No. 19-5925

SUPREME COURT OF THE UNITED STATES

KAVIN MAURICE RHODES,
Petitioner,

vs.

PETER C. SWARTH, et al.,
Respondents.

PETITION FOR REHEARING EN BANC

Kavin M. Rhodes, D-20245
Pelican Bay State Prison
P.O. 7500, A3-219
Crescent City, CA 95532
In Pro Se

Comes now, Petitioner Kavin Maurice Rhodes, proceeding in pro se, seeks a Rehearing of the Court's denial of his Petition for Writ of Certiorari, that is believed to be in complaince with Supreme Court Rule 44.2, as certified to in Petitioner's attached Certificate of Compliance.

On November 18, 2019, the Court denied the instant Petition for Writ of Certiorari, and on December 2, 2019, Petitioner proceeding in pro se, forward his Petition for Rehearing to the Court, which was postmaked December 3, 2019. And on December 10, 2019, the Court returned the Petition for Rehearing, with instructions to correct said Petition in compliance with Supreme Court Rule 44.6, within 15 days of the Court's Order. An Order of this Court, issued to Petitioner by prison officials on December 18, 2019, leaving Petitioner a single day, December 19, 2019, to attempt to correct, and compose his Petition for Rehearing, without any form of access to a law library, for any form of any legal research. See relevant documentation attached hereto, as Appendices, 1, 2, & 3.

In any event, Petition for Rhearing of a denial of a petition for writ of certirari, is a part of the appellate procedure authorized by the Rules of the Supreme Court, subject to the requirements of Rule 58 on rehearings. The right to such consideration is not to be deemed an empty formality as though such petitions will as a matter of course be denied. This being so, the denial of a petition for certiorari, should not be treated as a definitive determination in this Court, subject to the consequences of such determination. Accordingly, on an appropriate showing that as a substantial matter, as required by Rule 58, is

to be presented the opportunity to do so. Flynn v. United States, 98 L.Ed. 1298, 1299 (1955).

The first intervening circumstances of a substantial and controlling effect, are prison officials continuned First Amendment retaliation, **immediately** on the heels of the Court's denial of Certiorari, in this matter, in the form of the absolute denial of access to the law library, and all forms of legal material to assist Petitioner in the continued pursuit of his civil and Constitutional rights.

That is, on December 16, 2019, the very day that the Court's rejection of Petitioner's Petition for Rehearing was received at the prison, Petitioner's was informed directlty by the prison's law librarian,"I will no longer mail out legal mail for you, or make any copies for you." And the librarian has subsequently instructed all of his inmate clerks, to discard any current and future request for access to law library, and any and all request for legal material from Petitioner. While simultaneously, corectional officers, entered Petitioner's assisgned cell, and confiscated all documentation pertinent to this case; to send the clear message, that all such retaliations are as a direct result for proceedings before this Court.

Petitioner has not make a direct reference to his rights under 18 U.S.C. § 1915(g), and the 8th Amendment to the United States Constitution, to be free of crual and unusual punishments, as contrued by the Court in Bruce v. Sammuels, 577 U.S. ___, (2016)(Slip Op. at 4), that which no court below has adressed, and that which this Court has countenanced such abuse by the denial of Certiorari.

Nor has Petitioner presented to this Court, allegations of the

denial of the rule of law, as long ago established by this Court at the pleading stage, to determine if a plaintiff has stated a claim for relief, the plaintiff need only show that one or more of the claims state a legal cause of action, that the facts alleged in support of that cause of action, and there is no obvious sufficient legal defense to the claim raised. See Denton v. Hernandez, 504 U.S. 25, 33 (1992) ("court may dismiss a claim as factually fivolous only if the fatcs are 'clearly baseless,' ... a category encompassing allegations that are 'fanciful,' ... 'fanstastic,' and 'delusional,' ... As those words suggest, a finding of factual frivoluousness is appropriate when the facts alleged arise to the level of the irrational or the wholly incredible, whether or not they are judically noticible facts available to contradict them. An an in forma pauperis complaint may not be dismissed ... simply because the court finds the plaintiff's allegations unlikely. Some improbable allegations might properly be disposed of on summary judgment, but to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be 'strange, but true; for truth is always strange, Stranger than fiction.'" quoting Lord Byron, Don Jaun); and to also include the rule of law enunciated by this Court, in a trilogy of cases reflecting that judges defer to the pleading party in deciding a Rule 12(b)(6) motion to dismiss. See Swierkiewicz v. Sorema N.A., 534 U.S. 506, 514 (2000); Crawford-El v. Britton, 523 U.S. 574, 584-85, 593-94, n. 14, 595-96 (1998); Letherman v. Tarrant County Narcotics Inteligence & Coordination Unit, 507 U.S. 193 (1993).

This, Court's case law have established that the "irreducible constitutional minimum" of standing consist of three elements. Lujan v.

Defenders of Wildlife, 504 U.S. 555, 560 (1992). The plaintiff must have (1) suffered an injury in fact, (2) that is fairly tracable to the challenged conduct of the defendant, and (3) to be redressed by a favorable judicial decision. Id., at 560-561; Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U.S. 167, 180-81 (2000). The plaintiff as the party invoking federal jurisdiction, bears the burden of establishing these elementts. FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990). Where, as here, a case at its pleading stage, the plaintiff must "clearly ... allege facts demonstrating" each element. Accord, Spokeo Inc. v. Robbins, 578 U.S. ___, ___ (2016)(Slip Op. at pp. 6-9), recognizing that even intangible injuries can be concrete injuries satisfying Article III standing.

In the instant case, Petitioner has at the outsent in the district court, in **textbook** form, complied to the letter of the law, under the tuteladge of the Constitutional, and procedural, precepts of law as handed down by this Honorable Court, that governs Petitioner's rights and remedies, as espouse in the decisions of this Court.

Therefore, the issues before the Court in this case in regards to gross and protracted violation of Petitioner's civil and Constitutional rights, by state official(s), cumulating in violations of Racketeer Influenced Corrupt Organizations Act, codified at 18 U.S.C. § 1961 et seq., is not **solely** about Petitioner's rights thereunder. This Petition must also be viewed as a vidication, of the wisdom of this Court in its decision Bounds v. Smith, 430 U.S. 817 (1977), permiting prisoners access to a law library, where this Court under its jurisprudence, as exposed Petitioner to its decisions in: H.J. Inc. v. North-

western Bell Tel. Co., 492 U.S. 229, 248 (1989), holding that the RICO statutes are not limited to organized crime, Sedema, S.P.R.L. v. Imrex Co., 473 U.S. 479, 488 (1985), holding that RICO is to be liberally contstrued. And Rotella v. Wood, 528 U.S. 549, 557 (2000), in which this Court, incourage the victims of racketeering activity, to serve as private attorneys general, dedicated to stamping out such proscribed misconduct. A position that Petitioner has been thrust into in defense of the **horrors** committed against him by prison officials, recruited by corrupt lawyers, an assocoation-in-fact RICO enterprise. 18 U.S.C. § 1961(4), to bring harm and violaence upon Petitioner, a lone and incarcerated individual, solely because of rights said to also belong to him, under this Court's decision in Barady v. Maryland, 373 U.S. 83 (1963).

As this Petition for Rehearing is under consideration by this Honorable Court, history is being made in the form of the impeachment of the President of this Great Nation, Donald J. Trump, under allegations that are supported by little or no evidence, with the acclimation, "No one is above the law, not even the President." While in the instant case, Petitioner in the courts below, has made the allegation of **murder** of an attorney, and two former LAPD officers, **extortion, mail fraud, obstruction of justice,** and the **physical torture**, of an American prisoner, for no other reason, other than his excercise of First Amendment rights to petition the government for redress of grievance, allegations that are supported by documentary evidence, 'and' provable fact, as a cover-up of a wide reaching and long concealed Brady violation. And in this specific case, the Article III Courts, as Guardians of the Constitution, and its

turning of a blind eye, has proven to be contradictory, in relation to its wise teschings within its decisions, and in this context, even the most vile law breakers, under cloak of law, have shown themselves in full frontal to view of the Court, to be above the law.

This case, compells the attention of this Court. Petitioner Pray that this Court take immediate and just action, in defense of Petitioner's rights as a human being, and an American born, Citizen of the United States of America.

Therefore, Petitioner humbly seeks Rehearing by the Court, en banc.

I declare under the penalty of perjury under the laws of the United States, that the foregoing is true and correct.

DATED: December 19, 2029

Respectfully Submitted,

Kavin M. Rhodes

KAVIN MAURICE RHODES, IN PRO SE