

19-6226

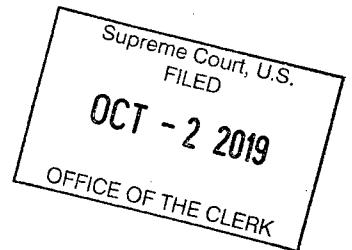
No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

SUPREME R. ACKBAR — PETITIONER
(Your Name)



vs.

PATRICIA S. CONNOR et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Supreme R. ACKBAR
(Your Name)

Perry C.I. 430 Oaklawn Rd.
(Address)

Pelzer, SC 29669
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Is the order of the U.S. district court dated 2-26-19 void?

Is the order of the U.S. Court of Appeals for the fourth circuit dated 8-24-17 void?

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 proceeding in the court whose judgment is the subject of this petition is as follows:

James N. Ishida, Secretary; Richard H. Sewell, Deputy Clerk; Karen Stump, Deputy Clerk; Richard M. Gergel; Thomas E. Rogers, III

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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 6 to the petition and is

☐ reported at _____; 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☒ is unpublished.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 6 to the petition and is

☐ reported at _____; 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☒ is unpublished.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 _____ to the petition and is

☐ reported at _____; 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☐ is unpublished.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☐ is unpublished.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 August 26, 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: _____, 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment XIV to the United States Constitution, which provides:
Section 1. All persons born or Naturalized in the United States, and subject to the Jurisdiction thereof, are citizens of the United States and of 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.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The Amendment is enforced by Title 42, Section 1983, United States Code:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

The petitioner's complaint alleged that he was denied proper due process on numerous occasions by the respondent. Contrary to his evidentiary supported facts, objections, appeals, judicial complaint and directives of law the respondent conspire together for the purpose of preventing or hindering the constituted authorities of this state from giving or securing to petitioner the equal protection of the law for the purpose of obstructing, or defeating the due course of justice. The respondent participated directly in a policy and custom which deprived petitioner of the right to due process of law. The petitioner is experiencing traumatic emotional distress and deliberate indifference to most serious medical need contrary to Dr. Joseph C. ubahs' direction while being falsely imprisoned and stripped of my God Center Culture Islam Property under false pretense illegally. The Respondent has controverted the issue in bad faith.

The district court adopted the R & R of the Magistrate Judge and denied recusal and dismissed petitioner's complaint with prejudice on 2-26-19. On 8-26-19 the court of appeals for the fourth circuit affirmed the judgment of the district court via unpublished opinion. Petitioner filed for rehearing en banc seeking a motion to strike the orders and on 9-16-19 a stay of mandate was filed. This petition for writ of certiorari is as follows.

SUMMARY ARGUMENT

On April 13, 2018 the Petitioner filed another evidentiary Supported appeal in the Fourth Circuit Court of Appeals due to another of the District Court Judges, Thomas E. Rogers, III and Richard M. Gergel opinions. See Appendix A. On June 27, 2018 according to documents received, Circuit Judges King, Duncan and Senior Circuit Judge Shedd affirmed the corrupt opinion via unpublished opinion. See Appendix B. The Petitioner Submitted interrogatories to the Clerk, Patricia S. Connor specifically and filed for rehearing. On July 13, 2018 a Stay of Mandate was filed. The Petitioner Submitted Notice of verification. On August 1, 2018 Richard H. Sewell, Deputy Clerk responded via letter stating "No further explanation will be provided." See Appendix C; Heinrich v. Sweet, 62 F. Supp. 2d 282, 315 (D. Mass, 1999) (stating that right of access is violated when government officials wrongfully and intentionally conceal information crucial to Judicial redress, do so in order to frustrate the right and substantially reduce the likelihood of obtaining redress;); 20 S.C. Jur. Libel and Slander § 45 Verification (... when a report is based on an obviously unreliable source, failure to verify the report may amount to actual malice.)

The Malice and Sadistic Conduct in which the Respondents and other government officials delight in showing the Petitioner can be inferred by their prior bad acts. See Appendix D; 28 U.S.C. § 2101 (e); Relevancy: Rule 406; Murphy v. Jones, 877 F.2d 682, 684-85 (8th Cir. 1989) (case arising "from the same nucleus of operative fact or one based upon the same factual predicate" involves the same cause of action) (Note: One Court has held that "Sadistic" means extreme or excessive cruelty or delighting in cruelty" as apposed to "regular cruelty", Parkus v. Delo, 135 F.3d 1232, 1234 (8th Cir. 1995) and that "'Maliciously' and 'Sadistically', have different meaning, and the two together establish a higher level of intent than would either alone." Howard v. Bartlett, 21 F.3d 868, 872 (8th Cir. 1994)

Additional Malice and Sadistic conduct of the Respondents and other government officials can be inferred by the fact that on Oct. 22, 2018 the Petitioner received

an order dated August 13, 2018 denying rehearing and a mandate dated Sept. 25, 2018.

See Appendix E.

The Petitioner then wrote this court for an application for a writ of

certiorari. On Nov. 19, 2018 Perry C.I. Mailroom received the aforesaid application.

On Dec. 6, 2018 the petitioner served the respondents and other government officials

with a true copy of the petition for writ of certiorari. On Dec. 21, 2018 the Petitioner

received a letter dated 12-17-18 from Jacob C. Travers stating "the petitioner had

run out of time to file the petition for writ of certiorari on or about Nov. 11, 2018."

See Appendix F.

The Petitioner aver it is highly plausible and reasonable to infer that the delay

in notice of judgment after rehearing was a deliberate scheme of the respondents

and other government officials to substantially reduce the likelihood of the

petitioner obtaining redress. Further the petitioner is suffering traumatic emotional

distress due to government officials performing outside the scope of their duties.

See Code Civ. Proc. 1922.83 169, 165 (See Code 1942.83 204, 207). See Brooks v.

U.S. Fidelity & Guar. Co., 157 S.E.2d 488. (Conduct of the clerk in signing her name

on judgments and orders for the court was not within scope of her duties...).

Here the clerk's name is not sign but rather typed on the judgments and orders which

clearly dismantles the fundamental rights of petitioner therefore the petitioner aver

there are exceptional circumstances which warrants the exercise of the court's discretionary

powers pursuant to 48 U.S.C. § 1651(a), 48 U.S.C. § 1610(c), and Supreme Court Rules 10(a)

(c), Rule 11 and Rule 201 because adequate relief can not be obtained in any other form or

from any other court and because the petitioner is suffering "actual injury" by being

"frustrated and impeded" in bringing nontrivialous claims about the conditions of

his confinement. See Lewis v. Casey, 116 S.Ct. 2174 (1996). Johnson v. Barczak, 338

F.3d 771, 773 (7th Cir. 2003) ("But a delay becomes an injury only if it results in 'actual

substantial prejudice' to specific litigation," (citation omitted)).

Additionally the petitioner does not argue erroneous factual findings or the

Misapplication of a properly stated rule of law because the unpublished opinions does not address the evidentiary supported facts of the petitioner but instead intentionally conceal information crucial to judicial redress.

This court has said "It is sometimes the requirement that the trial judge file findings of facts is for the convenience of the upper courts. While it does serve that end, it has a far more important purpose that of evoking care on the part of the trial judge in ascertaining the facts. For every judge knows, to set down in precise words of the facts as he finds them is the best way to avoid carelessness in the discharge of that duty." U.S. v. El Paso Natural Gas & Co., 84 S.Ct. 1044, 1047, 12 L.Ed. 2d 12 (1964); See also POA, INC. v. Hass Corporation, 366 S.E. 2d 1769 (Ga. App. 1968); Rudenko v. Castello, 286 F.3d 51 (2nd Cir. 2002).

Petitioner filed civil action against the respondent and on 2-26-19 the district court adopted the R & R of the Magistrate Judge and denied removal and dismissed petitioner's complaint with prejudice. Petitioner filed an appeal and on 8-26-19 the court of Appeals for the fourth circuit affirmed the judgment of the district court via unpublished opinion. Petitioner filed for rehearing en banc seeking a motion to strike the orders and on 9-16-19 a stay of mandate was filed.

The petitioner alleges vehemently that he has been denied the right to access the court and suffers traumatic emotional distress, denied care for a serious medical need contrary to a physicians instruction while being falsely imprisoned and stripped of his God Center Culture Islam property under false pretense illegally. Such conduct by prison and government officials is a clear violation of the Eighth Amendment and Rule 12 of the Federal Rules of Civil Procedure provides:

A motion to dismiss for insufficient service of process in United States District Court can be filed by a defendant to request dismissal due to insufficient service of process in civil litigation in U.S. District Court, this essentially is the equivalent of a motion to quash.

The petitioner bears the burden of proof on a motion to dismiss for insufficient service of process as the law is also settled that once a respondent challenges the sufficiency of service of process on them, the petitioner bears the burden of establishing the validity of service as governed by Rule 4. See Brookmeyer v. May, 383 F.3d 198, 801 (9th Cir. 2004)

On 2-26-19 the district court entered an order with prejudice which amounts to an abuse of discretion as such it is not evidentiary supported like the order filed August 26, 2017 in the the fourth circuit court of appeals which contained unpublished impertinent scandalous material.

A "abuse of discretion" occur when the trial court's ruling is base on an error of law or, when grounded in factual conclusion, is without evidentiary support. Appeal And Error Key 946.

The district court's order dated 2-26-19 and the respondent's order dated 8-26-19 are void.

See Judgment Key 349, 350 (Definition of "void" under rule allowing attack on judgment as void encompasses only judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction.)

Until proper service is made on the respondent the respondent is not required to respond to the petitioner's complaint, and the court can not take any action against the respondent.

Rule 4 (M), Fed. R. Civ. P.; See Umbenhaver v. Woog, 969 F.2d 25, 30 (3rd Cir. 1992) ("dismissal of a complaint is inappropriate if there exist reasonable prospect that service may yet be obtained").

The petitioner moves to strike with any and all defenses and immunities pursuant to § 15-75-70 of the South Carolina Code of Laws; therefore the orders dated 2-26-19 and 8-26-19 are "void" and should be dismissed. The petitioner aver the facts in his complaint does fall within the definition

of "occurrence" as provided in § 15-78-30 (g) of the South Carolina Code of Laws; therefore the respondent is liable due to the additional fact "the courts orders degrade petitioner's person by reducing his character and reputation in the estimation of his friends and acquaintances, and the public for the purpose of disgracing him and to render the petitioner odious, contemptible and ridiculous. See Libel and Slander Key 16. The petitioner strike with any and all rights of limitations of liability pursuant to § 15-78-60 of the South Carolina Code of Laws, including all subparagraphs of said code section and therefore the courts orders should be dismissed.

Finally the petitioner aver this case and his claim of "Habit; Routine Practice" are ripe.

See St. Paul Area Chamber v. Gaertner, 439 F.3d 481, 487 (8th Cir. 2006) (ripeness was demonstrated by specific intent to pursue conduct in violation of a challenged statute); National Park Hospitality Ass'n v. Dept of Interior, 538 U.S. 803, 807-08, 123

S.Ct. 2026 (2003) (ripeness rules serve "to prevent the courts through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effect felt in a concrete way by the challenging parties." (quoting Abbott Laboratories v. Gardner, 387 U.S. 136, 148-49, 87 S.Ct. 1507 (1967)))

A Judge need not accept evidence of uncertain value going to a defense that is otherwise completely uncorroborated. Greenfield v. Robinson, 413 F.Supp. 1113. See Appendix A-G.

The petitioner is redundantly suffering significant hardships through atypical conditions due to the respondent and other government officials withholding crucial information for the courts consideration in violation of the petitioner's First Amendment right to redress the government of a grievance, his Fourth Amendment right to be free from unreasonable searches and seizures, his Fifth Amendment right to due process of law, his Sixth Amendment right to a fair and impartial hearing, his Eighth Amendment right to be protected against cruel and unusual punishment and his equal protected due process rights under the Fourteenth Amendment and it is plain and obvious.

Petitioner seeks an order granting his motion to strike.

NOTE: Petitioner submitted a declaration and a order to show cause in this case.

REASONS FOR GRANTING THE PETITION

A. Conflicts With Decisions of Other Courts

The holding of the courts below is directly contrary to the Respondents and other government officials conduct. See Harlow v. Fitzgerald, 457 U.S. 800, 817-18, 102 S.Ct. 2727 (1982). The question has also been stated as "whether a reasonable officer could have believed [her actions] to be lawful, in light of clearly established law and the information the [defendant] possessed." Anderson v. Creighton, 483 U.S. 635, 641, 107 S.Ct. 3034 (1987).

Harlow, 457 U.S. at 818.

The defendants' state of mind is often relevant to the question whether they violated the law at all, since some constitutional claims require proof of malice, deliberate indifference, or other subjective element.

The Respondents and other government officials failure to verify demonstrates the required proof of malice, deliberate indifference, or other subjective elements.

B. Importance of the questions Presented.

The questions presented is of great public importance because it affects the operations of the prison system in all 50 states, the District of Columbia, and hundreds of city and county jails.

The issues importance is enhanced by the fact this case presents the willful deprivations of Petitioner's constitutional rights under 18 U.S.C. § 242 and clearly shows two or more persons in the State of South Carolina conspiring together for the purpose of obstructing, or defeating the due course of justice with the intent to deny Petitioner the due and equal protection of the laws. The court should correct the non-binding precedents and administer a decision that can be felt in a concrete way by the challenging parties.

C. Fraud upon The court

'[F]raud on the court', whatever else it embodies, requires a showing that one has acted with an intent to deceive or defraud the court. A proper balance between the interests of finality on the one hand and allowing relief due to inequitable conduct on the other makes it essential that there be a showing of conscious wrongdoing what can properly be characterized as a deliberate scheme to defraud before relief from a final judgment is appropriate.

This is not simply a case of a judgment or judgments obtained with the aid of government officials. Here you will find a deliberately planned and carefully executed scheme to defraud not only the petitioner but the Supreme Court of the United States. This case not only concerns petitioner. There are issues of great moment to the public's interest. Furthermore, tampering with the administration of justice in the manner shown here involves far more than an injury to a litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of pro se litigants. The public welfare demands that incarcerated persons be not so impotent that they must always be mute and helpless victims of deception and fraud.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Supreme L. Ackbar

Date: 9-28-19