nevertheless.

On the morning of August 21, 2013, the due date for Petitioner to remove the case to the U.S. District Court, Mr. O'Neill conspired with Clark County deputy sheriff Mr. Shaun Robertson to arrest and jail Petitioner even though Petitioner agreed to leave the Premises after getting her flash drives off her computer. After Deputy Robertson put handcuff on Petitioner, he refused to let Petitioner put on her shoes, while the shoes were by the front door. He forced Petitioner to walk bare footed to his patrol car while Mr. O'Neill smiled.

After confining Petitioner in his patrol car, Deputy Robertson reentered the premises to search for the Plaintiff's daughter, who was an important witness to Mr. John O'Neill's unlawful acts at the foreclosure sale. Deputy Robertson violated RCW 10.79.040. His illegal arrest and extended search also made Petitioner unable to breath in the oven-like patrol car. Deputy Robertson had to call an Ambulance.

Deputy Robertson's Incident Report shows that he refused to let Petitioner to call an attorney after he arrested her; regardless of the 6th Amendment and Wash. Const. art. I, § 22. He also lied and framed Petitioner of "Resisting Arrest".

Clark County Indigent Defense Office assigned Mr. Jacob Randall to represent Petitioner, while he did not have an attorney's license. Mr. Randall was incapable of identifying that under RCW 3.50.430, 39.34.180(1) and case law, the State and Clark

County Prosecuting Attorney's Office (hereinafter "CCPAO") did not have jurisdiction and executive authority to arrest, jail and prosecute Petitioner, because the premises were located within the Vancouver City Limits; and it was not a Major Crime, Traffic, or certain Emergency case. Mr. Randall also premeditatedly lied to Commissioner Witteman to give up the Petitioner's 6th Amendment right to a speedy trial; and took long time to withdraw from the case after being asked to. Mr. Brice Leahy was the so-called Prosecutor who prosecuted this case between August and November 2013. He did not obtain his attorney's license until November 14, 2014. Both violated, conspired against, and deprived of the Petitioner's 6th and 14th Amendment rights.

On January 27, 2014, the Honorable John Hagensen first released Mr. O'Neill before the trial started. Petitioner was deprived of her right "to be confronted with the witness". Judge Hagensen did not allow Petitioner to answer questions other than YES or NO. The jury was fooled; and the trial was not impartial.

Judge Hagensen prohibited Petitioner from testifying to the anti-statute Writ of Restitution; and prosecutor Katie Sinclair, Esq. showed the Writ to the Jury and accused Petitioner of violating the Writ. Public Defender Katherine Kauffman, Esq. worked for the prosecution, and did not object or explain to the Jury. Prosecutor Sinclair committed Brady Violation by concealing the information that Deputy Robertson was under the Internal Affairs investigation. The State failed to show that the underlying basis for "Criminal Trespass in the First Degree" could stand pursuant to RCW 9A.52.070. The State did not meet its burden of proof that Petitioner was guilty of "Criminal Trespass". Ms. Kauffman completely failed to

present the facts and law stated in the Petitioner's Knapstad Motion and Reply to the jury or Judge Hagensen; or include them in the Jury Instructions. She did not ask Judge Hagensen for "judgment as a matter of law", either.

At the closing argument, Prosecutor Sinclair perjured herself by performing an act how Petitioner resisted arrest, which was a total make-up and a Prosecutor's misconduct. Ms. Kauffman refused to object. Then, Ms. Kauffman framed Petitioner by lying to the jury that Petitioner was confused and did not comply with the law. Petitioner not only did not receive Assistance of Counsel under the 6th Amendment; but was also convicted almost immediately due to Ms. Kauffman's lies and perjury.

Prosecutor Sinclair recommended 2-day community service. Judge Hagensen enhanced it to 10-day community service. Judge Hagensen's prejudicial "finding": "I think she fancies herself to be some type of legal expert and she's not, and she attempted string this thing out" was neither admitted by Petitioner nor found by a jury; and he did not apply the August 21-22, 2013, two-day jail time credit toward the ten days. Ms. Kauffman simply told Petitioner to serve the Community Service. Petitioner received a President's Volunteer Service Award from the White House for helping disadvantaged group of people. The unjust, unconstitutional court-imposed Community Service was not the same as the volunteering service to the community.

Judge Hagensen also violated RCW 10.01.160(3) when he imposed Judgment of $293, because Petitioner was indigent as defined in RCW 10.101.010(3). Judge Hagensen also instructed Petitioner to file her appeal within 24 hours, instead of the 30-day authorized by RALJ 2.5(a). These violated the 14th Amendment.

The public-money-paid appellate attorney Nicholas Wood, Esq waited 178 days to contact Petitioner. He wrote a very unprofessional Opening Brief and did not file a Reply Brief. His failure to challenge the jury instructions at the Superior Court level prevented Petitioner from challenging it at the higher appellate level. At the September 26, 2014, hearing, Prosecutor Sinclair's seductive bare-shoulder and mid-thigh red tight dress made Mr. Wood refuse to examine the alleged missing records or to challenge lead prosecutor Kalah Paisley, Esq.'s argument. The Honorable Suzan Clark sua sponte ordered a Supplemental Brief and set October 10, 2014, hearing.

Mr. Wood refused to file a Supplemental Brief; nor did he want to withdraw from the case after the Petitioner's oral and written requests. At the hearing, while the Petitioner's Supplemental Brief was before Mr. Wood's eyes, he initiated the signing of Order Affirming Conviction. Judge Clark prohibited Petitioner from speaking; but allowed Petitioner to file her Supplemental Brief. Mr. Wood continued refusing to withdraw until the deadline of motion for reconsideration expired.

The commissioners at the State COA and Supreme Court totally avoided the Constitutional issues that Petitioner raised. Both commissioners cited the Law of the Case doctrine and Lodis v. Corbis Holdings, Inc., 192 Wn. App. 30, 54-55 (2015) only toward Petitioner; while ignoring the CCPAO's and the State's violations of the doctrine and Lodis. However, both appellate Courts' Rulings stated that the 10-day sentence was served. The State and CCPAO did not file a motion to modify ruling with either Court. Under RAP 12.2, the Rulings are "effective and binding on the parties to the review and governs all subsequent proceedings in the action" upon the

State, CCPAO, Clark County District Court and Superior Court.

On April 26, 2016, CCPAO filed a Citation with Clark County District Court re: Re-imposition of Sentence. The Court told Petitioner to appear without an attorney regardless of the 6th Amendment and CrRLJ 3.1(a).

At the May 17, 2016, hearing, Judge Hagensen did not want to engage in Vertical Stare Decisis and insisted in re-imposing the January 14, 2014, Judgment and Sentence; and restarted the 2-year probation. He even changed the 10-day community service to 10-day Work Crew. This is Double Jeopardy.

At the June 14, 2016, hearing, Judge Hagensen ruled on the Petitioner's May 20, 2016, Motion for Reconsideration. He amended the sentence back to 10-day community service; and instructed her to immediately schedule the orientation with Mabry Center. Mr. Richard Gange's May 24, 2016, e-mail from Mabry Center stated, "Anytime a Motion is set we will hold off until it is heard by the Judge." Mabry Center refused to apply the same procedure to Petitioner in June 2016; while Judge Hagensen instructed the District Court to reject the filing of the Petitioner's 3 motions and told Petitioner to file her Motion for Stay with Superior Court regardless of RALJ 4.3. Court employees told Petitioner that Judge Hagensen hated litigants to file Motions to prevent him from going home early. Whenever Petitioner went to the Court to file Motions in early-to-mid-afternoon, Judge Hagensen already went home.

On August 19, 2016, the Honorable Derek Vanderwood denied the Petitioner's June 28, 2016, Motion for Stay without findings of fact or conclusions of law, though no opposition was filed by the State or the City. The two judges' denying Motion for

Stay violated the 5th and 14th Amendment, and Wash. Const. article I, §§ 3, 9 and 20. According to the local newspaper *The Columbian,* Judge Stahnke worked for English, Lane, Marshall, Barrar, Stahnke & Vanderwood until 2007. Judge Vanderwood started working for the firm in 1996. *The Columbian* in 2015 described Judge Vanderwood as "brand new to the bench and to criminal law" when he was appointed by Governor Jay Inslee to the bench. Jeffrey Barrar, Esq. started Vancouver Defenders, which has grown to become the largest criminal defense firm in Southwest Washington, and to have a major portion of public contracts to represent indigent defendants. Ms. Kauffman is one of its public defenders.

Throughout the case with Superior Court, CCPAO only cited one case: State v. Jackson, 82 Wn. App. 594, 608-09, 918 P.2d 945 (1996). Ms. Boyd misunderstood and misinterpreted the case. The case referred to another case; and the Petitioner's Response refuted with that case to Ms. Boyd erroneous argument on Jackson. Judge Vanderwood, however, granted Ms. Boyd's motion after he sought Ms. Boyd's "final word" whether the Supreme Court's decision was the final decision; and she said NO.

Superior Court case summary Sub No. 21 on July 22, 2016, included a Decision and two Orders; and "Order of Remand" was one of them. "Three activities in an entry" is inconsistent with what a Court usually does its business. RALJ 9.2(b) states that Transmittal of Superior Court Mandate "not earlier than 30 days..." Thus, a mandate should have been far before due.

Ms. Shasta Bennett filed "Notice of Failure to Comply" under Clark County District Court manager Ms. Alicia Hensley's instruction. Judge Hagensen

inappropriately signed a Warrant while Petitioner was unaware; especially after Petitioner had filed a Notice of Discretionary Review. Mabry Center said that Petitioner did not have a Case Manager. Neither Ms. Hensley nor Ms. Bennett met the CrRLJ 2.3(a) "peace officer" or "prosecuting authority" requirement.

Shortly after 3 a.m. on June 30, 2017, two City of Vancouver police officers arrested Petitioner without Probable Cause and without a Warrant. Officer Schnackenburg" tried to frame Petitioner of trespassing while her two-year probation was restarted in May 2016. The Vancouver ordinance since 2015 allowed people to park at public buildings overnight; and Petitioner obtained permission from the government agency when her sister's loans were spotty at the time. The "Jail Pre-Book Sheet" showed "Officer Schnackenburg"'s real name was "Gunnar Skollingsberg". The City police officer acted deceptively and maliciously.

Petitioner was held incommunicado just like in 2013. The jail staff refused to give her breakfast while other inmates in the holding cell received theirs. Petitioner was jailed in the longer-term-inmates pod. One of the two cellmates was a sex offender felon. Writing instruments and 2 postcards were missing from her $5 Intake Pack. Petitioner had to promise to use the insufficient jail food to trade for a 3-inch pencil and an eraser so that she can use the only postcard to write to the Supreme Court Clerk to reach out and for a potential Writ of Habeas Corpus. Jail guards said that her postcard must wait 3 days until July 3rd to mail out.

The "Referral for Screening for Court Appointed Attorney" Interview took place around 6:30 a.m. on Friday, June 30, 2017. Petitioner followed up on the issue with

a supervising jail guard. Nevertheless, the first time Petitioner talked to her public defender by video phone was shortly before the 1:30 p.m. hearing on July 3, 2017.

Plaintiff was not shown any Warrant until after booking. Presenting an illegible Warrant, which was an about 3-1/2" x 3-1/2" or 5" x 5" disk-size contents copied on a piece of paper; and delaying in providing a public defender violated the 4th and 6th Amendment, and RCW 10.31.030,

Petitioner suffered severe back pain because she had to lie or sit on her thin mattress on the floor for longtime to keep from interrupting other inmates who were sleeping. The sudden and unconstitutional arrest in the middle of the night; the abusive four-day jail time; during the nights, the guards' making loud sounds by slamming doors often, talking on radio frequently, using sticks to knock on metal bars to keep inmates from sleeping; depriving Petitioner of taking her medication; and causing Petitioner new health problems violated the "cruel and unusual punishments" clause of the 8th Amendment. These almost cost the Petitioner's life.

At the July 3, 2017, hearing from jail, Andrew Lawhon, Esq., the public defender from Vancouver Defender, asked the Honorable Sonya Langsdorf to convert the 4-day confinement in jail into the 10-day community service. Judge Langsdorf would only convert the 4-day jail time into 4-day community service. Petitioner told Judge Langsdorf that the Supreme Court issued a Ruling on November 5, 2015, that "the 10-day sentence was served" and CCPAO failed to file a Motion to modify the Ruling within 30 days. Thus, the Ruling was effective and binding according to RAP 12.2. Petitioner also told Judge that the 10-day community service equaled to 80

hours; and that her jail time from June 30, 2017 had already exceeded 80 hours. Then, the jail guard gave Petitioner Judge Langsdorf's Memorandum of Disposition to sign. Judge Langsdorf' intentionally and recklessly lied, "DEF ADMITS – 6 DAYS WORK CREW OR 48/HRS OF ACS REMAIN. /S/ SLL". Petitioner wrote "Objection!" before she signed her name.

The jail guard gave Petitioner a half-sheet of paper, "Order of Appointment of Attorney", which appointed Vancouver Defenders to represent Petitioner. It also said, "You must appear, in person, at the attorney's office within 24 hours of release. Bring all relevant documentation you have." The jail released Petitioner shortly before 4:30 p.m. The jail scheduled an appointment with Mabry Center that Petitioner must report to "Work Program Intake" on July 20, 2017, at 2:00 p.m.

Mr. Lawhon said that he would not challenge Judge Langsdorf's false statement. He said that an appointment would not be necessary; and that Petitioner was too careful. Petitioner confirmed the conversation with him by e-mail around 7:31 p.m. on July 3, 2017. His July 11, 2017, e-mail stated that he would only represent Petitioner on a fee agreement. With $636 monthly Social Security retirement benefits, Petitioner could not afford the attorney's fee.

Petitioner checked with Vancouver City Attorney Bronson Potter, Esq. on July 5, 2017, for a copy of the charging document. Mr. Potter's e-mail emphasized that it was not the City of Vancouver who prosecuted Petitioner; and Petitioner may want to check with the Vancouver Police Department, the District Court or CCPAO.

In June 2016, Mabry Center adopted different standard and threatened

Petitioner with warrant when Petitioner asked it to reschedule the appointment pending Motion. For the appointment for "Work Program Intake" on July 20, 2017, at 2:00 p.m., Petitioner searched the F.B.I. website regarding investigation of Civil Rights, using the Vancouver Library system. She left a message with the F.B.I.

At the July 19, 2017, Review of Sentence hearing, Judge Hagensen repeatedly acted in deceptive ways and disregarded judicial integrity. Prosecutor Boyd presented him with an unsigned "Order for Satisfaction of Community Service Requirement" and gave Petitioner a copy. Judge Hagensen said that he would convert the remaining 6-day community service to the 4-day jail time that Plaintiff had served; and that he would also terminate the 24-month probation. He did not want to sign the Order that Ms. Boyd presented. His judicial assistant printed out a Memorandum of Disposition ("Memo Dispo 7/19/17"), and the hearing was adjourned.

"Memo Dispo 7/19/17" stated, "Per JPH 6 days CSE has been converted to 4 days Custody w/CTS". Petitioner thought that it was very confusing and inconsistent. She went back to the courtroom to ask Judge Hagensen to make it clearer. Judge said that what he said in the courtroom was what he meant. He emphasized that the 10-day Community Service sentence of June 14, 2016, had been satisfied with the 4-day jail time. Petitioner said thank-you and left.

After Petitioner left her parking space, she immediately sensed that "Memo Dispo 7/19/17" was even contradictory. She then circled around the courthouse; and found a parking space. She went to Judge Hagensen's courtroom again and waited to talk to him. She also pointed out that "YOU SHALL HAVE NO ILLEGAL DRUGS,

MARIJUANA, OR ALCOHOL IN YOUR SYSTEM when reporting to jail, future court appearances, corrections or any assigned class or program" made the "Memo Dispo 7/19/17" and what Judge Hagensen said inconsistent.

Judge Hagensen clarified that because Petitioner will not go back to the court again, that language did not really mean anything. He insisted that it was what he meant and said that Petitioner will never go back to the court again on this case. He did not want to make any change. Petitioner explained to him the issue of Judgment was in violation of the statute and case law. Judge Hagensen did not tell Petitioner to bring a motion on the Judgment of $293.00. He emphasized that what he said in the courtroom was what he meant. He accepted the Petitioner's "Objection."

The Mabry Center's Orientation Interview by Ms. Bennett in 2016 was lengthy, abusive and terrible. It imposed irreparable harm upon Petitioner. On July 20, 2017, two hours before the 2:00 p.m. Mabry Center appointment, Petitioner went to the courthouse to check the status. She found out that Judge Hagensen signed Ms. Boyd's proposed Order, which was dated the previous day.

The State Supreme Court Clerk, Susan Carlson, Esq., conspired against and deprived of the Petitioner's 5th, 6th, 8th and 14th Amendment rights by violating RAP 17.7 twice while she had no authority to stop the State Supreme Court from ruling on the defendants' violations of the Constitution; and to decide the Petitioner's Motion to Modify Ruling moot; because she was not a Justice.

Judge Settle's February 22, 2018, Order did "copy and paste" job from his January 18, 2018, Order. Several of his statements referred to nowhere in the second

Amended Complaint (hereinafter "2nd-Am Compl."); while the 2nd-Am Compl. had been edited to comply with the cited case law in the January 18, 2018, Order.

During appeal, the Joint Brief "rejected" the Petitioner's Statement of Issues; thus, Appellees did not properly address or challenge the six issues in the Opening Brief. The 9th Circuit Court's Memorandum affirming the District Court's Order was "submitted November 27, 2018", and waited until December 5, 2018, to issue when Judge Settle issued his Order on the Petitioner's other Civil Rights and Wrongful Eviction case. These resulted in the same deadline for filing a Petition for Rehearing En Banc and a Motion for Reconsideration. Petition had to work day-and-night. On December 19, 2018, Petitioner filed a "Petition for Rehearing En Banc". On April 4, 2019, the 9th Circuit Court's 1-page Order stated, "no judge has requested a vote on whether to rehear the matter en banc"; and denied rehearing.

REASONS FOR GRANTING THE PETITION

A. The "Statement of Claims" are well-pled Factual Allegations, and Joint Brief did not Challenge. Claims Plausibly give rise to an Entitlement of Relief.

The case law in January 18, 2018, Order inspired Petitioner to add the 6th and 7th, in addition to the 5th and 8th Cause of Action to her 2nd-Am. Compl. Petitioner never raised these four claims in the State Courts System. Thus, the *Rooker-Feldman* doctrine should be inapplicable at least on these 4 claims. The 16-page "IV. Statement of Claims" was well-pled factual allegations. The Joint Brief of Appellees did not challenge those facts. Courts should assume their veracity and determine that they plausibly give rise to an entitlement to relief that Petitioner requested for

monetary damages, emotional distress, punitive damages, costs, and declaratory relief. These were overlooked in the 9th Circuit Court's Memorandum (App. A).

Judge Settle's Order (App. B) at 4 stated, "Plaintiff has not stated a claim for unlawful arrest when she was arrested for unlawful detainer eleven days after the issuance of a Writ of Restitution." Thus, "unlawful arrest" will be added when the Petitioner is granted leave to amend her Complaint.

B. Judge Settle may have Conducted "Copy and Paste" Job on his Order; and Unfairly Accused Petitioner of Failure to cure any of the Deficiencies. The 7th Circuit Court held, "[A] decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

Pursuant to RCW 4.16.020(2), the statute of limitations "for an action upon a judgment... of any state or territory within the United States" is ten years. RCW 59.18.380 requires a trial on Unlawful Detainer cases within 30 days; and Clark County Superior Court violated this statute and the 7th Amendment on the Petitioner's cases twice: in 2013 and 2016. The district court invoked *Rooker-Feldman* doctrine to dismiss the 2nd-Am Compl. Judge Settle's Order (App. B) did "copy and paste" job from his January 18, 2018, Order (App. F). Several of his statements referred to nowhere in the 2nd-Am Compl.; while the 2nd-Am Compl. had been edited to comply with the cited case law in the January 18, 2018, Order.

Opening Brief at 33 quoted the problematic Docket Report on #4 and #3. Petitioner mailed her Amended Complaint under FRCP 15(a)(1) on January 10, 2018. Judge Settle's Order (App. F) was issued 8 days later, but the Docket number was assigned before the Amended Complaint was; in violation of FRCP 79(a)(2).

The District Court said that Petitioner was not allowed to use the ECF System until the Court's approval of her Motion to Proceed *In Forma Pauperis*. 2nd-Am Compl. at 32 stated, "I can pay between $50 and $80 each month from my Social Security Retirement Benefit for the $400 filing fee." After the 9th Circuit Court granted access to its ECF System, the Petitioner's access to the PACER website had been patchy until the activities of the Petitioner's other District Court case were very active. These may have made the District Court or Petitioner hard to detect mistakes. The February 28, 2018, Judgment did not arrive until April 20, 2018. [Dkt. #13]. The extended delay of the mail made it impossible for Petitioner to timely request relief pursuant to LCR 7(h) and FRCP 60 on the February Order and Judgment.

The 2nd-Am Compl. followed January 18, 2018, Order and its cited cases to remove all Courts, prosecutors, and public defenders from the list of Defendants; excepting after new discovery revealed that both CCPAO's prosecutor Brice Leahy, Esq. and the public defender Jacob Randall, Esq. practiced law without licenses; and these two defendants were not qualified as prosecutor and public defender.

Order at 2-3 stated, "Plaintiff's affidavit and *in forma pauperis* application show an inability to prepay fees and costs"; but cited 28 U.S.C. § 1915(e)(2) and case law to deny the Petitioner's application for *IFP*. None of the four reasons stated in 28 U.S.C. § 1915(e)(2) applied to Petitioner if Judge Settle had not misread, misunderstood and misinterpreted the Petitioner's 2nd-Am Compl., as shown in her Opening Brief filed with the 9th Circuit Court.

Mr. O'Neill was in concert with others to violate Chapter 19.86 RCW "CPA"

and RCW 61.24.135(1); and made 6-figure quick illegal money. He unlawfully robbed Petitioner of the equity from her 24-year ownership of the Premises.

Because Petitioner wanted to show the District Court that most of her claims were not tried by a jury or ruled by the two State appellate courts; and because her English proficiency is limited; her 2nd-Am Compl. is lengthy. This is not a justified reason for Judge Settle to dismiss the whole Complaint, either. Petitioner invoked twice RAP 12.9(b) to request the State COA "to Correct Mistake and Remedy Fraud" that the February 5, 2016, Certificate of Finality be recalled and the decisions that the State and CCPAO obtained by fraud be modified. "Fraud upon the court" has been defined by the 7th Circuit Court to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.2d 689 (7th Cir. 1968). "[A] decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." The State COA also falsely recorded its Case Summary on key events, intending to show that CCPAO did everything by the book while Petitioner failed to act, which were the State COA's calculated lies.

Petitioner had a chance explaining to Judge Settle in the other Civil Rights and Wrongful Eviction case about the weakness of her English proficiency. Petitioner was born in Taiwan; and became a naturalized U. S. citizen two decades ago. Her mother language is Chinese. For her writing, she basically interprets every sentence of her mother language into English, which is adopted by many people who write a

document that is not of their mother language. How to polish the writing and make it in "short and plain statement" is a big challenge to Petitioner. This may help the Court understand why 2nd-Am Compl. was not consisted of short sentences.

C. **The Decisions of the 5th Circuit Court and 3rd Circuit Court on "Judgment on the Pleadings" conflict with that of the 9th Circuit Court's Memorandum.**

Memorandum at 2 stated, "The district court properly dismissed Ju's action because Ju failed to allege facts sufficient to state a plausible claim for relief. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010); ... *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)..." Petition for Rehearing En Banc started with, 'This is a Civil Rights case... The district court's and the 9th Circuit Court's dockets mistakenly recorded it as a "220 Foreclosure" case. The Petitioner's 2nd-Amended Civil Cover Sheet checked "440 Other Civil Rights" as the Nature of Suit. (*See* App. D).

Petition for Rehearing En Banc at 12-13 cited Hebbe v. Pliler; Coto Settlement v. Eisenberg, 593 F.3d 1031, 1034 (9th Cir. 2010); Ashcroft v. Iqbal; Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56 (2007); Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam); Bretz v. Kelman, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc); McGowan v. Hulick, 612 F.3d 636, 640-42 (7th Cir.2010); Bustos v. Martini Club Inc., 599 F.3d 458, 461-62 (5th Cir.2010); Casanova v. Ulibarri, 595 F.3d 1120, 1124 n. 2, 1125 (10th Cir.2010); Capogrosso v. Sup. Ct. of N.J., 588 F.3d 180, 184 & n. 1 (3d Cir.2009); and Harris v. Mills, 572 F.3d 66, 71-72 (2d Cir.2009) that pro se complaints should continue to be liberally construed after Iqbal.

Reply Brief at 8-9 showed that this Court restated the substance and

application of the test in Twombly for the sufficiency of pleadings. "When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. Our decision in Twombly illustrates the two-pronged approach." Twombly requires "a complaint to allege facts that, if proven, would support the relief requested *and* to show that the alleged facts were "enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." Twombly at 555. The 20-page Joint Brief of Appellees did not challenge the Petitioner's factual allegations. "A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Twombly at 556.

In Balistreri v. Pacifica Police Department, 901 F.2d 696 (9th Cir. 1990), the Court held, "[P]ro se pleadings are liberally construed, particularly where civil rights claims are involved. Christensen v. C.I.R., 786 F.2d 1382, 1384-85 (9th Cir 1986); Bretz v. Kelman, 773 F.2d 1026, 1027 n. 1 (9th Cir. 1985) (en banc)." In Thompson v. Davis, 295 F.3d 890, 895 (9th Cir. 2002), the Court held, "A complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief"; citing Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001).

Opening Brief at 43-44 cited decisions of other appellate courts on the same issue. In cases of Judgement on the Pleadings, "the non-movant's factual allegations must be accepted as true." Doe v. MySpace, Inc., 528 F.3d 413, 418 (5th Cir 2008)

(citing Hughes v. The Tobacco Inst., Inc., 278 F.3d 417, 420 (5th Cir. 2001)); *see also* Jones v. Compass Bancshares Inc., 339 F. App'x 410, 411 (5th Cir. 2009) (per curiam). The court determines "whether, in the light most favorable to the plaintiff, the complaint states a valid claim for relief." Hughes, 278 F.3d at 420. Importantly, not only the facts but also the inferences to be drawn from them "must be viewed by the Court in light most favorable to the nonmoving party." United States v. Gen. Motors Corp., 702 F. Supp. 133, 136 (N.D. Tex. 1988) (citing Wright & Miller, Federal Practice and Procedure: Civil, § 1368 (1969)). Judgment on the pleadings is appropriate only in rare circumstances—namely where "the material facts are not in dispute and a judgment on the merits can be rendered by looking to the substance of the pleadings and any judicially noticed facts." Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co., 313 F.3d 305, 312 (5th Cir. 2002). "Pleadings should be construed liberally, and judgment on the pleadings is appropriate only if there are no disputed issues of fact and only questions of law remain." Id. A defendant should not succeed on its motion for judgment on the pleadings if the allegations in the plaintiff's complaint, if proved, would permit recovery on those claims. *See* Inst. for Scientific Info., Inc. v. Gordon & Breach, Sci. Publishers, Inc., 931 F.2d 1002, 1005 (3rd Cir. 1991), *cert. denied*, 502 U.S. 909 (1991).

D. Judge Settle only paid Attention to "Erroneous State-Court Rulings" and cited *Rooker-Feldman* to Dismiss the 2nd-Am Compl. Lower Federal Courts have Complained about *Rooker-Feldman* Doctrine.

Order at 2 only paid attention to "erroneous state-court rulings"; and failed to notice that the foundation of the erroneous rulings was ignorance of "Trial by an

Impartial Jury and District" and "mandatory requirement of trial under RCW 59.18.380", as secured by the 6th and 7th Amendment.

"*Rooker-Feldman* is not a constitutional doctrine. Rather, the doctrine arises out of a pair of negative inferences drawn from two statutes: 28 U.S.C. § 1331 ... and 28 U.S.C. § 1257....". Noel v. Hall, 341 F.3d. 1148 (9th Cir 2003); citing In re Gruntz, 202 F.3d 1074 (9th Cir. 2000). "*Rooker-Feldman* is a statute-based doctrine, based on the structure and negative inferences of the relevant statutes rather than on any direct command of those statutes". Noel v. Hall.

It is commonplace for the lower federal courts to complain about *Rooker-Feldman* Doctrine: Gottfried v. Med. Planning Servs., Inc., 142 F.3d 326, 330 (6th Cir. 1998) ("*Rooker-Feldman* stands for the simple (yet nonetheless confusing) proposition that lower federal courts do not have jurisdiction to review a case litigated and decided in state court...."); Harris v. N.Y. State Dep't of Health, 202 F.Supp.2d 143, 159 n. 2 (S.D.N.Y.2002) ("[C]onfusion continues in the federal courts on the relation between preclusion and the *Rooker-Feldman* doctrine." (internal quotation marks omitted)); Zealy v. City of Waukesha, 153 F.Supp.2d 970, 980 (E.D.Wis. 2001) ("[T]he distinction between *Rooker-Feldman* and claim preclusion is difficult to draw."). Nevertheless, this statute-based doctrine was widely used by District Courts across the country to dismiss Constitutional claims.

"The Rooker-Feldman doctrine has emerged as perhaps the primary docket-clearing workhorse for the federal courts, ... What is most troubling about the reliance of the lower federal courts on this doctrine is the disjunction between its

heavy use and the lack of attention or articulation the doctrine has been accorded. Its rapid rise and expansion occurred almost entirely below the radar... the Supreme Court has barely commented on it." Susan Bandes, *The Rooker-Feldman Doctrine:* Evaluating Its Jurisdictional Status, 74:4 Notre Dame Law Review 1175 (1999).

The decision to grant or deny leave to amend is within the discretion of the trial court, Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir.1981), but "[o]rdinarily, leave to amend should be freely given in the absence of prejudice to the opposing party." Id.; Wyshak v. City National Bank, 607 F.2d 824, 826 (9th Cir.1979).

The last paragraph of the Memorandum stated, "The district court did not abuse its discretion by denying Ju **further leave** to amend because amendment would be futile. *See Chodos v. West Publ'g Co.*, 292 F.3d 992, 1003 (9th Cir 2002). The Chodos court held: 'It is generally our policy to permit amendment with "extreme liberality," Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir.1990)... When considering a motion for leave to amend, a district court must consider whether the proposed amendment results from undue delay, is made in bad faith, will cause prejudice to the opposing party, or is a dilatory tactic. Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962).'

Petitioner never asked the District Court for leave to amend. On January 10, 2018, she mailed an Amended Complaint pursuant to FRCP 15(a)(1) "Amending as a Matter of Course". On February 12, 2018, she mailed her 2nd-Am Compl. after following the instructions stated in Judge Settle's January 18, 2018, Order. The panel's Memorandum did not state it accurately.

The Joint Brief of Appellees did not show that there was prejudice to them if the Court would permit Petitioner to amend her Complaint. There was no evidence of undue delay, made in bad faith, or a dilatory tactic on the Petitioner's behalf. The 16-page "Statement of Claims" has solid plausibility, and there was no reasonable inference that amendment would be futile. Besides, no other ground than *Rooker-Feldman* doctrine was presented to support the denial of leave to amend.

E. Petitioner did not Receive "a Trial by an Impartial Jury and District" or a Statute-Mandatory Trial as secured by the 6th and 7th Amendment. The State did not have Jurisdiction and Executive Authority to Arrest, Jail, and Prosecute Petitioner.

Joint Brief started with rejecting the Petitioner's Statement of Issues; and did not cite any Court rule or case law that authorized them to do so without being ruled against. Appellees mentioned the 4th, 6th and 11th Amendment; but none on the 7th.

Commissioner Witteman ruled that there was dispute in fact and denied the Petitioner's Knapstad Motion, so the case went to the trial. Ms. Kauffman refused to ask Judge Hagensen for judgment as a matter of law. Judge Hagensen released Mr. O'Neill before the trial started, and Ms. Kauffman did not object. Judge Hagensen did not allow Petitioner to answer questions other than YES or NO; nor did Judge allow Petitioner to testify to the anti-statute Writ of Restitution while prosecutor Sinclair showed the Writ to the jury. The jury was fooled; and the trial was not impartial. At the closing argument, Ms. Kauffman made up a story to frame Petitioner. The jury rendered a verdict to convict Petitioner almost immediately.

Judge Hagensen's enhancement of sentence from the prosecutor recommended 2-day to 10-day Community Service violated the strictures of the line set in Apprendi

v. New Jersey, 530 U.S. 466, 476 (2000), and Blakely v. Washington, 542 U.S. 296, 304 (2004); and the Petitioner's 6th and 14th Amendment rights.

"The Seventh Amendment does apply to actions enforcing statutory rights, and requires a jury trial upon demand, if the statute creates legal rights and remedies, enforceable in an action for damages in the ordinary courts of law." Curtis v. Loether, 415 U.S. 189, 194 (1974). "A damage action under the statute sounds basically in tort—the statute... authorizes the court to compensate a plaintiff for the injury caused by the defendants' wrongful breach. ... [T]his cause of action is analogous to a number of tort actions recognized at common law." Id. at 195. *See* also Wooddell v. International Bhd. of Electrical Workers Local 71, 502 U.S. 93... (1991) (similar suit against union for money damages entitles union member to jury trial; a claim for injunctive relief was incidental to the damages claim)." Petitioner clearly requested jury trial in the Unlawful Detainer case; and RCW 59.18.380 states mandatory trial. Wash. Const. art. I, § 21 states, "The right of trial by jury shall remain inviolate...", which has broader coverage than the 7th Amendment has.

RCW 3.50.430, 39.34.180(1) and case law show that Petitioner was arrested, jailed and prosecuted without jurisdiction and executive authority. "Jurisdiction can be challenged at any time and once challenged, cannot be assumed and must be decided." Basso v. Utah Power & Light Co., 495 F.2d 906, 910 (10th Cir. 1974). "A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking." Bradbury v. Dennis, 310 F.2d 73 (10th Cir. 1962). "The burden shifts to the court to

prove jurisdiction." Rosemond v. Lambert, 469 F.2d 416 (5th Cir. 1972). "When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction." Melo v. United States, 505 F.2d 1026 (8th Cir. 1974).

"A void judgment is no judgment at all and is without legal effect." Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974). "[A] court must vacate any judgment entered in excess of its jurisdiction." Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972). A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include Kalb v. Feuerstein, 308 U.S. 433, 60 S.Ct 343, 84 L.Ed 30 (1940).

F. Other than the 6th and 7th Amendment, Appellees also Violated the 4th, 5th, 8th and 14th Amendment.

Judge Hagensen's re-imposition of Judgment of $293 violated the statutory obligations under RCW 10.01.160(3) and State v. Blazina, 182 Wn. 2d 827, 838 (2015), which required him to make an individualized inquiry into the Petitioner's financial ability to pay. Judge Hagensen did not want to stop; and issued a 5-year Warrant on August 30, 2016, upon Ms. Bennett's lack-of-prosecutorial-right "Notice of Failure to Comply". This unconstitutional and anti-statute Warrant resulted in the Petitioner's 4-day life-threatening confinement in jail after a City Police Officer used other officer's identity to arrest Petitioner; and tried to frame her of trespassing when Judge Hagensen's re-imposition of 24-month probation was in effect.

The City of Vancouver refused to file a Notice of Appearance with Courts; and kept claiming that it was not involved. The City Manager Mr. Eric Holmes and the

Deputy City Manager Ms. Lenda Crawford were served a copy of all court documents after Prosecutor Anne Cruser, Esq.'s February 5, 2016, "Waiver" to this Court stated that the CCPAO did not represent all respondents. The "Waiver" helped prove that CCPAO was fully aware of its lack of jurisdiction and executive authority. Ms. Cruser was appointed by Governor Inslee to a newly created Judge position at Cowlitz County Superior Court in September 2017; and then to Court of Appeals, Division II in February 2019. Judge Vanderwood was appointed to Clark County Superior Court in January 2015. At least 4 State COA judges who avoided the 4th, 5th, 6th, 7th, 8th and 14th Amendment and ignored Defendants' anti-statute violations related to the Petitioner's foreclosure cases were also appointed by Governor Inslee.

Ms. Cruser's "Waiver" motivated Petitioner to find RCW 3.50.430, 39.34.180(1), and City of Auburn v. Gauntt, 160 Wn. App. 567 (COA Div. I, 2011); and 174 Wn.2d 321 (En Banc, 2012) regarding the Sheriff's Office's, CCPAO's and Clark County District Court's lack of jurisdiction or executive authority.

The issuance of the August 30, 2016, Warrant and the arrest by the City Police on June 30, 2017, were in violation of the 4th, 5th, 6th, and 14th Amendment, and Wash. Const. art. I, §§ 3, 7, 9. 20 and 22. The conditions of the 4-day jail confinement constituted cruel and unusual punishment in violation of the 8th Amendment.

The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. Hanson v Denckla, 357 U.S. 235 (1958). A judgment may not be

rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. Earle v. McVeigh, 91 US 503, 23 L Ed 398 (1876).

Judge Settle's Order cited several case laws, but none of the cases addressed the Constitutional issues. The 9th Circuit Court Memorandum stated that Petitioner's "alleging various constitutional claims"; but did not address any Constitutional issue. "The very existence of one system of federal courts and 50 systems of state courts, all charged with the responsibility for interpreting the United States Constitution..." Doran v. Salem Inn, Inc., 422 U.S. 922, 928 (1975).

CCPAO only filed two Responses with the State COA on November 20, 2014, and September 21, 2016, during the almost three years of the State appellate process. The two appellate Courts Commissioners, the COA 3-Judge panels, and the Supreme Court 5-Judge panels never mentioned a word regarding Constitution.

Joint Brief started its "Statement of Case" at 3 with errors in law in its first sentence. Appellees misidentified that Trustee's Sale is "judicial" foreclosure proceedings, in conflict with RCW 61.24.005(17); and that Petitioner was "lawfully evicted", in conflict with the 7th Amendment, Wash. Const. art. I, § 21, and RCW 59.18.380 and 59.12.090. Joint Brief ¶ II.B. also stated that *Rooker-Feldman* doctrine was the federal court's jurisdiction limits.

Judge Hagensen's May 17, 2016, change of the 10-day Community Service to 10-day Work Crew was an obvious violation of Double Jeopardy Clause of the 5th Amendment. The State appellate Courts completely disregarded Judge Hagensen's

violations of Double Jeopardy Clause of the 5th Amendment. Petitioner almost lost her life because Judge Hagensen was discriminatory and prejudiced against her; and because Judge Hagensen did not care about Constitution, statutes, and did not like litigants to file motions so that he could routinely go home early. Petitioner cited Dep't of Revenue v. Kurth Ranch, 511 U.S. 767, 769 n.1 (1994) and other case law on the issue. These cases did not show that CrRLJ 7.8 motion should be the prerequisite of seeking review on Double Jeopardy. The State Supreme Court Commissioner Pierce's Ruling applied a strange and unreasonable standard against Petitioner.

"Dep't of Revenue v. Kurth Ranch cited United States v. Halper, 490 US 435, 109 S. Ct. 1892, 104 L. Ed. 2d 487 (1989). This Court held in Halper at 440,

> This Court many times has held that the Double Jeopardy Clause protects against three distinct abuses: a second prosecution for the same offense after acquittal; a second prosecution for the same offense after conviction; and multiple punishments for the same offense. See, *e. g.*, *North Carolina* v. *Pearce*, 395 U. S. 711, 717 (1969)... [T]his Court, over a century ago, observed: "If there is anything settled in the jurisprudence of England and America, it is that no man can be twice lawfully punished for the same offence." *Ex parte Lange*, 18 Wall. 163, 168 (1874).

Deputy Robertson violated the Sheriff's Office's "3 judicial days" policies, and conducted illegal forcible entering, arrest, extended search, denial of counsel, and unlawful jail when the State did not have jurisdiction and executive authority. He infringed, conspired against, and deprived of the Petitioner's 4th, 6th, 8th and 14th Amendment rights, and violated RCW 59.12.090 and 10.79.040. The Sheriff's Office must have had policies in instructing deputies how to treat a peaceful arrestee in a humane way; how to act in a manner that causes the least harm to citizens; how to keep arrestee safe when lock him/her in the patrol car under elevated temperature in

summer; as well as why jurisdiction and executive authority should be the first thing for deputies to check. Deputy Robertson's unlawful misconducts in 2013 resulted in severity of cruel and unusual punishment in 2017. The jail staff "stole" from Petitioner two postcards, a 3-inch pencil, an eraser, a comb or hair pick; and "traded" a broken spoon for a good one. Officer Gunnar Skollingsberg and the jail staff acted in a calculated way to deprive Petitioner of essential foods. 2nd-Am Compl. at 15 & 23 stated that Jail guards used sticks to knock on metal bars at night, among other behaviors, to keep inmates from sleeping. Order at 4 misread and misinterpreted, "fellow inmates were loud at night". This is one of the clear errors in the Order.

G. State Sovereign Immunity does not Extend to Cases where a Plaintiff Alleges the State's Action is in Violation of the Federal or State Constitution, or in Discrimination. 42 U.S.C. § 1983 falls within the "Expressly Authorized" Exception of 28 U.S.C. § 2283.

Joint Brief at 17-18 argued the 11th Amendment and sovereign immunity. Reply Brief at 15-17 refuted. "Sovereign immunity does not exempt the State from a challenge based on violation of the federal or state constitutions, because any other rule self-evidently would make constitutional law subservient to the State's will. Moreover, neither the common law nor a state statute can supersede a provision of the federal or state constitutions." Department of Revenue v. Kuhnlein, 646 So. 2d 717, 721 (Fla. 1994). There are exceptions to the doctrine of sovereign immunities derived from the 11th Amendment. If the state or local government entities receive federal funding for whatever purpose, they cannot claim sovereign immunity if they are sued in federal court for discrimination. 42 U.S.C. § 2000d-7 explicitly says this. As long as the state entity receives federal funding, then the sovereign immunity for

discrimination cases is not abrogated, but voluntarily waived. The 2nd-Am Compl. stated discrimination in 3 places. 42 U.S.C. § 2000d-7(a)(1) withdraws the State's 11th Amendment Immunity.

Joint Brief at 18-19 cited Anti-Injunction Act (AIA), 28 U.S.C. § 2283. Reply Brief at 19-22 states that the 3 exceptions to the AIA are intended to ensure that state courts are not used by litigants to evade federal law. Petitioner also states 28 U.S.C. § 1651(a), the All-Writs Act; De Beers Consol. Mines, Ltd. V. United States, 325 U.S. 212, 216 (1945); Bell v. Hood, 327 U.S. 678, 684 (1946); Mitchum v. Foster, 407 U.S. 225, 241-243 (1972); and Ex Parte Virginia, 100 U.S. 339 (1880).

'The very purpose of § 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights—to protect the people from unconstitutional action under color of state law, "whether that action be executive, legislative, or judicial." *Ex parte Virginia,* 100 U.S., at 346. In carrying out that purpose, Congress plainly authorized the federal courts to issue injunctions in § 1983 actions, by expressly authorizing a "suit in equity" as one of the means of redress... § 1983 is an Act of Congress that falls within the "expressly authorized" exception of that law.' Mitchum at 242.

Joint Brief at 19-20 cited Younger v. Harris, 401 U.S. 37 (1971); and Younger Abstention doctrine. Younger does not bar a federal court injunction where a constitutional claim cannot adequately be considered in a state forum. Younger does not allow state officials to violate constitutional rights with impunity. The Younger doctrine does not limit a federal court's authority to fashion a remedy for a

constitutional violation after the court determines that federal jurisdiction should be exercised. Besides, there are no pending State proceedings in this case.

H. Judge Hagensen was in Enforcement Capacity, so he is not Entitled to Judicial Immunity. Absolute Immunity and Absolute Quasi-Judicial Immunity should not apply to Trespassers of the U.S. Constitution, Washington State Constitution and Statutes.

Wash. Const. art. IV, § 28 requires Judges take and subscribe an oath that he will support the Constitution. Supreme Court of Virginia v. Consumers Union, 446 U.S. 719, 735 (1980) held, "[W]e have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts." In August 2013, Judge Stahnke struck the hearing of the Petitioner's 3 motions even though the motions had been noted in the Court calendar. One of the motions was seeking Judge Stahnke's recusal. Since then, Petitioner did not dare to ask any Washington State Judge to recuse himself/herself. In this case, the Superior Court Judges and State Justices kept their silence on Constitution and State statutes. They acted against their oaths; and constituted Judicial Bias. Judge Settle ruled that *Rooker-Feldman* doctrine prevented Petitioner from pursuing the issues. It would be justified if Petitioner is granted leave to amend her pleadings to include Judicial Bias.

In Hospital Bldg. Co. v. Trustees of Rex Hospital, 425 U.S. 738 (1976), this Court held, "[D]ismissals prior to giving the plaintiff ample opportunity for discovery should be granted very sparingly." 425 U.S. at 746. Within 20 days after Petitioner filed her Complaint, Judge Settle issued his first Order Dismissing Complaint on January 18, 2018. The early dismissal prevented individual defendants who were sued in their personal capacities from appearing in this case; and deprived Petitioner

of proper opportunity to conduct discovery. There is reasonable expectation that deposing the individual Defendants might reveal that their acts were instructed by someone higher-up, which could help Petitioner prosecute Defendants in this case.

Mireles v. Waco, 502 U.S. 9, 11 (1991) held, "[A] judge is not immune from liability for nonjudicial actions, *i.e.,* actions not taken in the judge's judicial capacity. *Forrester v. White,* 484 U.S., at 227-229; *Stump v. Sparkman,* 435 U.S., at 360." Stump, 435 U.S. at 362 stated, 'In determining whether an action is "judicial," we consider the nature of the act and whether it is a "function normally performed by a judge."' In Supreme Court of Virginia v. Consumers Union of United States, Inc., 446 U.S. 719, 736-37 (1980), this Court held that Judge was not entitled to judicial immunity when acting in enforcement capacity. In a comparable case law, Mitchell v. Forsyth, 472 U.S. 511, 520-24 (1985), this Court held that Attorney General was not absolutely immune when performing "national security," rather than prosecutorial, function. Ms. Bennett's "Reason for issuance" of Warrant: "Failure to Comply with Court Order" shows that Judge Hagensen was in enforcement capacity; thus, he is not entitled to judicial immunity.

In Scheuer v. Rhodes, 416 U.S. 232 (1974), the District Court dismissed the complaints for lack of jurisdiction without the filing of any answer; on the theory that these actions, although in form against the named individuals, were, in substance and effect, against the State of Ohio and thus barred by the 11th Amendment. This Court reversed the 6th Circuit Court's decision, remanded the case, and held, "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 complaints as it did without affording petitioners any opportunity by subsequent proof to establish their claims." 416 U.S. 232, 235-238. Judge Settle's Order at 3 showed that seeking "monetary relief against immune defendants" was one of the primary reasons that he dismissed the 2nd-Am Compl. (App. B).

"[D]amages against individual defendants are a permissible remedy in some circumstances notwithstanding the fact that they hold public office. Myers v. Anderson, 238 U.S. 368 (1915). See generally Monroe v. Pape, 365 U.S. 167 (1961); Moor v. County of Alameda, 411 U.S. 693 (1973). In some situations a damage remedy can be as effective a redress for the infringement of a constitutional right as injunctive relief might be in another." Scheuer at 238. Petitioner discussed Scheuer and Ex Parte Young, 209 U.S. 123 (1908) in Reply Brief at 14-15. "The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." Ex Parte Young, at 159-160.

Joint Brief at 11-16 regards, "The District Court correctly dismissed Ms. Ju's claims based on the federal court's jurisdictional limits recognized in the *Rooker-Feldman* doctrine." This is wrong. '[A court] "must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by, because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of

jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution." United States v. Will, 449 U.S. 200, n.19 (1980); citing Cohens v. Virginia, 19 U.S. 264, 404 (1821). Judge Stahnke did not have jurisdiction to hear the case and issue a Writ of Restitution in August 2013, because Mr. Chwen-Jye Ju had lived abroad since 2003; and because Mr. O'Neill never served Mr. Ju the Summons and Complaint. Judge Hagensen instructed the Court not to accept the filing of the Petitioner's 4 motions. Judge Settle invoked *Rooker-Feldman* doctrine and 28 U.S.C. § 1915(e)(2) to dismiss 2nd-Am Compl.

"Courts are constituted by authority and they cannot beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply void, and this even prior to reversal." Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348 (1920); quoting Elliott v. Peirsol, 26 U.S. 328, 340 (1828); Old Wayne Life Ass'n v. McDonough, 204 U.S. 8 (1907). "But if [a court] acts without authority,... [t]hey constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers." Elliott at 340.

Other federal circuit courts are divided on whether immunity from injunctive relief applies to non-judges performing judicial functions as well as to actual judges. The 2nd Circuit Court said the immunity from injunctive relief in § 1983 actions did extend to those quasi-judicial situations (*e.g.,* Montero v. Travis, 171 F.3d 757 (2d Cir. 1999)). § 1983 did not define the term "judicial officer", however. 2nd-Am Compl. also asked for declaratory and other relief pursuant to 28 U.S.C. §§ 2201 & 2202.

I. This case is Entitled to the Re-examination Clause of the 7th Amendment. The 8th Circuit Court held that the Federal Courts have Inherent Power to Expunge Criminal Records when Necessary.

The content of due process traces all the way back to King John's chapter 39 of Magna Carta in 1215. Petitioner lost her home to foreclosure because her ex-husband owed her 6-figure judgment money while she raised 3 children and helped them go to college. Mr. O'Neill violated RCW 61.24.135(1) and CPA, and then conspired with Deputy Robertson to arrest, deny counsel, jail, and prosecute Petitioner. Mr. O'Neill may have hidden somewhere because last year Petitioner was unable to locate him.

Prosecutors may have misunderstood that the foreclosure was a "judicial proceeding", just like Joint Brief stated; and determined to "punish" Petitioner by acting in ways inconsistent with Constitution and controlling statutory law. Public defenders violated the American tradition of adversary litigation and worked for the prosecution to intentionally inflict harm upon Petitioner. Judge Hagensen, Judge Vanderwood, and State appellate Courts discriminatorily acquiesced and ratified the prosecutors' misconduct to make this case last 5-1/2 years; and improperly protected lawbreakers. The malicious prosecution resulted in criminal records, which operate to the Petitioner's detriment. Petitioner was unable to seek employment; and must apply for the Social Security retirement benefits early at age 62; and suffers 24.58% discount of benefits for the rest of her life.

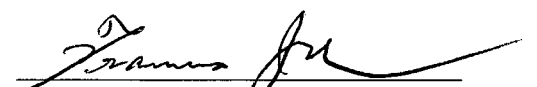
Judge Settle painted it as a "state court loser" case; and invoked *Rooker-Feldman* doctrine to dismiss the 2nd-Am Compl. even though this case is entitled to the Re-examination Clause of the 7th Amendment because most of the issues were not

tried by jury. "It is established that the federal courts have inherent power to expunge criminal records when necessary to preserve basic legal rights." United States v. McMains, 540 F.2d 387, 389 (8th Cir. 1976). Order at 4 ruled, "Plaintiff cannot seek the relief of... expungement of her state-court criminal record." Before 2013, Petitioner even did not know the basic terminology in criminal law. How prosecutors pick their victims to boost their "winning record", whether judges are faithful to their constitutional responsibilities, or how many victims are similarly situated, among all related issues, are of importance to the public.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



FRANCES DU JU

Date: July 1, 2019.