19-5117

Supreme Court, U.S.
FILED
NOV 0 1 2019
OFFICE OF THE CLERK

IN THE UNITED STATES SUPREME COURT

Antonio Marcus Hudson for
ANTONIO MARCUS HUDSON
In Propria Personna, Suis Jurisdiction
Special Appearance, Special Visitation
Limited Appearance

Plaintiff-Appellant

v.

ARTHUR TARNOW, ET. AL.
Defendant(s)-Appellees

in his or her individual and official capacity

_____/

Civil Action No: 13-12604
and No. 17-10608

Honorable Peter Economus
Honorable Stephen Murphy

PETITION FOR REHEARING

EXHIBIT 1 - 8
FOR JUDICIAL NOTICE

OPENING STATEMENT

On October 7, 2019, the Court released an Order Denying Antonio Hudson's Petition for Writ of Certiorari. The accural of intervening facts and circumstances create an appearance and a reality that silenced class members are being denied equal justice under the law, as well as the absence of sound judicial decision making. Antonio Hudson asks this Court to reconsider the Court's denial of his Petition for a Writ of Certiorari. (paraphrasing, Donivon Craig Tingle vs. Sonny Perdue, Secretary of the United States Department of Agriculture, Et. Al. [4-20-18])

STANDARD FOR REHEARING

Pursuant to FRCP 59(e) this Court may grant a motion for rehearing if it finds that there is "an intervening change of controlling law, the availabilit of new evidence, or the need to correct a clear error or prevent manifest injustice." Firestone v. Firestone, 76 F.3d. 1205, 1208 (D.C. Cir. 1996) (per curium)(citation omitted). Addditionally, FRCP 60(b) allows this Court to grant a Motion for Rehearing for a variety of reasons including (1) mistake, inadvertence, surprise, or excusable neglect; (6) and any other reason that justifies relief. In this regard the Petitioner submits his Motion to Clarify, Amend or Supplement Pursuant to Rule(s) 28 USCS 1915(d), FRCP 4(a), 4(m) and Rule 60 and 60 (b)(6). The egregious violations presented in this Petition cite horrendous errors in law by the Sixth Circuit Court of Appeals and the United States District Court, Eastern District.

PETITION FOR REHEARING

The intervening facts and circumstances include most immediately the manner in which the Petition for Certiorari was handled by this Court. Mr. Hudson's Petition for Certiorari was denied based on a "reasoned and professional judgment" that the Panel's precedential opinion would not agree with the

Supreme Court's decisions in numerous civil rights cases citing violations of the Petitioner's rights as well as First, Fifth, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Thirteenth, and Fourteenth Amendment principles guaranteeing the rights of American citizens—that means Black Citizens as well. Griffen v. Breckenridge; Bivens v. Six Unknown Named Narcotics Agents; Old County Trust Co. v. City Settle, Et. Al.; United States v. Lee, 106 U.S. 196, 1 S.Ct. 240, 27 L. Ed. 171 (1882)l; Ex Parte Young; Pierson v. Ray, 386 U.S. 547, 568 (1967);United States v. Campbell, 168 F. 3d. 263, 265 6th Cir. 1999); United States v. Classic, 313 U.S. 299; Screws v. United States, 325 U.S. 91; Burnside v. Walters; Days Inn, Worldwide Inc. v. Patel, 445 F. 3d. 899, 906 (6th Cir. 2006); Outess v. Sobolvetich, 914 F. 2d. 428 (3rd Cir. 1990); Heck v.Humphrey and Cohen v. Longshore, 621 F. 3d. 1311, 1318 (10th Cir. 2010); Erickson v. Pardus, 127 S.Ct. 2197, 2198 (2007); Neitzke v. Williams, 490 U.S. 319, 325 (1998); Elliot v. Piersol, 1 Pet, 328, 340, U.S. 328, 340 (1828).

Such decisions cannot be made by theClerk of the Court or Case Manager as was done in this instance **on October 7, 2019**, the first day the Session began for the Court and should receive consideration by the full Court and consideration of the Court is therefore necessary. The Panel's opinion involves resolving a question of exceptional importance, 'may district court judges join in a league of judges in the United States Circuit Court to disagree with Constitutional safeguards and grounds for Relief and vary from all Federal Guidelines based upon individual case (or ethnic) preference. Case No. 19-5117 warrants a different result regardless of the Clerk and Case Manager who operate without Judicial authority and the Opinion of October 7, 2019 relects an unsound judgment. It is clear that Mr. Hudson has been treated in a way that the Panel or Court generally does not treat Petitioners. The Case was placed on the Docket merely to **dismiss.** What is the Supreme Court's view on the proper role of Certiorari Hearing? The October 7, 2019 Opinion cannot be reconciled with the Panels considerations of factors to individual specific case facts where violations egregiously stated by Mr. Hudson in his Petition for Certiorari received prompt Relief from the Supreme Court and history of that relief documented in Opinions in Mr. Hudson's Petition.

The United States Supreme Court should Grant Rehearing to correct the obstruction of justice,

miscarriage of justice, and denial of equal protection under the law and to consider whether the Policy Judgment made by the Clerk Scott Harris and Case Manager Clayton Higgins (each named as Defendants in the Civil Rights Suits, 13-12604 and 17-10608), underlying Constitutional Law, Federal Court Statutes and Supreme Court precedence are unsound in its application concerning the matter of Hudson v. Hood (Hudson v. Tarnow) Et. Al.

Now Comes Antonio Marcus Hudson Pro Se, in this Civil Rights matter brought pursuant to Bivens v. Six Unknown Names Agents of the Federal Bureau of Narcotics, 42 USC 1983, and 1985(2)(3); 28 USC 1331(a), 1332, 1343 (2)(3)(4); 28 USC 1391(b)(2)(c); 18 USC 241 and 242, Art. I. Sec. 9. Cl. 2 of the United States Constitution, Habeas Corpus Act of (1789, 1838, 1867), Title VI of Civil Rights Act of 1964 and Injury-in-Fact, and 28 USC 2254 and 28 USC 2244 for violations of the First Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Thirteenth, and Fourteenth Amendments of the United States Constitution by Federal and State employees **under the color of law** causing a deprivation of rights, privileges and immunities through a "class-based" invidiously discriminatory animus where he is a "class-of-one" being made to suffer 26 years of false imprisonment and denial to access to the Federal Courts and restates all grounds and Statutes of his Verified Complaint, Introduction, Cause of Action, Grounds for Relief as stated in his April 20, 2018 Brief on Appeal in this Court and states the following in the interest of justice and due to the many procedural errors presented allow these pages:

The Plaintiff respectfully moves to make clarification of the District Court's Orders of September 22, 2014, October 24, 2014, March 10, 2015, March 21, 2017, and May 5, 2017. **The United States District Court violated 28 USC Sec. 1915(d)**, failure to complete service of process of Summons and Complaint after the Plaintiff was Granted the right to proceed In Forma Pauperis in the United States District Court in Case No. 17-10608. Pursuant to 28 USC 1915(d) the **case cannot be dismissed on any ground after receiving In Forma Pauperis relief.** Due to failure to follow Federal Guidelines the Respondents have not made an Appearance in this matter. The case requires a Complaint and a Response from Respondents to the allegations of the case. The solution

adopted by the Court issuing an Order Dismissing the Complaint has produced a "procedural nightmare" for the Complainant which has caused and will cause a need for continuous relitigation in every case in which **these State and Federal Respondents may appear.** The Plaintiff relied upon the district court to follow the Federal Rules of Civil Procedure, Federal Rules of Appellate Procedure and United States Supreme Court precedence and that his rights to procedural and substantive due process would be protected by the Court. Therefore Plaintiff asks that the Sixth Circuit Order a correction of this nonconformity in service of process and reissue the Order requiring the United States District Court to serve the Respondents. Plaintiff is also entitled to Rule 60(b)(6) Relief and a right to amend the Complaint including Federal Parties that continue to violate his civil and Constitutional rights.

Plaintiff has been denied a right to a hearing or public trial. A record created on a factual trial will support the award of monetary relief. Judges should have been disqualified in United States District Court and on Appeal to the Sixth Circuit for biased and prejudicial decisions and illegal dismissal of both Complaints and failing to grant relief Plaintiff sought. **The Court Orders do not support nor explain failure to give the Constitutionally appropriate demand for reply from the Respondents in Case No. 13-12604 nor 17-10608. 403 U.S. 388 (1971). Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics: Victims of a violation of the Federal Constitution by a federal officer have a right under Bivens to recover damages against the officer in federal court despite the absence of any statutory basis for such a right. 42 USC 1985(2)(3);**

(cited on Page v, vi, 4, 10, 29 in Brief on Appeal Case No. 17-1455 in error as 42 USC 1983(2)(3).)

> **42 USC 1985(2) Obstructing justice, intimidating party, witness, or juror;**
>
> If two or more persons in any State or Territory, conspire to deter by force, intimidation, or threat, any party or wiitness in any court in the United States from attending such court, or testifying to any matter pending, therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment lawfully assented to by him...or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner the due course of justice in any State or Territory, with intent to deny any citizen the equal protection of the laws, or to injure him or his property

for lawfully enforcing or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.

42 USC 1985(3) Depriving persons of rights or privileges

If two or more person in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving either directly or indirectly any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws...if one or more persons engaged therein do or cause to be done any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation against anyone or more of the conspirators.

Plaintiff Hudson has made a prima facie case for racial discrimination in the Federal Courts.

In United States Supreme Court Opinion, Batson v. Kentucky, 476 U.S. 79, the Court stated: Discrimination by a prosecutor in selecting a defendant's jury violated the Fourteenth Amendment. The Supreme Court Reversed the Fifth Circuit finding that the 'merits of Miller-El v. Cockrell, 537 U.S. 322, Miller-El is entitled to prevail on his Batson Claim and thus entitled to habeas relief. This Court consistently and repeatedly has reaffirmed that racial discrimination by the State in jury selection offends the Equal Protection Clause. Georgia v. McCollum, 505 U.S. 42, 44, The Batson Court held: That a Defendant can make a prima facie case of discriminatory jury selection by the "totality of the relevant facts" about the prosecutor's conduct during the Defendant's own trial. 476 U.S. at 94; once that showing is made the burden shifts to the State to come forward with a neutral explanation. id. At 97, and the trial court must determine if the defendant has shown "purposeful discrimination."

In Plaintiff's meritorious habeas corpus claims he gave detailed account of Judge, Court Clerk, Prosecutor and Court-Appointed Attorney misconduct. The Trial Court and Prosecutor loaded the Plaintiff's Jury Gallery with their personal friends and acquaintances. The Trial Court stated on the record that Juror XXX and Juror XXX were his personal, life-long friends and then vouched for their impartiality from the Bench. The Trial Court denied the Plaintiff the right to hire his own Attorney for Trial, telling every attorney his Mother tried to hire "he would not allow them to sign on to the case as Attorney of Record." He appointed his friend to represent the Plaintiff at trial, who told the Plaintiff, "you're nothing. you're nothing to me. I'm not risking my career for you. I'm

taking my instructions from the Judge and the Prosecutor." The Attorney refused to use any necessary preemptory strikes to remove the prejudicial jurors from the panel. The Judge and Prosecutor complimented each other on the Record for loading the jury pool with their associates. This claim meets the United States Supreme Court Standard as a "Batson Claim." Plaintiff stated numerous violations in his Petition which required automatic reversal of his conviction and sentence due to the conspiracy among the State Officials to bring about his wrongful conviction and incarceration.

> By law, a judge is a State Officer. The Judge then acts not as a judge, but as a private individual (in his person), when a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses **subject matter jurisdiction** and the judge's orders are not voidable, but VOID, and no legal force or effect. The United States Supreme Court stated that "when a State Officer acts under a State Law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case **stripped of his official or representative character** and is subjected in his person to the consequences of his individual conduct. The **State has no power to impart to him any immunity from the responsibility to the supreme authority of the United States.** Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).
>
> When a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites, **he may be held civily liable for abuse of the process even though his act involved a decision he made in good faith, that he had jurisdiction.** U.S. Fidelity and Guaranty Co. Miss., 217, 576 64, So. 2d. 697. Hence, the act of filing suit against a governmental entity represents an exercise of the right to petition and thus invokes Constitutional protection.. City of Long Beach v. Bozek, 31 Cal. 3d. 527 at 533-534 (1992).

When the Court has no subject matter jurisdiction, there "is no rational argument in law or fact" to support the claim for relief and the case must be dismissed pursuant to 28 USCS Sec. 1915(e)(2)(B)(i). Mack v. Massahussetts, 204 F. Supp. 2d. 163, 166 (2002).

> The Federal Habeas Corpus General Principles; the Writ of Habeas Corpus is procedure by which a federal court inquires into illegal detention and potentially issues an Order directing State authorities to release the Petitioner. As described by the United States Supreme Court, "its function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraint." Fay v. Noia, 372 U.S. 391, 401-02, 83 S.Ct. 822, 9 L.Ed. 2d. 837 (1963). The Supreme Court has described the Writ as a "prisoner-initiated civil remedy **informed by equitable principles, and as a statutory procedure over which the courts, or atleast the Court, exercises broad regulatory power.** J. Liebman

& R. Herz, Fed. Habeas Corp. Practice and Procedure, Sec. 2.2 at 15 (3.ed. 1998).

28 USC 2254 is in no way subject to 28 USC Sec. 1915(e)(2)(B)(i) "rational for dismissal." The Plaintiff entered the United States District Court with Standing to Sue claiming that he was being held in violation of the laws, and treaties and the United States Constitution, 28 USCS 2254(a). The Petition was not subject to dismissal. There are no res judicata on the Plaintiff's claims for serving 26 (twenty-six years) of false or wrongful imprisonment perpetrated by the State of Michigan's Officers, Judges, and Officials. Constitutional law supports the "rationale" for Plaintiff's indisputable claims for relief and his right to present those claims to a federal court, to be reviewed without bias, discrimination or prejudice. Due to criminal collusion between the State and Federal Officials the United States District Court Judge Arthur J. Tarnow "**refused to inquire into the illegal detention cited in Plaintiff's Habeas Corpus Petition. With deliberate malice, intentionally, and knowingly violated Federal Constitutional law to assist the State of Michigan in holding the Plaintiff in a position of involuntary slavery for 26 years." The Record is Clear, all Parties, including the three-panel judges, from 2005 until 2018, in the Sixth Circuit Court of Appeals, have failed to protect and enforce the equal rights of the Plaintiff in the Courts, failed to provide or allow procedural or substantive due process in the Hearing of the matter.** The Michigan Constitution, Michigan Compiled Laws, United States Constitution, Federal Statutes, and United States Supreme Court precedence were violated jointly, individually, and in each's official capacity "under color of law" for all Defendants. The Defendants have demonstrated from their conduct that the Plaintiff's claims have merit and "should be prevented from Constitutionally appropriate Review and/or presentation in a Trial by Jury. The Plaintiff submitted evidence to the Courts to support his claim of actual, factual innocence in this matter. Usurpation of power, fraud, and miscarriage of justice have been practiced by the Defendants for 28 years "under color of law." The Plaintiff was awarded a Certificate of Appealability in the United States District Court and in the Sixth Circuit Court of Appeals during the period that he prosecuted his habeas corpus petition. Plaintiff successfully demonstrated a

violation of his Constitutional rights. Plaintiff is eligible for Rule 60(b)(6) Relief. (1) Plaintiff learned that the Clerk of the District Court failed to provide "process of service" of the Summons and Complaint in the current matter as prescribed by Sec. 1915(d); (2) Rule 52(b) filed October 6, 2014 is still pending in the District Court in Case No. 13-12604 to Recind the Designation of Judge Peter Economus to Hear this matter and Set Aside or Alter the Judgment, pursuant to Rule 4(a) the Sixth Circuit took unauthorized jurisdiction of the matter which makes ruling of the Court moot; (3) The Plaintiff has been subjected to egregious conduct of bias and prejudice from the bench in Case No. 13-12604 and Case No. 17-10608. The Court has not protected or afforded the Plaintiff equal rights or rights to due substantive or procedural due process. All adverse Decisions of the Court should be ruled Moot and this matter remanded to a nonbiased Judge in the District Court and scheduled for discovery and Trial. This request is made within a "reasonable time no more than a year after the date of entry of the judgment or order or date of the proceeding pursuant to Rule 60(b).

> **Neitzke v. Williams**, 490 U.S. 319, 325 (1998), the Court stated: A complaint filed informa pauperis is not automatically *frivolous* within the meaning of 1915(d) because it fails to state a claim under Rule 12(b)(6). The two standards were devised to serve distinctive goals and have separate functions. Under Rule 12(b)(6)'s "failure-to-state-a-claim" standard which is designed to streamline litigation by dispensing with needless discovery and factfinding, a court may dismiss a claim based on a dispositive issue of law without regard to whether it is based on an outlandish legal theory or on a close but ultimately unavailing one, whereas under 1915(d)'s frivolous standard which is intended to discourage baseless lawsuits--dismissal is proper only if the legal theory...or the factual contentions lack an arguable basis. The considerable common ground (490 U.S. 319, 320) between the two standards **does not mean that one invariably encompasses the other**, since where a complaint raises an arguable question of law which the district court ultimately finds is correctly resolved against the plaintiff, dismissal on Rule 12(b)(6) grounds is appropriate, but dismissal on the basis of frivolousness is not. This conclusion flows from 1915(d)'s role of replicating the function of screening out inarguable claims from arguably meritorious ones played out in the realm of paid cases by financial considerations. Moreover, it accords, with the understanding articulated in other areas of law that not all unsuccessful claims are frivolous. It is also consonant with Congress' goal in enacting the **informa paueris** statute of assuring equality of consideration for all litigants. To conflate these standards would deny indigent plaintiffs the practical protections of Rule 12 (b)(6), 'notice of a pending motion to dismiss' and an opportunity to amend the complaint before the motion is ruled on—which are not provided when complaints are dismissed sua sponte under 1915(d).

This case is the perfect case (vehicle) to bring clarity to the Supreme Court's Due Process Clause. The Due Process Clause is undoubtedly in need of clarity as demonstrated in the denial of the Petition for Writ of Certiorari. It is difficult to imagine an area of law more in need of clarity. The clarity missing from this Court's Due Process Clause and Equal Protection jurispurdence will likely be found by granting Certiorari in this Case.

First the Case is simple. The Government has declared as a National Law a clearly mandatory "privileges, immunities and liberties" claim and has mandated that law in American Society as the First, Fourteenth and Fifth Amendments. Second, this Court and the Sixth Circuit Court of Appeals has decided an important question of Federal Law that has not been, but should be settled by this Court. Does the Constitution permit the **disregard of exercise and access** to those rights and protection to those people still ignored and or excluded. United States v. Virginia, 518 U.S. 515, 557 (1996).

Regrettably, intolerable bias has worked its way into the Court's jurisprudence and for twenty-eight years has resulted in decisions that are utterly "revolting in this matter of Hudson v. Tarnow and/or Hudson v. Hood, Et. Al.", and the Courts have unfortunately not recognized the wrong on any day that it was decided. The Petitioner believes Plessy v. Ferguson was wrong the day it was decided, holding that "seprate but equal railroad coaches for Blacks and Whites were Constitutional." 163 U.S. 537 (1896).

> In cases all involving issues of equal protection consistently highlighted a worrisome dynamic, the decision makers were never of the disenfranchised Minority Class to which those being discriminated against belonged." There were no Asian-American Justices in Korematsu and no Black Justices in Plessy. The self-reinforcement of equal protection violations need to be emphasized. Those who are favored become inured to the harmful nature and discriminatory effects of disenfranchisement. That is why the discrimintion persists.(quoting New Doe Child #1, Et. Al. v. United States of America, Et. Al.)

The inappropriate handling of Mr. Hudson's Petition for Certiorari was the resul of being "ha-haed" by those who read its words. Racial discrimination is dismissed as an inappropriate joke and those in charge enjoy the racial discrimination that they have accustomed to causing in the egregious

Constitutional violation. The acceptable "status quo" is to be ignored if you are poor or not White. This case would be an excellent one to ensure that racism promoted in the United States District Court by Judges on the bench and the Sixth Circuit Court of Appeals, are no longer correct in the Supreme Court "permissible as government endorsed injustice." This Panel should Review the Petition for Certiorari Motion/Petition for Rehearing and Grant all requested Relief, based upon the plythoria of egregious Constitutional violations stated therein. (Paraphrasing New Doe Child #1 Et. Al. vs. USA, Et. Al.)

CONCLUSION

This Court should enter an Order Granting Rehearing, Grant Petitioner Hudson's Petition for a Writ of Certiorari, Enforce the Relief Granted in the Petitioner's Rule 60, 60(b)(6) Motion to the Sixth Circuit Court of Appeals, to consolidate Case No. 13-12604/17-10608, Grant all Relief requested in the Petition for Certiorari, entitlement to Public Trial, Compensatory and Punitive Damages.

Respectfully Submitted,

Antonio Marcus Hudson without prejudice UCC 1-308

Antonio Marcus Hudson for
ANTONIO MARCUS HUDSON
In Propria Personna, Suis Juris
195 West Kennett Road
Pontiac, Michigan 48430

CERTIFICATION OF COUNSEL

Now Comees the Petitioner Antonio Hudson, In Propria Personna, in this 42 USC, and 28 USC 2254 matter and states that the Motion to Take Judicial Notice and Corrected Petition for Rehearing are presented in good faith and not for delay and that its grounds are limied to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Respectfully Submitted,

Antonio Hudson, Pro Per
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Pontiac, MI 48340

Additional material from this filing is available in the Clerk's Office.