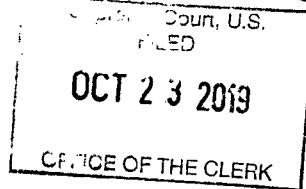


19-6563

No. _____

ORIGINAL



IN THE SUPREME COURT
OF THE UNITED STATES

ROBERT WILLIAM WAZNEY, Petitioner,

v.

JAMES C. CAMPBELL CLERK OF COURT, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS 4th Circuit

PETITION FOR WRIT OF CERTIORARI

OCTOBER 23, 2019.

ROBERT WILLIAM WAZNEY
990 Wisacky Highway
Bishopville, SC 29010
Petitioner
Pro se (forced)
803-428-2800

RECEIVED
NOV - 8 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
OCT 29 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

i.

QUESTIONS PRESENTED

PREFACE: Present Petitioner, an indigent state prisoner, brought suit for monetary damages against state court clerk under civil rights statute for alleged failure to perform ministerial duty to file--on seven (7) different occasions--in forma pauperis papers with court and denying Petitioner's access to court, where, in connection with divorce intertwined with criminal allegations, Petitioner sought to obtain legitimate untainted assets inappropriately pre-trial restrained by Court while Petitioner was a criminal defendant and thereafter. The United States District Court of South Carolina, at Greenville, Henry M. Herlong Jr., Senior Judge, entered a Judgment dismissing the complaint and prisoner appealed. The court of appeals, Judge King, Judge Richardson, Judge Shedd, held, inter alia, in affirmance with South Carolina District Court who refused to notice Petitioner's claim, that county clerk was immune from suit where action complained was ministerial and therefore giving privilege of absolute judicial immunity to State ministerial officer.

Q1: Affecting millions of persons, can federal citizens hold standing when federal court ignores thier claim(s)?

LIST OF PARTIES

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

TABLE OF CONTENTS

Table of Authorities	v.
OPINIONS BELOW	1
JURISDICTION	2
DISCLOSURE	3
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	4
STATEMENT OF THE CASE	
Affidavit or Declaration	10
Procedural Background	11
Background and How My Claim Entered The Court	13
Why the Decision Below is Incorrect and Why the Approach Taken in the Court Below was Faulty	15
Fed.R.Evid.301	19
THE ISSUE AND REASONS FOR GRANTING THE WRIT	21
CONCLUSION	26

INDEX TO APPENDICES

Appendix A	JUDGMENT of 4CCOA
Appendix B	OPINION AND ORDER of District Court
Appendix C	REPORT OF MAGISTRATE JUDGE
Appendix D	ORDER denying Petition For Rehearing
Appendix E	Complaint--WRIT OF SUPERVISORY CONTROL
Appendix F	Complaint--COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
Appendix G	PETITION FOR REHEARING REQUEST FOR EN BANC CONSIDERATION
Appendix H	OBJECTION TO ENTRY 17

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Felthager v. Weinberger, C.A.10th, 1976, 529 F.2d 130	19
Hale v. Mathews, C.A.4th, 1977, 558 F.2d 710	19
Jarvis v. Chasanow, 448 Fed.Appx. 406 (4th Cir. 2011)	17
JP Morgan Bank National v. Wazney, C/A 3:18-cv-00921-HMH (4th Cir.)	23
Maness v. District Court of Logan County-Northern Div., 495 F.3d 943 (8th Cir. 2007)	16, 22
McCray v. State of Maryland, 456 F.2d 1 (1972)	17, 21
McCullough v. Horton, 69 F.3d 918	21
Markus v. Old Ben Coal Co., C.A.7th, 1983, 712 F.2d 322	19
Norwood v. Solomon, 431 F.Supp. 380 (1977)	17
Padavich v. Mathews, C.A.8th, 1977, 561 F.2d 142	19
Quijencio v. Immigration and naturalization Servie, C.A.9th, 1976, 535 F.2d 501	19
Robertson v. Califano, C.A.4th, 1979, 601 F.2d 1276	19
Sharon Wazney v. Robert Wazney, 3:17-cv-02873-HMH	24
Snyder v. Nolen, 380 F.3d 279 (7th cir. 2004)	16, 22
Stevens v. Spartanburg Cty. Prob., Parole, and Pardon Servs., C/A No. 6:09-795-HMH-WMC, 2010 WL 678953 (D.S.C. Feb. 23, 2010)	17
Wazney v. State of South Carolina, 2018-001730 (S.C.Sup.Ct.)	14, 21
Wazney v. Warden of Lee Correctional, C/A 6:18-cv-02825-HMH, (4th Cir.)	22
Wazney v. Wazney, C/A 3:19-cv-01256-HMHKFM (4th Cir.)	22, 23
Winfrey v. Califano, C.A.4th, 1980, 620 F.2d 37	19

STATUTES AND RULES

South Carolina Code of Laws § 14-1-40,	4, 15
South Carolina Code of Laws § 14-17-10	5, 15
South Carolina Code of Laws § 14-7-220	5, 15
Federal Rules of Evidence, Rule 301	4, 19
South Carolina Code of Laws § 8-21-320	4, 20
28 U.S.C.A. § 2254	7, 22

OTHER

Blacks Law Dictionary (9th ed. 2009)	15, 16, 21
S.C. Constitution Article V, § 4	5, 15
S.C. Constitution Article V, § 24	5, 15
Critical Distinction, Morgan, Basic Problems of Evidence, 1961, p.34	19
2 Harper & James, The Law of Torts, 1644 (1956)	20
United States Constitution Amendment I	6, 20, 23, 25
United States Constitution Amendment XIV	6, 20, 23, 25
United States Constitution Article IV §2	7, 25

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 appear at Appendix A 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 B to the petition and is

reported at NA; 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 _____.

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: 7-29-19, and a copy of the order denying rehearing appears at Appendix D.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FEDERAL RULES OF EVIDENCE
Rule 301. Presumptions In Civil Cases

In a civil case, unless a federal statute or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. But this rule does not shift the burden of persuasion, which remains on the party who had it originally.

SOUTH CAROLINA CODE OF LAWS
§ 8-21-320. Motion Fees.

There is assessed for every motion made in the court of common pleas and family court, not including motions made in family court juvenile delinquency proceedings, a fee of twenty-five dollars. The fee must accompany each motion filed. The Supreme Court has authority to issue administrative rules to exempt from the motion fee certain family court matters involving rules to show cause in child and spousal support matters. The Supreme Court may waive the filing fees imposed by this section upon a proper showing of indigency. The revenue from this fee must be collected by the clerk of court in each court and remitted to the State Treasurer and credited to a separate judicial department support fund for the exclusive use of the judicial department.

The revenue collected pursuant to this section shall be distributed by the State Treasurer in the following manner:

- (1) the first four hundred fifty thousand dollars of these funds must be transferred to the Prosecution Coordination Commission. The funds shall be distributed equally to the third, fourth, and eleventh judicial circuits to fund drug court.
- (2) Any remaining funds must be transferred to the Judicial Department for operating purposes.

See also Appx. H @ Exhibit A.

SOUTH CAROLINA CODE OF LAWS
§ 14-1-40. "Clerk" defined.

The word "clerk", as used in this title, signifies the clerk of the court where the action is pending and, in the Supreme Court or court of appeals, the clerk of the county mentioned in the title of the complaint or in another county to which the court may have changed the place of trial, unless otherwise specified.

SOUTH CAROLINA CODE OF LAWS
§14-17-220. Drawings to be open and public notice.

The drawing must be made openly and publicly in the office of the clerk of court of common pleas and the ~~jury~~ commissioners shall give ten days' notice of the place, day, and hour of each of the drawings by posting in a conspicuous place on the courthouse door or by advertisement in a county newspaper.

SOUTH CAROLINA CODE OF LAWS
§ 14-17-10. Election for clerk of court of common pleas.

There shall be an election for clerk of the court of common pleas in each county by the qualified voters thereof at each alternate general election, reckoning from the election of the year 1960.

SOUTH CAROLINA CONSTITUTION
Article V §4

Submission of Supreme court rules to judiciary committees; disapproval by General Assembly.

All rules and amendments to rules governing practice and procedure in all courts of this State promulgated by the Supreme Court must be submitted by the Supreme Court to the Judiciary Committee of each House of the general Assembly during a regular session, but not later than the first day of February during each session. Such rules or amendments shall become effective ninety calendar days after submission unless disapproved by concurrent resolution of the General Assembly, with the concurrence of three-fifths of the members of each House present and voting. (1985 Act No. 8.)

SOUTH CAROLINA CONSTITUTION
Article V, § 24

Law enforcement officials, prosecutors and administrative officers; Attorney General.

There shall be elected in each county by the electors thereof a clerk of the circuit court, a sheriff, and a coroner; and in each judicial circuit a solicitor shall be elected by the electors thereof. All of these officers shall serve for terms of four years and until their successors are elected and qualify. The General Assembly shall provide by law for their duties and compensation.

The General Assembly also may provide by law for the age and qualifications of sheriffs and coroners, and the selection, duties, and compensation of other appropriate officials to enforce the criminal laws of the State, to prosecute persons under these laws, and to carry on the administrative functions of the courts of the State.

The Attorney General shall be the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record. (1972 (57) 2176; 1973 (58) 161; 1973 (58) 863; 1975 (59) 46; 1985 Act No. 9; 1989 Act No. 10; 1995 Act No. 35.)

UNITED STATES CONSTITUTION
Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

UNITED STATES CONSTITUTION
Amendment XIV

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 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United State, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned; but neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

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

UNITED STATES CONSTITUTION
Article IV §2

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

28 U.S.C.A. §2254
State custody; remedies in Federal courts.

(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a state court shall not be granted unless it appears that-

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the court of the State.

(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim--

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that--

(A) the claim relies on--

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

(g) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

AFFIDAVIT

OR

DECLARATION

The issue(s) of this case has National Importance because it affects every federal citizen, et al. who:

- (1) must rely on county clerks of court nationwide;
- (2) must use the judicial process of United States District Court;
- (3) must use United States Court of Appeals for the Fourth Circuit

and the issue(s) will recur if they are not appropriately addressed.

PROCEDURAL BACKGROUND

7/16/18 I filed complaint entitled WRIT OF SUPERVISORY CONTROL
8/13/18 I sent Status update requested from U.S. Dist. Court
8/27/18 I received reply of status
9/11/18 WRIT OF SUPERVISORY CONTROL resent to U.S. Dist. Court
9/23/18 Sent copy of WRIT OF SUPERVISORY CONTROL to DOJ
9/27/18 ORDER to resend my complaint on 'new' complaint form to U.S. Dist. Court
10/3/18 Application for IFP
10/10/18 RELIEF FROM ORDER (60(b))
10/10/18 Summons
10/10/18 MOTION TO APPOINT COUNSEL
10/12/18 ORDER IFP granted
10/13/18 I Amended complaint COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
10/16/18 ORDER appointment of counsel denied
10/23/18 ORDER directing Clerk not to authorized service of process
10/23/18 REPORT OF MAGISTRATE JUDGE
11/5/18 OBJECTION TO ENTRY 17
11/20/18 OPINION AND ORDER dismissing case without prejudice and issuance and w/o service of process
12/18/18 NOTICE OF APPEAL and Request for IFP
1/7/19 NOTICE OF APPEAL AND REQUEST FOR IFP
1/23/19 APPLICATION FOR RELIEF
1/30/19 PRLA APPLICATION FOR IFP
2/1/19 INFORMAL BRIEF

2/10/19 Trust account statement
2/11/10 ORDER IFP granted
5/29/19 NOTICE OF JUDGMENT
5/29/19 JUDGMENT affirmed
6/8/19 Letter to Clerk of notice of intent for Petition for Rehearing
6/10/19 PETITION FOR REHEARING REQUEST FOR EN BANC CONSIDERATION
6/14/19 ORDER granting extension of time for PFR
6/20/19 STAY OF MANDATE
7/7/19 Letter verifying Defendants identity
7/29/19 ORDER denying PETITION FOR REHEARING
7/30/19 EMERGENCY TEMPORAR[1]STAY
8/6/19 MANDATE
8/9/19 ORDER denying Stay
9/4/19 ORDER denying PFR

BACKGROUND
AND
HOW MY CLAIM ENTERED THE COURT

I am a federal citizen and I created wealth throughout the course of my life. I ran into some legal problems and when I went to access that wealth, it was kept from me inappropriately [Appx. E pp.192-193]. I was brought to trial, forced to use inferior counsel because the State government restrained my assets unrelated to the crime in which I was accused. When I attempted to access those inappropriately restrained assets, county clerk ignored my in forma pauperis papers--and other times told me my in forma pauperis papers needed to be in some special form--on seven different occasions, failing to file those in forma pauperis papers with the Court, barring my papers and claims from being filed with Court, impeding my access to Court, and which caused me actual injry. So, I seeked relief by petitioning the federal government, amongst others, for a redress of grievances; I complained [Appx. E, F] to South Carolina District Court, and Magistrate Judge testified against me [Appx. C] stating that county clerk actions were adjudicative, but the action I complained of was ministerial [Appx. E, p.i; G, H]. District Court accepted Magistrate Judge's testimony of presumption without any proof and without examining the evidence of the basic fact and determined county clerk has quasi-judicial immunity under such adjudicative acts then dismissed the case due to such immunity [Appx B]; Fourth Circuit Court of Appeals agreed [Appx. A, D]. County clerk froze my assets, county clerk issued my conviction, county clerk ignored and failed to file my in

forma pauperis motions repeatedly, county clerk has--and continues to--ignoring my Application For Post-conviction Relief Motion [S.C.Sup.Ct. No.2018-001730] which I filed with it five (5) different times now and county clerk still says my PCR is not on file, county clerk should be held liable and should be served my complaint for its actions, United States ignored(s) my claims, my life or death in prison relies on the outcome of this case, and the instant action is brought to offset, recoup, seek redress of the above, and this action is to correct where the Judiciary is actively protecting court officer(s) who are doing wrong to federal citizens--persons--which endangers the public at large.

WHY THE DECISION BELOW IS INCORRECT

AND

WHY THE APPROACH TAKEN IN THE COURT WAS FAULTY

Clerk of Court is "A court officer responsible for filing papers, issuing process, and keeping records of court proceedings as generally specified by rule or statute." Black Law Dict. p.288 (9th ed. 2009). The office of the clerk of court is generally created by statute or constitutional provision, including court clerks under federal authorizing statutes. County clerks of court are part of the State of South Carolina's unified judicial system. See S.C. const. Article V, §24; §§ 14-1-40, 14-17-10, South Carolina Code of Laws (as amended).

While the S.C. State constitution has provided for the creation of the office of clerk of court, and the legislative branch has partially defined the role of the clerk, it is understood that the clerk of court, as an officer of the court, is subject to judicial control by court orders and rules. S.C. Code Ann. § 14-17-220 (Law. Co-op. 1976.). This control may be exercised by the Chief Justice of the Supreme Court of South Carolina, as administrative head of the unified judicial system, S.C. Const. Art. V § 4 (Law. Co-op. Supp. 1990), or courts themselves in the exercise of their inherent powers. this control may be enforced through the courts' contempt powers.

County clerks of court exercise both adjudicative and ministerial duties, daily, for communities across the United States.

Quasi-judicial "relate[s] to, or involve[s] an executive or administrative officials adjudicative acts. Quasi-judicial acts [—a judicial act performed by an official who is not a judge—], which are valid if there is no abuse of discretion, often determine the fundamental rights of citizens. They are subject to review by courts." Black Law Dict. p.1364 (9th ed. 2009).

Ministerial "relate[s] to an act that involves obedience to instructions or law instead of discretion, judgment or skill <the court clerk's ministerial duties include recording judgments on the docket>." Id. @ p.1086.

"Ministerial act[s] ... a[re] performed without the independent exercise of discretion or judgment. If the act is mandatory, it is also termed a ministerial duty." Id. @ p.28.

It is well settled that clerks of court and other support personnel are not entitled immunity when performing ministerial duties. Clerk of court who allegedly refused to file inmates pleadings was not acting in "functionally comparable" way to judge and breached duty to perform Ministerial Act of accepting technically sufficient papers; clerk did not enjoy absolute quasi-judicial immunity; (per curiam) Snyder v. Nolen, 380 F.3d 279, (7th cir. 2004). A court clerk accused of preventing the plaintiff from prosecuting a domestic relations action for dissolution of marriage and a temporary restraining order--judicial immunity inapplicable. Id. @ 287. And, Court clerk accused of refusing to file the plaintiff prisoners appeal for lack of filing fee and refusing his reported requests to present in forma pauperis application to a judge--judicial immunity inapplicable. Maness v. District Court of Loyal County-Northern Div., 495 F.3d 943 (8th cir. 2007).

On the contrary, clerks of court and other support personnel are entitled to immunity similar to judges when performing their quasi-judicial duties. See Jarvis v. Chasanow 448 Fed.Appx 406 (4th Cir. 2011); Stevens v. Spartanburg Cty. Prob., Parole, and Pardon Servs., C/A No. 6:09-795-HMH-WMC, 2010 WL 678953, at *7 (D.S.C. Feb. 23, 2010). Absolute judicial immunity extends to persons other than judges when performance of judicial acts or activities as official judicial aides are involved and is referred to as quasi-judicial immunity.

And, it is well settled that county court clerks are not absolutely immune from suit, see Norwood v. Solomon, 431 F.Supp. 380 (1977), especially when county clerks are sued for not performing ministerial duties, see McCray v. State of Maryland, 456 F.2d 1 (1972).

I have testified that county clerk is guilty of failing to perform ministerial duties causing me injury. If District Court finds that county clerk failed to perform ministerial duties, District Court may presume that county clerk is guilty. The law allows District Court to presume guilt because it is common sense to suppose that if failure to perform ministerial duties causes my injury, that person is guilty. But District Court is not bound to find that failure of ministerial duties. And if District Court does not find that failure of ministerial duties, then District Court may not find that guilt unless District Court is convinced by a preponderance of the other evidence that the county clerk is guilty.

Therefore, being established between the parties, and District Court must assume, that county clerk failed to perform ministerial duties causing my injury. So District Court may infer, if District Court chooses to do so, that county clerk is guilty. The law allows District Court to make this inference because it is common sense that if county clerk failed to perform ministerial duties causing me injury, it is highly probable that county clerk is guilty. Magistrate Judge has testified--presuming--county clerk performed adjudicative acts. District Court must weigh Magistrate Judges testimony against the inference from county clerks failure to perform ministerial acts causing me injury in deciding whether or not county clerk is guilty. If, after balancing the circumstantial evidence of guilt against the testimony of the Magistrate Judge's presumption that county clerks actions were adjudicative, District Court finds it more probable than not that county clerk is guilty of failing to perform ministerial acts, District Court may so find; otherwise District Court should find for county clerk on the issue of guilt.

Once the proponent--Magistrate Judge in this case--of the presumption shows the Court that the presumption exists, he must then draw the critical distinction between its basic facts and the presumed fact. (Critical distinction, Morgan, Basic Problems of Evidence, 1961, p.34). This is where the Magistrate Judge failed; The courts, commentators, and codifiers all agree that the proponent of the privilege bears the burden of establishing the basic facts of the presumption, either by evidence or other means. Winfrey v. Califano, C.A.4th, 1980, 620 F.2d 37 (presumption denied for failure to prove basic facts); Robertson v. Califano, C.A.4th, 1979, 601 F.2d 1276 (same), Hale v. Mathews, C.A.4th, 1977, 558 F.2d 710 (same); Markus v. Old Ben Coal Co., C.A.7th, 1983, 712 F.2d 322 (failure to prove basic fact means not entitled to benefit of presumption); Padavich v. Mathews, C.A.8th, 1977, 561 F.2d 142, 147 (same); Quijencio v. Immigration and Naturalization Service, C.A.9th, 1976, 535 F.2d 501 (same); Felthayer v. Weinberger, C.A.10th, 1976, 529 F.2d 130, 132 (same). Moreover, in determining the procedural effect of the presumption, the District Court must know where the evidence introduced by the opponent contradicts the evidence of the basic fact, or the presumed fact, or both. And this is where South Carolina District Court failed; the Magistrate Judge never established the basic facts of the presumption, the District Court did not know whether the fabricated evidence introduce by the Magistrate Judge contradicted the evidence of the basic fact, where the only evidence the Magistrate Judge introduced was his presumption that the duties county clerk performed were adjudicative, and District Court never examined the basic fact.

Magistrate Judge failed to follow Federal Rule of Evidence, District Court ignored my claim and obstinately accepted Magistrate Judges fabricated evidence and dismissed the action finding county clerk immune from suit from it performing "adjudicative"--quasi-judicial--acts; and effecting county clerk absolute immunity. District Courts decision is incorrect because in respect to filing in forma pauperis papers, the county clerk has no discretion that merits insulation by a grant of absolute immunity; the act is mandatory. S.C. Code § 8-21-320. County clerk duty, although associated with the court system, is not quasi-judicial (meaning entailing a discretion similar to that exercised by a judge). Clerical duties are generally classified as ministerial, 2 Harper & James, the Law of Torts, 1644 (1956), and the act of filing papers with the court is a ^{MINISTERIAL} ministerial and inflexibly mandatory as any of the clerk's responsibilities. My allegations against county clerk arise out of his performance of ministerial acts or activities. As such, county clerk is not entitled to quasi-judicial immunity and should not have been dismissed from the action.

District Court's decision was faulty where Magistrate Judge's presumption ultimately operated to deprive me--the presumption opponent--of due process of law. U.S. Const. Amend XIV. My United States Constitutional guarantees were abridged by the county clerk when it failed--seven times--its ministerial duty to file my IFP papers, and my United States Constitutional guarantees were denied when the District Court refused to notice my claim(s). U.S. Const. Amends. I, XIV. Giving rise to the instant federal question:

The Issue and Reasons for Granting the Writ

CAN FEDERAL CITIZENS HOLD STANDING WHEN FEDERAL COURT IGNORES THEIR CLAIMS?

Standing is "a party's right to make a legal claim or seek judicial enforcement of a duty or right. ... To have standing in federal court, a plaintiff must show (1) that the challenged conduct has caused the plaintiff actual injury, and (2) that the interest sought to be protected is within the zone of interests meant to be regulated by the statutory or constitutional guarantee in question. [it is] also termed standing to sue." Blacks Law Dictionary p.1536 (9th ed. 2009).

The foregoing demonstrates where a federal citizen brought claim to United States regarding unlawful county clerk action causing federal citizen's injury and his claim was simply ignored then dismissed. The issues involved have been previously recognized in the courts:

(A) County clerk malfeasance, nationwide, namely:

- (i) Wazney v. State of South Carolina, S.C. Supreme Court case No. 2018-001730, 4th Circuit, where county clerk refuses to file federal citizens post-conviction relief papers;
- (ii) McCray v. State of Maryland, 456 F.2d 1 (1972) 4th Circuit; (same);
- (iii) McCullough v. Horton, 69 F.3d 918, (8th. Cir. 1995), where county clerk failed to follow court order and failed to perform non-discretionary act;

- (iv) Snyder v. Nolen, 380 F.3d 279, (7th Cir. 2004), where county clerk refused to file inmates pleadings;
- (v) Maness v. District Court of Logan County-Northern Div., 495 F.3d 943 (8th Cir. 2017), where county clerk refused to file prisoners appeal and file IFP with the Judge; and

(B) District Court voluntary ignorance and connivance, particularly 4th Circuit:

- (i) Wazney v. Warden of Lee Corp. Inst., No. 6:18-cv-02825-HMH, 4th Circuit, Court of Appeals No. 19-6203, where federal citizen filed 28 USCA § 2254 Habeas petition testifying one ground for relief and which testimony having only thirty-four english words—including some citation—and S.C. District Court accepted the first seventeen words of federal citizen testimony then dismissed petition on grounds exacting of federal citizen's last seventeen words Court did not consider of testimony; District Court considered only half of federal citizen's pure speech—ignoring the other half—deciding federal citizen's death in prison.

- (ii) Wazney v. Wazney, S.C. District Court case No. 3:19-cv-01256-HMH-KFM where federal citizen was "obstructed from [his] legitimate efforts to seek judicial redress at trial by the Judge ... inducing him not to present his case." Magistrate Judge failed

to consider--voluntarily ignored--petitioners claims of discrimination. Magistrate Judge recommending remand and claiming action was frivolous and without merit. District Court inappropriately remanded action because "[D]ivorce decrees remain outside federal jurisdictional bounds" where District Court refusing to allow petitioner to testify; its decision contrary to established federal law(s) (see informal brief Wazney v. Wazney, 4th Circuit Court of Appeals Case No. 19-1737).

(iii) JP Morgan Bank National v. Wazney, C/A 3:18-cv-00921-HMH, 4th Circuit, Court of Appeals Case No. 18-6693, where federal citizen complained of denial of civil rights and denial of equal protection. Magistrate Judge took testimony out of context, misquoted the applicable law, debated statutes beyond the scope of the proceeding, and related a story not in evidence, voluntarily ignoring petitioners claims written all over the face of his complaint. District Court adopted Magistrate Judges recommendation without explanation, finding petitioners objections to be non-specific, unrelated to the report of Magistrate Judge, or restated arguments. Case remanded. 4th Circuit Court of Appeals finds no error.

(iv) Sharon Wazney v. Robert Wazney, C/A 3:17-cv-02873-HMH,
4th Circuit, Court of Appeals No. 18-6466, where
federal citizen removed action from State court for
denial of civil rights because he could not enforce in
the courts a right under law providing for the rights
of citizens of the United States. With civil rights
abridgments all over the face of the complaint,
including where over twenty (20) Motions were ignored
by the county clerk, Magistrate Judge recommended
dismissal for lack of Jurisdiction because the action
was a divorce case; the opponents objection clearly
framed the contrary (see OBJECTION 3:17-cv-02873-HMH,
ECF 22, p.1 @ 5) and falls within the exception of the
law provided for dismissal, but District Court
remanded action agreeing with Magistrate Judges
recommendation anyways.

Where a federal citizen, indigent or not, presents papers to a
county clerk anywhere in the United States, that county clerk owes a duty of
good faith to that federal citizen and to follow statutory law and file
federal citizens papers as required by law, otherwise, especially if that duty
is breached more than once, county clerk has committed malfeasance. Regarding
such maladministration, constitutionally entitled redress comes where federal
citizens present claim to a federal court of law to obtain justice. Federal
Court--and or federal court officers who present their ideology of the case to
District Court--should consider that claim and not interfere with the law by

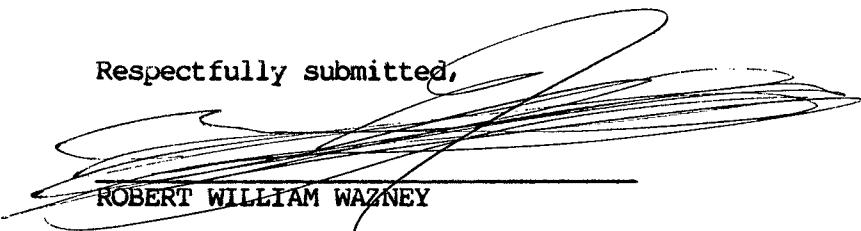
refusing to notice federal citizens actual claim, then introduce fabricated evidence, make presumption of fact, or testify that federal citizens claims are something different than what federal citizen actually presented, obstructing justice, then federal court adjudicate in favor of those federal court--or federal court officer's--created false claims, 4th Circuit Court of Appeals then finds no error of law, it violates due process of law and inhibits the right to petition the government for a redress of grievances, in violation of United States Constitution Article IV §2, United States Constitution Amendment I, XIV:

When federal citizens bring federal claims, federal court abolishes federal citizens standing where challenged conduct is ignored, affecting millions of persons.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


ROBERT WILLIAM WAZNEY

Date: OCTOBER 23, 2019

DISCLOSURE

TO WHOM IT MAY CONCERN:

LEE CORRECTIONAL INSTITUTION WARDEN is actively interfering with my attempts to prepare my legal papers for this court by restricting my maximum law library access to less than five (5) hours per week. I have requested extension of time to offset such forced disability, but without notice or grant of such extension of time to file my papers with this court, I am obligated to file my papers incomplete and without all of my grievances with this Court, therefore, enclosed herewith are my best-efforts to obtain justice under the above, et al., circumstances.

In support of my claims I declare under penalty of perjury the foregoing is true and correct.

/s/

ROBERT WILLIAM WAZNEY

990 Wisacky Hwy.

Bishopville, SC 29010

Petitioner

Pro-se (forced)

October 23, 2019.