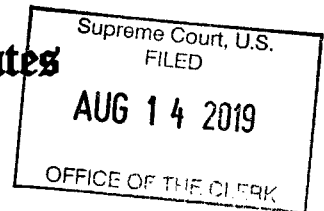


19-5939 ORIGINAL
No. _____

In The
Supreme Court Of The United States



FRANK R. MONTERO, PETITIONER,

VS.

TULSA AIRPORT IMPROVEMENT TRUST, A/K/A T.A.I.T., RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court Of Appeals

For The Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

Frank R. Montero
Pro-Se Litigant/Petitioner
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Tulsa, Oklahoma 74133-6122
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QUESTIONS PRESENTED

1. When the Supreme Court of the State of Oklahoma, states in a “Writ of Mandamus” that a State District Judge violated “Federal Due Process” did it raise “Federal Question Jurisdiction” that then became, the jurisdiction of the United States Federal Court? “Especially after the Judge then awarded attorney fees”. Pursuant to; **“Title 28 U.S. Code § 1443” [Plaintiff alleged a Constitutional violation]!**
 2. Did the United States Court of Appeals for the Tenth Circuit in petitioner’s appeal have a judicial obligation to make a ruling on the appellant’s timely filed “Motion For Summary Judgment” that went unanswered by the defendant? “Which was the very issue and merit of appellant’s appeal”? **“Violation of LCvR7.1(g) “Motions”**
 3. Was Federal Jurisdiction established by the United States Court of Appeals in its’ approximate (10) ten “Orders” that were previously handed down to the Federal District Court, over a period of more than one year? Case is Civil Rights Violation!
 4. Did the United States Court of Appeals for the Tenth Circuit, abuse its discretion by remanding this case back to the same State Court judge that denied this petitioner his Federal Due Process of Law, made evident by a “Writ of Mandamus”?
 5. Did the United States Court of Appeals for the Tenth Circuit deny Due Process of Law, by denying a “Re-Hearing” and by entering a ruling on appellants’ appeal, before even reviewing appellant’s “Final Optional Brief” *that clearly established the existence of “Federal Question Jurisdiction”?* **Title 28 U.S. Code § 1443, accordingly!**
- The local and national importance as to why the Supreme Court should decide this case directly involves the citizens “Health, Safety and Public Welfare” on federally funded airports.*

LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of

All parties to the proceedings in the court whose judgment is the subject of this petition is as follows: *See: www.oscn.net for related cases in Oklahoma.*

PARTY: “City of Tulsa, Tulsa Oklahoma” is an additional party; [as identified in the Defendant’s Corporate Disclosure Statement] Case No. 4:17-CV-00622-TCK-JFJ, see; **Federal District Court (N.D. Okla.) (ECF No. 10) dated 12-13-2017.**

“Tulsa Airport Improvements Trust, A/K/A, T.A.I.T., A/K/A, TAA.”

ADDITIONAL PARTY:

City of Tulsa, Tulsa Oklahoma

175 E. 2nd Street

Tulsa, Oklahoma 74103

The City of Tulsa, Tulsa Oklahoma was named as the sole beneficiary and ninety-nine percent legal owner of the herein named Defendant-Respondent

“Tulsa Airport Improvement Trust”, A/K/A T.A.I.T., A/K/A/ TAA”.

Clearly identified in the Defendant’s Corporate Disclosure Statement, in Federal District Court Case No. 4:17-CV-00622-TCK-JFJ, (ECF No. 10).

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APPENDIX “A” (1-6) Order and Judgment, Opinion and Order, Order Re-hearing Denied.

- 1.) Opinion and Order (Fed Dist. Court) dated..... January 10, 2018.
- 2.) Order on “Motion to Amend Petition” dated.....September 4, 2018. (10th Cir.)
- 3.) Opinion and Order (Fed. Dist. Court) dated.....January 29, 2019.
- 4.) Order and Judgment (10th Cir. Court) datedMay 20, 2019.
- 5.) Order denying Re-hearing (10th Cir. Court) dated, June 13, 2019.
- 6.) Order (10th Cir. Court) “remand back to State Court” dated..... June 21, 2019.

Appendix B. (1-4) STATE COURT, “WRIT OF MANDAMUS” DUE PROCESS DENIED.

1. ORDER; Supreme Court of the State of Oklahoma, Case No. Ma-114675
Montero vs. Judge Jefferson D. Sellers. Dated March 21, 2016. “DUE PROCESS”.
2. Erroneous award of attorney fees by same Judge who denied Due Process of Law.
3. Order, from State Court, denying “Motion for New Trial”, dated January 26, 2017.
4. Montero vs. Tulsa Airport Improvements Trust, Case No. 115,748;
Filed in the Supreme Court State of Oklahoma
“ORDER” – Dismissing Appellant’s Appeal. Order dated December 15, 2017.
“Dismissed during the specific pendency of time litigation was in Federal Court!”

TABLE OF AUTHORITIES CITED

CASES

Page No.

1. Clark v. Board of Education of Independent School District No. 89, 2001, OK 56, ¶ 7, 32P.3d 851.
2. Heart of Atlanta, Inc. v. United States, 379 U.S. 241 (1964)
3. Celotex Corp. v. Cartrett, 477 U.S. 317 (1986)
4. Exxon Mobil Corp. v. Saudi Basic Industries Corp. 544 U.S. 280 (2005)
5. Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
6. Ward v. Village of Monroeville, 409 U.S. 57, 61-62, 93 S. St. 80, 34 L.Ed.2d 267 (1972)
7. Smith v. Kansas City Title & Trust Co., 255 U.S. 180 (1921)
8. Marshall v. Jerico, Inc., 446 U.S. 238, 242, 100 S.Ct. 1610, 1613, 64 L.Ed.2d 182 (1980).

STATUTES AND RULES

28 U.S. Code § 1443. Civil Rights Cases

- (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof; (June 25, 1948, ch. 646, 62 Stat. 938.)

U.S. Const. art. 1, Title II of the Civil Rights Act of 1964

Removal Jurisdiction Exists: “when a plaintiff’s action involves a claim under federal law”; Plaintiff brought his cause of action in Case No. 4:17-CV-00622-TCK-JFJ, that involved both Civil Rights Violations and Constitutional violations.

Federal District Court; Rule for “Motion For Summary Judgment” RULE 56.1.

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix "A" to the petition and is

[X] reported at "U.S. Court of Appeals", Tenth Circuit; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix "B" & "C" "D" and "E" the petition and is

[X] reported at Federal District Court (N.D. Okla.); or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix "F" to the petition and is

[X] reported at **Supreme Court State Of Oklahoma**; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court
appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was **May 20, 2019**

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **June 13, 2019**, and a copy of the order denying rehearing appears at Appendix _____

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was March 21, 2016
A copy of that decision appears at Appendix **"F"**

☒ A timely petition for rehearing was thereafter denied on the following date: January 26, 2017, and a copy of the order denying rehearing appears at Appendix **"G"**.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a)

STATEMENT OF THE CASE

Petitioner filed his cause of action as being: **CIVIL RIGHTS VIOLATIONS, against the Defendant, who refused to correct its erroneous assignment of plaintiffs' lease for 25 years.**

Violating the "**Civil Rights Act of 1964**" (Pub.L. 88-352, 78 Stat. 241,(July 1964).

On November 14, 2017, Plaintiff – Petitioner filed his Case No. 4:17-CV-00622-TCK-JFJ.

Filed in the *Federal District Court (N.D, Okla.)*, *case was accepted and docketed accordingly!*

See (ECF No. 4) wherein Plaintiff filed for an "Emergency Order for Stay of Judgment" on November 17, 2017, on the grounds that in Tulsa County District Court State of Oklahoma, in Case No. CV-2014-72, Plaintiff's **Constitutional Right[s] to Due Process** were violated. **State Court refused after five years to offer any relief against the Defendant for discriminating.**

Due Process was denied; in Supreme Court of the State of Oklahoma's "Writ". Made evident in its "*Writ of Mandamus*" that the *Judge* in the District Court For and In Tulsa County State of Oklahoma, had throughout the court proceedings denied the Plaintiff's **Federal Due Process of Law**. The above "Supreme Court" cited in its "WRIT" the following case law citation:

- Citing: "**CLARK v. BOARD OF EDUCATION OF IND. SCH. DIST. NO. 89.**"

[The trial judge's failure to rule upon her quest to disqualify him deprived her of a fundamental right guaranteed by the Due Process Clauses of the Fifth and Fourteenth Amendments].

Petitioner brought and filed his case in the *Federal District Court*, based on: **Federal-Question- Jurisdiction under the Federal provision of; Statute 28 U.S.C. 1443.**

- Citing: *Smith v. Kansas City Title & Trust Co., 255 U.S. 180 (1921).*

"The Supreme Court ruled in its adjudication of the above case by (Justice William R. Day) that even where a cause of action arises under state law, a federal court may have jurisdiction if it appears that the right to relief rests on the construction and application of a federal law".

28 U.S. Code § 1443 “In Civil Right Cases”, provides the following relief in Federal Court.

(1). Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof. The Federal District Court (N.D. Okla.) proceeded to notify the Defendant on 11-17-2019, clearly in the record made evident in (ECF No. 4) “Complaint against the Defendant” by (jln, Dpty Clk). The Defendant continued to correspond with the Federal District Court, in its filings and pleadings by notifying the Court of a previously filed “**related case**”, made evident in the defendant’s filing; See (ECF No. 6). Relevant facts and court stamped filings, continued to take place, under **Title 28 U.S.C. § 1443.** Plaintiff, then timely caused to have filed his “**Motion For Summary Judgment**” on 12-08-2017, made evident by (ECF No. 7) per Rule 56: “MOTION FOR SUMMARY JUDGMENT”. *[A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law]. No responsive pleading was entered by the Defendant, per Fed. Civ. R. LCvR (7.2).*

[Fed R. Civ. P. 56(1). All material facts set forth in the statement of the material facts of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of material facts of the opposing party]. **Defendant grossly violated the rules that govern the scope of Federal Civil Procedure[s]. Per; rule “LCvR7.2”** the Defendant filed “**NO**” Response Briefs. Each party opposing a motion shall file with the Court Clerk and serve upon all other parties a response within twenty-one (21) days from the date the motion was filed, and the copy served on opposing counsel shall reflect, either by file stamp or notation, the date of filing. Any non-dispositive motion which is not opposed within twenty-one (21) days may be deemed confessed.

The requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 21-day time period and an additional 3 days may not be added. Pursuant to Rule 56 “in this case”, there is no genuine dispute as to any material fact[s]. Hence, the movant is entitled to summary judgment as a “matter of law”. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242.

A United States Supreme Court Case, that set the standard for granting summary judgment.

In petitioner’s appeal to the United States Court Of Appeals For The Tenth Circuit, in Appeal Case No. 18-5011; “only 2 (two) issues were raised in the appellants’ appeal”.

1. Was the Defendant’s “Motion to Dismiss for Lack of Jurisdiction” (ECF NO. 11) based on the “Rooker-Feldman Doctrine” applicable and grounds for dismissal of the case, by the Federal District Court, see (ECF No. 20) entered on 01/10/2018 ?

RULING: *In the above question no. 1; The Tenth Circuit Court, ruled and decided the following: In Appeal Case No. 18-5011. See Order and Judgment, dated: May 20, 2019.*

*[Exercising de novo review, we conclude that the district court erred in dismissing the action under the “Rooker-Feldman Doctrine”]. Issue resolved, **Hence; Federal Jurisdiction Exists!***

Issue No. [2] and merit of appellant’s appeal, respectfully presented to the (10th Cir. Ct.)

2. Should the Plaintiff’s timely filed “Motion for Summary Judgment” filed on, (12/08/2017); see (ECF No. 7) have been granted, pursuant to the “**rules that govern federal civil procedures**”, per- **RULE 56 “Motion For Summary Judgment”?**
“A very relevant fact”, is that the Plaintiffs “Motion For Summary Judgment” was filed before the Defendant’s “Motion to Dismiss for Lack of Jurisdiction”. **Furthermore**, the defendant was “already” in default for **never entering a responsive pleading in the record to the plaintiff’s timely filed, “Motion For Summary Judgment”**; per Rule LCvR7.2 Motion Practice (e). **Motion for Summary Judgment should be granted!**

[A responsive pleading – objection – and brief is required within (21) days]!

Petitioner **pleaded** for the United States Court Of Appeals For The Tenth Circuit, to reverse and remand back to the Federal District Court, an “**Order**” to **grant plaintiff – appellant**, his timely filed “**Motion For Summary Judgment**” that went unanswered by the defendant is Federal District Court Case No. 4:17-CV-00622-TCK-JFJ, accordingly.

“Summary Judgment is proper when there is no genuine issue to material fact”.

- See Case Cited: **Anderson v. Liberty Lobby, Inc.**, 477 U.S. 242 (1986)

. Rule 56. Summary Judgment

(a) MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT. A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

“In this case the reason is very obvious; NO GENIUNE ISSUES AS TO MATERIAL FACTS EXIST IN THIS CASE”! *Why not? Because no responsive pleading or a single objection was ever timely filed in this case by the defendant who “violated Federal Rules of Civil Procedure” by grossly failing to “ever file a responsive pleading” pursuant to Fed. R. P. LCvR (7.2) Motions, (e) and enter a responsive pleading to Petitioner’s Motion For Summary Judgment.*

*Surely the United States Court Of Appeals For The Tenth Circuit, cannot be the Defendant’s advocate, nor can it put on public display any “bias or partiality” contrary to the **INTEGRITY OF THE LAW**, that applies equally to attorneys as it does to Pro-se litigants.*

Motion For Summary Judgment 56 (e) FAILING TO PROPERLY SUPPORT OR ADDRESS A FACT. If a party fails [*and in this case the defendant clearly did fail*] to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may: consider the fact undisputed for purposes of the motion...And issue an "ORDER" granting summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to his timely filed "Motion For Summary Judgment". In the case of the:

IN THE U.S. SUPREME COURT CASE:

Citing: Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)

- (a) Summary judgment will not lie if the dispute about a material fact is "genuine," that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. "In this case **no genuine issues of material facts exists**".

There is no such issue unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. In essence, the inquiry is whether the evidence presents a sufficient disagreement to require submission to a jury, or whether it is so one-sided that one party must prevail as a matter of law.

The Petitioner/Plaintiff, the herein named movant has no burden of showing that there is no genuine issue of material fact[s]. Why? Because the Respondent grossly failed to timely cause to have procedurally filed a "responsive pleading" to the Petitioner's timely filed "Motion For Summary Judgment". Petitioner/Plaintiff must prevail as a matter of law. See: ***Celotex Corp. v. Catrett***, 477 U.S. 317 (1986), was a case decided by the United States Supreme Court, written by then-Associate Justice William Rehnquist. In *Celotex*, the Court held that a party moving for summary judgment need only show that the opposing party lacks evidence sufficient to support its case. As is the evidence in this case. A broader version of this doctrine was later formally added to the Federal Rules of Civil Procedure.

Petitioner/Plaintiff being the movant in a motion for summary judgment must show the absence of genuine factual issues in the nonmovant's case. The Respondent – Defendant made that easy, by grossly failing to enter a responsive pleading in opposition to the Plaintiff's timely filed "Motion For Summary Judgment". ***In summary of this case, Petitioner is entitled to Motion For Summary Judgment, as a matter of law pursuant to Federal Rules of Civil Procedure, emphasis added.***

The Federal District Court of the (N.D. Okla.) in Case No. 4:17-CV-00622-TCK-JFJ, has no showing in the record, that the Respondent / Defendant ever gave an obligatory, statutory required responsive pleading to the Petitioner's / Plaintiff's timely filed Motion For Summary Judgment, yet the Petitioner's / Plaintiff's timely filed "Motion For Summary Judgment" was denied by the Federal District Court of the (N.D. Okla.) after and at a specific pendency of time in which the Defendant was in default for failing to give an answer. The Respondent / Defendant lacks any evidence to show he could prevail at trial on the mere basis "*that no evidence exists in the court record*".

In citing: Celotex Corp. v. Catrett 477 U.S. 317 106 S. Ct. 2548; 91 L.Ed 2d 265; 1986

[shows that Case history as being Cert. to the United States Court of Appeals for the District of Columbia Circuit] **with the following holding;**

{A party moving for summary judgment need only show that the opposing party lacks evidence to support its case.}

Thus, according to the Celotex standard, the movant in a motion for summary judgment must show the absence of genuine factual issues in the nonmovant's case, although the movant is not required specifically to negate any aspects of his opponent's claims. No Genuine Issues of material facts exist.

The United States Court Of Appeals For The Tenth Circuit, in appeal case no. 18-5011

"never took up this appellant's / plaintiff's timely filed "Motion For Summary Judgment".

When in fact it was the very issue and merit of appellant's appeal. The (10th Cir. Ct.) did on appeal exercise its Jurisdictional Authority by dismissing and vacating the defendants Motion to Dismiss For Lack of Jurisdiction, stating the following: [*Exercising de novo review, we conclude that the district court erred in dismissing the action under the Rooker-Feldman doctrine*]. In Celotex Corp. v. Catrett, held that under Rule 56 of the Federal Rules of Civil Procedure, summary judgment, the case was dismissed. On appeal, the Court of Appeals for the District of Columbia Circuit reversed the district court's decision. Finally, the Supreme Court reversed the appeals court's decision and remanded the case. Petitioner prays the Supreme Court grants **Summary Judgment.**

REASONS FOR GRANTING THE PETITION

- The number one **compelling reason** that the;

UNITED STATES SUPREME COURT,

should grant this certiorari, is for the preservation of *U.S. Citizens of the State of Oklahoma*, *“to preserve the citizens Health, Safety and Welfare”* that is presently being placed at risk by the *Defendant[s] Tulsa Airport Improvements Trust and its corporate sole beneficiary, the City of Tulsa, Tulsa Oklahoma. The defendant is and has been for more than (20) twenty years, polluting the entire underground water shed, on the airport known as the “Richard Lloyd Jones, Jr. Airport”, by installing (137 +) unregulated (with no D.E.Q. permits) into public land owned by the ‘City of Tulsa, Tulsa Ok’.* Petition must be granted, because the Federally regulated river a/k/a Arkansas River is less than a (1/4) quarter mile away. In addition the defendant, Tulsa Airport Improvements Trust, is a “Federally Funded F.A.A.” grant assurance recipient. The defendant is Federally and Judiciously “obligated” to our Federal government, on (2) two fiduciary obligations and compliance[s].

- The Civil Rights Act of 1964 and its duty to guarantee all citizens **equal protection** of the laws under the **Fourteenth Amendment**,
- To always be in strict “compliance” with all Federally Regulated Agencies of our government, i.e. “E.P.A. & D.E.Q.” & Tulsa County Health Dept.

The defendant is willfully creating another, Flint, Michigan, water pollution and below ground water contamination problem, while it is receiving financial benefits under the Federal Grant Assurance Program 22, making our government a Co-conspirator. The defendant has violated “The Civil Rights Act of 1964” by insisting to “evict” this plaintiff off of public property “the above airport” for disclosing its reckless out of control “federal violations”. All neighboring States and the Arkansas River is at stake, a “public interest”!

The Tulsa County District Court - In And For The State Of Oklahoma, including the Supreme Court of the State of Oklahoma, have refused to bring the defendant into statutory compliance. The District Court in and for Tulsa County (Judge; Jefferson D. Sellers) after approximately (5) years of litigation, in Case No. CV-2014-72, refused to uphold and enforce Oklahoma State statutes that protect the citizens **“Health, Safety, and Public Welfare”**. He, the aforementioned Judge thinks: *[it perfectly fine for the citizens to drink potable water at and on the airport, Richard Lloyd Jones Jr. Airport]* **from potable water lines buried underground that touch and cross-over “un-regulated unlawfully installed septic tanks” that were installed with absolutely no D.E.Q. permits. Please keep in mind**, the plaintiff is disclosing and unveiling the very herein named defendant (City of Tulsa, Tulsa, Oklahoma) that just spent more than (\$500,000,000.00) **“Five million dollars” on this year’s construction project, their nationally known “tourist attraction” called the “Gathering Place”**. While giving total disregard to their blatant intent of usurping our **Federally Regulated Agencies, i.e. [E.P.A. & D.E.Q.]**. It is a national concern when **“We The People” citizens of the United States, begin to see that “local governmental politics” can use our United States funding and grant assurance FAA programs [22] to place at risk the “Peoples, Health, Safety, and Welfare” !** This defendant[s] and the State of Oklahoma, were the very same Plaintiff’s that brought a suit in Federal Court (N.D. Okla.) see Case No. 4:05-CV-00329 **“State of Oklahoma et al. vs. Tyson Food, Inc., et. al.”**. And for what cause of action, polluting the Illinois River!

We The People and Citizens of the State of Oklahoma, desperately plead with our **UNITED STATES SUPREME COURT**, to duly preserve and protect with all due diligence our **Health, Safety and Public Welfare**, for such a time as this, a time when our local courts and government refuse to enforce their own statutes, on behalf and interest of its’ citizens.

The national overwhelming importance of the Supreme Court, deciding, and granting this petition, is because, it not only involves the citizens of the State of Oklahoma, but all the neighboring “States” that geographically touches and boards the Federally Regulated “Arkansas River”. The defendant and the “City of Tulsa, Tulsa Oklahoma” are intentionally placing on open display to our nation, how that it can receive federal funding from one federal agency i.e. [F.A.A.] while undermining and usurping other federally regulated agencies that were “specifically” put in place to protect the citizens of the entire United States, “Health – Safety – and Public Welfare”.

The herein named defendant[s] are deceptively asking our federal government to pay for all the blatant D.E.Q. & E.P.A. “violations” it is creating, in the same manner the “City of Flint, Michigan” and its governmental employees did. The defendant has violated its privileges and legal rights to continue to obtain any further, and future funding under the “Federally Funded Grant Assurance Program 22”. That national announcement to all other existing FAA Grant Assurance Program 22, [airports] can clearly be made in the granting of this petition, by this “UNITED STATES SUPREME COURT”!

***Citing: *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964).**

“The U.S. Supreme Court held that Congress acted well within its authority under the Commerce Clause in passing the Civil Rights Act of 1964, thereby upholding the act's Title II in question”.

The defendant[s] sought to kick Petitioner, “Montero” off the publicly owned property, [federally funded by the F.A.A grant assurance program 22], by terminating his existing ground lease, for disclosing to the court[s] the unlawful installation of more than (137) booted legged septic tanks. Congress did not unconstitutionally exceed its powers under the Commerce Clause by enacting Title II of the 1964 Civil Rights Act, (emphasis added).

Petitioner, states with a concise and relevant review of the facts, that were presented for review to the United States Court Of Appeals For The Tenth Circuit in appeal No. 18-5011.

1. Was the “Rooker-Feldman Doctrine used by the Defendant in his “Motion to Dismiss For Lack of Jurisdiction”, relevant, applicable and grounds for dismissal by the Federal District Court (N.D. Okla.)? *The decision made by the “Tenth Circuit Court, was no. [Exercising de novo review, we conclude that the district court erred in dismissing the action under the Rooker-Feldman doctrine].*

No other question or issue was raised by this Petitioner that would have provoked the jurisdictional authority for the “Tenth Circuit Court” to determine “jurisdiction”.

2. Petitioner’s second issue and “*merit*” of this Petitioner’s **appeal in appeal no. 18-5011**, for the “Tenth Circuit Court of Appeals” to take up for review, exercising “de novo review” was the **fact** that, Petitioner asked and prayerfully “*pleaded*” for his, “Motion For Summary Judgment” that went **unanswered by the defendant** to be granted. [*The second above stipulated issue raised by petitioner, went un-addressed by the “Tenth Circuit Court of Appeals”. Violating FEDERAL RULES OF CIVIL PROCEDURE.*

This created a discrepancy not only in this case, but in every other case[s] that the “Circuit Court[s] of the United States” has ethically and judiciously exercised its authority in;

[Pursuant to; the plain language of Rule 56, which mandates the entry of summary judgment, against a party who fails to make a showing (responsive pleading) sufficient to establish the existence of an element essential to that party’s case.] The moving party is “entitled to a judgment as a matter of law”, because no genuine issues exist in this case.

In the Federal District Court (N.D. Okla.) Case No. 4:17-CV-00622-TCK-JFJ, Plaintiff timely caused to have filed as of record his “*Motion For Summary Judgment*” (ECF No. 7) on December 8, 2017. The **rules** that govern Federal procedure in civil actions both require and mandate that a “**responsive pleading and or an objection with a brief in support**” be **timely filed by the defendant within (21) days [LCvR7.2 “Motions”]**.

FACTS: Defendant grossly failed to file a responsive pleading to Plaintiff’s timely filed “Motion for Summary Judgment” and no extension of time was requested.

[In such a situation, there can be “**no genuine issues as to any material fact,**” since a **complete failure of proof concerning an essential of the nonmoving party’s case necessarily renders all other facts immaterial**]. The moving party is “**entitled to a judgment as a matter of law**” because the nonmoving party has failed to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof.

Citing: Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

[*Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), is a United States Supreme Court case articulating the standard for a trial court to grant summary judgment.]

Petitioner, “Montero” prayerfully pleads that this Court, to hold and find the same: “Summary judgment will not lie if the dispute about a material fact is “genuine,” that is, **if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.**

In this case[s] there exists absolutely “no genuine issues as to any material fact”.

This, the “SUPREME COURT OF THE UNITED STATES” has the power of judicial review, and the ability, to grant this pro-se, petitioner his timely filed “Motion For Summary Judgment” pursuant to its very own **RULES, that govern Federal Civil Procedures; RULE 56.1. The Supreme Court held a “clear and convincing” standard applies to summary judgment as well!**

Review of voidable “ORDER” of the erroneous award of attorney fees made in State Court [IN THE DISTRICT OF TULSA COUNTY-STATE OF OKLAHOMA] Case No. CV-2014-72, filed on December 20, 2016. Awarded by judge; Jefferson D. Sellers, who previously was charged by the “Supreme Court Of The State Of Oklahoma” in its’s “timely” filed of record, “WRIT OF MANDAMUS”, dated March 21, 2016, violating; “Federal Due Process of Law”. Cited within the very contexts of the above “Writ of Mandamus” was the following case law...

- **Clark v. Board of Education of Independent School District**
No. 89, 2001, OK 56, ¶ 7,32P.3d 851

[Clark's constitutional challenge afforded her the right to a hearing on the issue she raised and a judicial resolution memorialized of record. The trial judge's failure to rule upon her quest to disqualify him deprived her of a fundamental right guaranteed by the Due Process Clauses of the Fifth and Fourteenth Amendments].

- **In Tumey v. Ohio**, 273 U.S. 510, 512, 47 S. Ct. 437, 71 L. Ed. 749 (1926), the first major U.S. Supreme Court case linking due process with judicial impartiality, Chief Justice Taft held that a "trial before a tribunal financially interested in the result of its decision constitutes a denial of due process of law." A CONSTITUTIONAL VIOLATION

Petitioner, prayerfully pleads with the United States Supreme Court to find the following:

“The erroneous award of attorney fees made in the “Journal Entry of Judgment” be; adjudged VOID, set aside, finding the attorney award fees to be invalid and of no force”.

- **Marshall v. Jerrico, Inc.**, 446 U.S. 238, 242, 100 S. Ct. 1610, 1613, 64 L. Ed. 2d 182 (1980) (as matter of procedural fairness “[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases”)
- **Ward v. Village of Monroeville**, 409 U.S. 57, 61-62, 93 S. Ct. 80, 84, 34 L. Ed. 2d 267 (1972) (a "neutral and detached judge in the first instance" is a fundamental right guaranteed by the Due Process Clause).

The State of Oklahoma’s Tulsa County’s District Court “Order” in Case No. CV-2014-72, that placed the ground lease contract “Sua- Sponte” in plaintiff’s name was erroneously filed in the wrong Case, Case No. CV-2014-924, making the award of attorney fees, “voidable and” “set aside”, because judge denied plaintiff, “Due Process”, which is; “Un-Constitutional”!

Petitioner, pleads for his right to relief and for the relief and right for the citizens of Oklahoma, regarding their **HEALTH – SAFETY, AND PUBLIC WELFARE.**

SUPREME COURT OF THE UNITED STATES, send a clear and national message, to all Federally Funded (political subdivisions) i.e. (airports) throughout these United States.

*That the “Supreme Court” and (the peoples and citizens) of our United States, will not tolerate by any means for the providing of federal funding, i.e. F.A.A. Federal Grant Assurance Grant Program 22, for the undermined malicious purpose of placing its people[s] **HEALTH – SAFETY – AND PUBLIC WELFARE, AT RISK ON PUBLIC PROPERTIES!***

“The installation of 137 (one hundred and thirty-seven) illegally boot-legged septic tanks, installed touching potable drinking water lines into and onto “public property”, installed with no D.E.Q. required permits, will cause the immediate loss of federal funding”.

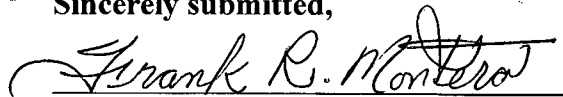
ACTS DECLARED TO BE PUNITIVE AND MALICE IN NATURE

1. The sought after eviction of this Petitioner, expelled off public federally funded property.
2. The (25) twenty-five years of denying to correct assignment of plaintiff’s leasehold.
3. The denial of **Federal Due Process of Law**, as was cited unanimously by all the Supreme Court Justices of the State of Oklahoma, in its Writ of Mandamus.
4. Maliciously asserted a bench warrant for Petitioner’s arrest, for failing to appear at a asset hearing, during the specific pendency of time in which State Court Case No. CV-2014-72 was pending on appeal and at a specific pendency of time in which Case was being heard by the Federal District Court (N.D, Okla.) Case No. CV-4:17-00622.
5. The erroneous award of attorney fees made by the very same Judge, that the Supreme Court of the State of Oklahoma, stated in its WRIT OF MANDAMUS, had violated this Petitioner’s Federal Due Process of Law., then Judge angrily sought revenge.
6. Placing at risk the Petitioner’s HEALTH, SAFETY AND PUBLIC WELFARE, by installing unregulated illegally boot-legged septic tanks, that touch potable water lines.
7. Respondent sought to bankrupt Petitioner with attorney fees using Federal Grant Money.
8. **Financial demands for liability insurance on a lease assigned to a non-existent corp.**

PRAYER OF RELIEF

Petitioner fervently asks for his timely filed **Federal District Court (N.D. Okla.)** “Motion for Summary Judgment” be granted by this Court, in the entire exact amount in which it was pleaded for, and in addition an order setting aside the erroneous award of attorney fees. **Should it please the court; to award punitive damages,** charged in the form of a money judgment against defendant in favor of this petitioner/plaintiff, as damages equal to the amount of Petitioner’s above, “Motion For Summary Judgment”, that was timely filed in the Federal District Court (N.D. Okla.) Case No. 4:17-CV-00622-TCK-JFJ, see (ECF No. 7) dated December 08, 2017. And in addition an **order** to reimburse this Petitioner for all of his “out of pocket costs” for the past (5) years of litigation in the following cases: Oklahoma State Court Case; **CV-2014-72, CV-2014-924,** and the Federal District Court Case No. 4:17-CV-00622, and the United States Court of Appeals For The Tenth Circuit in Case No. 18-5-11, and for all other costs that this Court deems to be ***just and equitable, reimbursed back to this Petitioner, as out of pocket expense and costs. As a direct result of the Respondents’*** willful and reckless “out of control” behavior that placed the public’s **health, safety and public welfare** at extreme risk on Federally Funded (F.A.A.) airports that receive federal grant assurance program [22].

Sincerely submitted,



**Frank R. Montero, “pro-se”
Petitioner / Plaintiff / Appellant
10041 So. 91st East Ave.
Tulsa, Oklahoma 74133-6122
(918) 740-9045
Frankmonte251@gmail.com**

DATED: JULY 27, 2019.

INDEX TO APPENDICES

APPENDIX "A" (1-6) Order and Judgment, Opinion and Order, Order Re-hearing Denied.

- 1.) Opinion and Order (Fed Dist. Court) dated..... January 10, 2018.**
- 2.) Order on "Motion to Amend Petition" dated.....September 4, 2018. (10th Cir.)**
- 3.) Opinion and Order (Fed. Dist. Court) dated.....January 29, 2019.**
- 4.) Order and Judgment (10th Cir. Court) datedMay 20, 2019.**
- 5.) Order denying Re-hearing (10th Cir. Court) dated June 13, 2019.**
- 6.) Order (10th Cir. Court) "remand back to State Court" dated..... June 21, 2019.**

Appendix B. (1-4) STATE COURT, "WRIT OF MANDAMUS" DUE PROCESS DENIED.

- 1. ORDER; Supreme Court of the State of Oklahoma, Case No. Ma-114675**

Montero vs. Judge Jefferson D. Sellers. Dated March 21, 2016.

Issued "Writ of Mandamus" granted in favor of this pro-se plaintiff. The Writ...

Cited: *Clark v. Board of Education of Independent School District No. 89,*

2001 OK 56, ¶ 7, 32 P.3d 851. The trial judge's failure to rule upon her quest to disqualify him deprived her of a fundamental right guaranteed by the Due Process.

- 2. Erroneous award of attorney fees by same Judge who denied Due Process of Law.**

Montero vs. Tulsa Airport Improvements Trust, a/k/a TAIT, a/k/a TAA.

Case No. CV-2014-72

Dated December 20, 2016.

[JOURNAL ENTRY OF JUDGMENT ATTORNEY FEES AND COST]

A challenge to an assigned judge for want of impartiality presents constitutional issues.

- 3. Order, State Court, denying "Motion for New Trial", dated January 26, 2017.**
- 4. Montero vs. Tulsa Airport Improvements Trust, Case No. 115,748; filed in the:**

In The Supreme Court OF THE STATE OF OKLAHOMA.

"ORDER" – Dismissing Appellant's Appeal. Order dated December 15, 2017.

"Dismissed during the specific pendency of time litigation was in Federal Court!"