

I. QUESTIONS PRESENTED

Question 1:

In a Section 1983 false-evidence claim, which involves the creation, use, and continued dissemination of fabricated evidence and upon which false accusations were &/or are based, does the statute of limitations begin to run upon the favorable termination of the ensuing proceedings, as recently held in McDonough v. Smith, No. 18-485, 588 U. S. ____ (2019), or from when the falsely accused “knew or should have known” of the of that falsified, as held herein by the Second Circuit Court of Appeals (Appendix A3), particularly:

- i.) where the main harms thereby caused were not the long term deprivations of physical liberty, as they were in McDonough v. Smith, *supra*, &/or where the violations resulted in harms that were primarily “interests other than the interest in freedom from physical restraint.” Albright v. Oliver, 510 U.S. 266, 283 (1994); &/or
- ii.) when whether a given resolution, if any, in false-evidence Section 1983 claims should be considered a “favorable termination,” as initially established in Heck v. Humphrey, 512 U.S. 477 (1994), where the primary causal harms are not liberty deprivations, is presently uncertain, undetermined, and warrants redress and clarification by the U. S. Supreme Court. McDonough v. Smith, n. 2, *supra*; &/or

iii.) when the falsely accused has consistently been denied all access to that which was falsified &/or its' contents, in ostensible regards to herself, and, as such, she has no first-hand knowledge of that upon which said false accusations were based, i.e. she has only occasionally and inadvertently overheard bits and pieces thereof from various third parties, etc., rendering it impossible for her to defend such; &/or

iv.) where the long term dissemination of said false evidence is so egregious as to shock the conscience, given that the Respondents' only purpose was &/or is to cause harm unrelated to any legitimate legal purpose, thereby violating the Petitioner's Substantive Due Process Rights, et al., as established by County of Sacramento v. Lewis, 523 U.S. 833, 849 (1998), Rochin v. California, 342 U.S. 165 (1952); &/or

v.) as the Court of Appeals for the Second Circuit, as well as the United States District Court, Western District of New York, have entered decisions &/or sanctioned such (Appendix A & Appendix B), that "so far depart[ed] from the accepted and usual course of judicial proceedings," i.e. rewarding the criminals herein, i.e. the Respondents, and further victimizing the actual crime victim, i.e. the Petitioner, that it "call[s] for an exercise of this Court's Supervisory Power," pursuant to Supreme Court Rule 10 (a).

Question 2:

Should the United States Supreme Court grant Writ of Certiorari to said Petitioner, and review the false-evidence Section 1983 matter herein:

- i.) in order to clarify whether a particular “resolution” should be considered a “favorable termination,” as initially established in Heck v. Humphrey, supra; &
- ii.) in order to determine the proper standards when there essentially is no such “termination,” favorable or otherwise, as here; &
- iii.) in order to establish a clear and determined exception to the “favorable termination” requirement, established by Heck v. Humphrey, supra, i.e. to establish a lawful exception for Section 1983 Plaintiffs/Petitioners who have diligently sought out and actively pursued such “favorable termination,” but was thwarted from obtaining such due to the Respondent’s ongoing frauds, crimes &/or other illegalities, as here, so as not to deprive said Section 1983 Plaintiffs/Petitioners access to Federal Court relief, also as here.

Question 3:

Should equitable tolling, i.e. a person is *not* required to sue within the statutory period if he cannot, under the circumstances, be reasonably expected to do so, Dixon v. United States, 548 U.S. 1 (2006), be applied in a long term false-evidence and official misconduct Section 1983 claim, where the Respondents routinely utilized the fabricated evidence, which they entered into law enforcement databases as if accurate, genuine, & legitimate, against the Petitioner herein, who qualifies for the protections afforded by the Americans with Disabilities Act (ADA), 42 U. S. Code §12111, et seq, specifically Title II, and which the Respondents so did for the purposes of beating or riding out the statute of limitations on said Section 1983 claim. **EQUITY WILL NOT SUFFER A WRONG WITHOUT A REMEDY.**

John Norton Pomeroy, L.L.D., "A Treatise on Equity Jurisprudence," Volume I., SECTION X., § 423.

II. TABLE OF CONTENTS

	Page(s):
I. Questions Presented	i - iv
II. Table of Contents	v
III. Index to Appendices	vi
IV. Table of Authorities	vii - ix
V. Petition for Writ of Certiorari	1
VI. Opinions	2
VII. Jurisdiction	2
VIII. Constitutional Provisions	3 - 4
IX. Statutory Provisions, Treatises, and Articles	4 - 5
X. Statement of the Case	5 - 20
XI. Reasons for Granting the Writ	20 - 21
XII. Conclusion	21- 22

III. INDEX TO APPENDICES

Appendix A	A1 – A12
Second Circuit Court of Appeals	
Summary & Motion Orders	
Appendix B	B1 – B18
U.S. District Court Decision & Order	
& Magistrate's Report, Recommendation, & Order	
Appendix C	C1
Certificate of Service	
Appendix D	D1 – D16
Motion for Leave to Proceed <i>In Forma Pauperis</i>	
& Supporting Affidavits	

IV. TABLE OF AUTHORITIES

Page(s):

Cases:

<u>Albright v. Oliver</u> , 510 U.S. 266, 283 (1994)	i
<u>County of Sacramento v. Lewis</u> , 523 U.S. 833 (1998)	ii
<u>Dixon v. United States</u> , 548 U.S. 1 (2006)	iv
<u>Heck v. Humphrey</u> , 512 U.S. 477 (1994)	<i>passim</i>
<u>McDonough v. Smith</u> , No. 18-485, 588 U.S. ____ (2019)	<i>passim</i>
<u>Rochin v. California</u> , 342 U.S. 165 (1952)	ii

Statutes:

28 U.S. Code §1254	2, 4
28 U.S. Code §1738A	4, 8
42 U.S. Code §1983	<i>passim</i>

Page(s):

42 U. S. Code §12111, et seq, Title II iv, 4, 6

Supreme Court Rule 10(a) ii.

Supreme Court Rule 10(c) 1

Constitutional Provisions:

First Amendment 3

Fourth Amendment 3

Fifth Amendment 3

Sixth Amendment 3, 4

Fourteenth Amendment 4

Treatises & Articles:

A Treatise on Equity Jurisprudence iv, 4

John Norton Pomeroy, L.L.D., Volume I, Section X., § 423

Page(s):

The Treaty on the Civil Aspects of International Child Abduction iv, 8
Hague Convention (October 25, 1980): Established legal rights and
procedures for children who have been wrongfully removed.
The language of which has been incorporated by reference into
most child abduction statutes. "Children who are wrongfully removed
. . . are to be promptly returned."

"Ensuring Equality in the Criminal Justice System for I v, 6
People with Disabilities," ADA.gov, DOJ, Civil Rights
Division, Americans with Disabilities Act – Title II Regulations:
Nondiscrimination on the Basis of Disability in State &
Local Government Services. Department of Justice,
September 15, 2010.

No.: _____

SUPREME COURT OF THE UNITED STATES

**Molly Ann Mahany,
Petitioner, *pro se*,**

v.

**i. City of Buffalo Police Department, State of New York; &
ii. Erie County District Attorney's Office, State of New York,
Respondents.**

**On Petition for Writ of Certiorari from the United States Court of Appeals
for the Second Circuit**

V. PETITION FOR WRIT OF CERTIORARI

Molly Ann Mahany, Petitioner, *pro se.*, most respectfully petitions the United States Supreme Court for grant of a Writ of Certiorari, in order to review the determination of the Second Circuit Court of Appeals, docketed as # 18-1483 (Appendix A1 – A12), as, in so doing, the Second Circuit Court of Appeals “has decided an important question of federal law that has not been, but should be, settled by this Court” and “has decided an important federal question in a way that conflicts with relevant decisions of this Court,” most recently in McDonough v. Smith, No. 18-485, 588 U. S. ____ (2019), in accordance with Supreme Court Rule 10 (c).

VI. OPINIONS

The Second Circuit Court of Appeals rendered a Summary Order and Judgment, which was entered on June 20, 2019. A copy of said Summary Order and Judgment is submitted herewith. (Appendix A1 – A12).

This Section 1983 matter was initially filed in the United States District Court, Western District of New York, and indexed as # 14-cv-693. A copy of the Magistrate's Report & Recommendation as well as the Opinion & Order of the District Court, entered on April 16, 2018, is submitted herewith. (Appendix B1 – B18).

VII. JURISDICTION

The Petitioner, Molly A. Mahany, *pro se*, hereinafter “the Petitioner,” respectfully invokes the jurisdiction of the United States Supreme Court, in accordance with 28 U.S.C. § 1254, having timely filed this Petition for Writ of Certiorari, *and* as the Second Circuit Court of Appeals has issued a final judgment on an important question of federal law that has not been, but need be, settled by this Court, as said final judgment is in conflict with decisions of the U.S. Supreme Court on the same important matter, as the Second Circuit Court of Appeals has sanctioned a decision that has so far departed from the accepted and usual course of judicial proceedings that it warrants the exercise of this Court’s Supervisory Power, etc., there are compelling reasons for grant of the Writ of Certiorari most respectfully prayed for herein.

VIII. CONSTITUTIONAL PROVISIONS

i.) U.S. Constitution – 1st Amendment:

The First Amendment (Amendment I) to the United States Constitution prevents the government from making laws that restrict the establishment of religion, that prohibit the free exercise of religion, or that abridge the freedom of speech, the freedom of the press, the right to peaceably assemble, or the right to petition the government for redress of grievances.

Source: First Amendment to the United States Constitution - <https://en.wikipedia.org>

ii.) U.S. Constitution – 4th Amendment:

The right of the people to be secure in their persons, houses, papers, and

affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Source: Fourth Amendment to the United States Constitution - <https://en.wikipedia.org>

iii.) U.S. Constitution – 5th Amendment:

The Fifth Amendment requires that felonies be tried only upon indictment by a grand jury. The Double Jeopardy Clause provides the right of defendants to be tried only once for the same offense. The self-incrimination clause provides various protections against self-incrimination, including the right of an individual to not serve as a witness in a criminal case in which they are the defendant.

The Supreme Court furthered the protections of this amendment through the Due Process Clause of the Fourteenth Amendment.

Source: Fifth Amendment to the United States Constitution - <https://en.wikipedia.org>

iv.) U.S. Constitution – 6th Amendment:

The Sixth Amendment (Amendment VI) to the United States Constitution requires that criminal defendants be given notice of the nature and cause of accusations. The Amendment's Confrontation Clause gives criminal defendants the right to confront and cross-examine witnesses, while the Compulsory Process Clause gives criminal defendants the right to call their

own witnesses and, in some cases, compel witnesses to testify. The Assistance of Counsel Clause grants criminal defendants the right to be assisted by counsel.

Source: Sixth Amendment to the United States Constitution – <https://en.wikipedia.org>

v.) U.S. Constitution – 14th Amendment:

The first section of the Fourteenth Amendment (Amendment XIV) to the United States Constitution contains several clauses, including the Privileges or Immunities Clause, the Equal Protection Clause, and the Due Process Clause, i.e. “[n]or shall any State deprive any person of life, liberty, or property without due process of law.” This amendment limits the actions of all state and local officials, including those acting on behalf of such.

Source: Fourteenth Amendment to the United States Constitution - <https://en.wikipedia.org>

IX. STATUTORY PROVISIONS, TREATISES, & ARTICLES

- i.) 28 U.S. Code § 1254 – Courts of appeals; certiorari; certified questions: Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) by writ of certiorari granted upon petition of any party to any civil or criminal case, before or after rendition of judgment or decree.
- ii.) 28 U.S. Code §1738A – Full faith and credit given to child custody determinations: (g) a court of a state shall not exercise jurisdiction in any proceeding for a custody or visitation determination commenced during the pendency of a proceeding in a court of another state.
- iii.) 42 U.S. Code § 1983 – Civil action for deprivation of rights: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, & immunities secured by the Constitution and laws, shall be liable to the party injured.
- iv.) 42 U. S. Code §12111, et seq, Title II – Title II of the Americans with Disabilities Act (ADA) protects people with disabilities from discrimination in State and local government services, programs, & activities, including law enforcement agencies, justice system entities, & corrections agencies. . .
- v.) A Treatise on Equity Jurisprudence, John Norton Pomeroy, L.L.D., Volume I, Section X., § 423: EQUITY WILL NOT SUFFER A WRONG WITHOUT REMEDY: *Ubi jus ibi remedium* – wherever a legal right has been infringed, a remedy will be given.

vi.) "Ensuring Equality in the Criminal Justice System for People with Disabilities," ADA.gov, DOJ, Civil Rights Division, Americans with Disabilities Act – Title II Regulations: Nondiscrimination on the Basis of Disability in State & Local Government Services. Department of Justice,

X. STATEMENT OF CASE

This is a Section 1983 false-evidence claim, pursuant to 42 U.S. Code §1983, involving the Respondents' creation and continued long term dissemination of false evidence, which were used in a number of actions, proceedings, & other such judicial procedures as well as entered into law enforcement databases, thereby causing and continuing to still cause repeated and as yet unremedied violations of the Petitioner's Constitutional Rights and ongoing deprivations her Federal Entitlements, etc..

The primary issues herein are:

- i.) when does the statute of limitations begin to run in a Section 1983 false evidence claim; &
- ii.) what constitutes a "favorable termination," as established by Heck v Humphries, *supra*, in a Section 1983 false evidence claim; &
- iii.) what if a Section 1983 false evidence Petitioner never achieves such "favorable termination," despite her overly diligent efforts to procure such and given the Respondent's long term and routine acts to thwart her procurement thereof; &
- iv.) when does the statute of limitations begin to run in a Section 1983 false evidence claim when the Respondents' deliberate ongoing unlawful acts "shock the conscience;" &
- v.) should equity avail prospective relief: &

vi.) does blaming and relentlessly punishing a crime victim, via shifting all accountability for what are a municipalities' own crimes and illicit acts alone, by way of the long term dissemination of said false evidence and even though her victimization had well been established, toll the statute of limitations in a Section 1983 claim and would justice be served by *not* so doing.

The Court, in McDonough v. Smith, *supra*, another Section 1983 false evidence claim out of the Second Circuit, held that the statute of limitations began to run when the criminal proceedings against him terminated in his favor. The Second Circuit used the same case &/or standard to determine said accrual period in both McDonough and herein.

This case presents the U.S. Supreme Court with an opportunity to prospectively clarify the *Heck* "favorable termination" requirement, which would afford all seeking federal relief under a Section 1983 false evidence claim access to such, which said Petitioner has consistently been denied.

Moreover, at some point this Court need determine whether the whether the *Heck* "favorable termination" requirement applies across the board or whether there need be a lawful exception for Section 1983 Petitioners who have diligently and rigorously pursued such "favorable termination," as did the Petitioner herein.

Here, although the Petitioner diligently and rigorously pursued such "favorable termination," every single day for 18 years, she was unable to procure such due to said false evidence. 6

Although the Federal Courts are divided, the statute of limitation for Section 1983 false evidence claims primarily runs from when it is “favorably terminated,” as the matter herein was never terminated at all, and, as such, the statute of limitations has yet to accrue, but will begin to accrue when she procures some truth and any accountability, etc., as it is then “favorably terminated,” pursuant to Heck, *supra*.

The main resultant and ongoing harms, caused by the Respondent’s falsified evidence, include the deprivation of the Petitioner’s interests in real property, i.e. she was deprived of her proprietary interests in two houses, the seizure of such were further prohibited by a Permanent Order of Protection and several Court Orders.

As a result of said false evidence, the Petitioner was not only deprived, and continues to still be deprived, of various pecuniary interests and other monetary resources, i.e. someone cashed in the Petitioner’s Whole Life Insurance Policy, for which she has no recourse, and someone was receiving and spending the Petitioner’s military retirement benefits, including her share of a sizeable lump sum award, for well over a dozen years, as to which she also had no recourse, and during which time the Petitioner was often, if not usually, thereby indigent and homeless.

The primary ongoing resultant harms further include the deprivation of the Petitioner's personal property interests, including well over \$ 300,000.00 in personal property, as well as the majority of her mail for 14 years, all of her ID, her diplomas, thousands of photographs, jewelry, heirlooms, etc., and her well maintained vehicle, which was outright stolen after first being repeatedly vandalized, then repaired at the Petitioner's expense, for which she had no available means of legal redress.

As an example of the ongoing use of the false evidence herein, in &/or around 2012, the Petitioner contacted the New York State DMV to see if her vehicle, above, which was stolen 12 years earlier although titled in solely her own name, was still being driven.

The woman at the DMV was upset with the Petitioner, stating that said Petitioner should not have a car on the road, impermissibly being driven by an as yet unidentified car thief, when said vehicle was still titled in the Petitioner's name.

In response thereto, the Petitioner told said DMV employee that she has repeatedly reported the theft of her vehicle to various police departments and district attorney's offices, including both Respondents, to the Virginia Beach Police Department, to the Commonwealth's Attorney for the City of Virginia Beach, to the New York State Troopers, to the Virginia Troopers, to the Erie County Sheriff's Department, to the James City County Sheriff's Department, to the New York State

Office of the Inspector General, to the Inspector General for the Commonwealth of Virginia, to the New York State Attorney General, to the Virginia Attorney General, to the United States Attorney General, to the Buffalo Field Office of the FBI, to the Norfolk Field Office of the FBI, to the Head of the Criminal Division of the FBI, who accurately summarized the inner workings of the corruption herein, at the FBI Headquarters in Washington, D.C., all of which went without even an offer of assistance, much less any actual law enforcement or just resolve.

Hearing this, the DMV representative had no further advice. As the Petitioner said, "I'm just one, wholly discredited person."

About a year prior thereto, i.e. in &/or around 2011, the Petitioner also attempted to file said Section 1983 Claim, based on the false evidence herein, in the U.S. District Court for the Eastern District of Virginia, having managed to obtain a ride thereto.

The Petitioner consulted with a representative of said District Court, who was a smaller woman, who had longer dark hair, and whose name began with a "J."

The representative, above, told the Petitioner that she would have to file such Section 1983 claim in the U.S. District Court for the Western District of New York, which the Petitioner could not afford to do.

The Petitioner initially returned to the Commonwealth of Virginia sometime in 2003.

She did so for the ultimate purposes of re-inhabiting her Virginia Beach residence, given that two of her treating physicians advised her that it was not safe for the Petitioner to physically be in the Buffalo, New York area, and as it was her children's home state, and, as such, the Petitioner had to be physically present in said Commonwealth, in order to have her children returned to her legal Sole Custodianship, pursuant to 28 U.S. Code § 1728A, or the PKPA et al..

Moreover, pursuant to the language of the Treaty at the Hague Convention, October 25, 1980, which initially established legal rights and procedures for wrongfully removed children, “[c]hildren who are wrongfully removed must be promptly returned,” as herein.

Once back in said Commonwealth, the false evidence continued to be disseminated as needed. Thus, the Petitioner continued to occasionally be evicted, continued to often either be denied employment or soon terminated therefrom, and continued to be denied access to the courts, to legal aid, to warrant cards, to notice of actions and proceedings, to crime victim's advocacy, to police protection &/or assistance, etc..

The Petitioner could not go to the Buffalo, New York area, in order to file a Section 1983 claim any earlier than she actually did, as, after she returned to Virginia, she lacked the money to so do. The theft of the Petitioner's vehicle rendered “trips” further untenable. 10

During the summer of 2006, the Petitioner had a serious work accident with injuries. The Petitioner was initially receiving medical attention for such via Worker's Compensation. The Petitioner's Worker's Compensation claim was, via further disseminating that which was falsified, then abruptly and inexplicably terminated, subsequent to which she had chronic elbow pain for years.

Ultimately, said abuser abducted the Petitioner's children in violation of a Permanent Order of Protection, a Compliance Court Order prohibiting such, as well as the Petitioner's initial child custody determination, which gives said Petitioner legal Sole Custodianship.

He did so while charges of Endangering the Welfare [of said children] were pending against him, which he could never have illegally committed without the use of the false evidence herein.

In this case, said abductor/abuser was, in actual fact, a narcissistic, truth-challenged, family annihilator, with violent tendencies and a personality disorder. These health problems did not fully manifest themselves until he retired from active duty military service.

The Petitioner was aware of the abductor/abuser's mental issues, as well as his threats to kill her children and his actual and escalating infliction of harm upon them.

It was, and still is, very difficult for the Petitioner to function typically once she had been rendered without her houses, without her livelihood, without her profession, without her clothing, including her own shoes, without her reputation, without her personal property, including her car, without her financial security, without her medical insurance, and without her friends, some of which she had known for almost 40 years, all of which the Petitioner would still have but, for the false evidence herein.

The Petitioner has further been diagnosed as having severe ADHD & Dyslexia, which makes everything more difficult, but much more so after her medical insurance was fraudulently cancelled, based on said false evidence, i.e. said fake evidence erroneously asserts that the Plaintiff has Munchausen's Syndrome, or that she routinely seeks medical attention for non-existent medical conditions in order to get attention.

To note, the Petitioner only learned of the "Munchausen's Syndrome" false contention upon reading the Recommendation, Judgment, and Order of the District Court for the Western District of New York, in August of 2018.

The Petitioner, having never received notice of any such actions and proceedings to which she was a party, despite routine attempts to obtain such via inquiry, having been denied access to pretty much every Court from which she could

have sought relief, having been denied all access to the court files involved herein, having been denied warrant cards for the ongoing commission of crimes, and having never had her subpoenas complied with, which, if they had been, may have favorably resolved this matter shortly after its onset, *still has no first-hand knowledge of the contents of that falsified by the Respondents herein.*

That is, the Petitioner believed that she may have witnessed the Respondents illegally making up something, one of whom even made threats along those lines, but she has never known or been made aware of what was actually fabricated in alleged regards to herself, having consistently been denied all access to such information.

The Petitioner has only overheard bits and pieces of that which was actually falsified by said Respondents. The Petitioner, having been denied access to the false evidence itself, remains unaware of the specifics of that fabricated, which renders defending such falsehoods impossible.

Although it is difficult to function typically when you are abruptly rendered homeless, indigent, possession-less, profession-less, and without access to courts, police protection, notice of actions and proceedings, legal advocacy, proper medical attention, transportation, and any remaining credibility, usually while hungry, cold, alone, sick, under-dressed, and traumatized, but it is almost impossible to do so

when you are the overly conscientious Mother of relatively young children and you are all too aware that your children are in constant, prospectively lethal danger, for a continuous and uninterrupted twelve year period, with no available means of legal redress therefore.

Other resultant and continuing harms, derived via the false evidence herein, includes the deprivation of the Petitioner's business, which she, alone, had established in one of the houses that had illegally been seized, and which was remarkably successful at the time of its seizure.

Being rendered homeless and without her means of livelihood, due to said false evidence, the Petitioner ultimately could not pay her professional fees or afford her Continuing Legal Education courses, thereby suspending her professional license.

Not only could the Petitioner no longer practice law, which was ultimately a result of the false evidence, but its ongoing widespread dissemination made it difficult for her to obtain any employment, much less maintain it, subsequent to said fabrication.

Before said falsification, the Petitioner had dozens of friends, a solid reputation, numerous accomplishments, and professional standing.

Since the fabrication of said false evidence, and continuing to present, the Petitioner is generally considered to be an isolated pariah and cautionary tale.

Everyday subsequent to the creation of the false evidence herein, the Petitioner has made some effort to attempt to remedy this tragedy, even though she is not accountable for its making.

She often spent her last few dollars on copies, postage, and phone cards in lieu of food.

Although the Second Circuit Court of Appeals ruled that the Petitioner waited too long to file this false evidence Section 1983 claim, in actual fact, the Respondents effectively beat or ran out the statutory period by continuing to disseminate the false evidence herein.

As such, the decision of said Court of Appeals encourages the continued victimization of a Plaintiff &/or Petitioner, by the Defendants &/or Respondents, in similar false evidence Section 1983 claims, in order to beat out the applicable statutes of limitations, as here, and thereby escaping accountability.

As she was denied access to her own court files, as she was denied notice of the actions and proceedings to which she was a party, and given that everything that she had subpoenaed was never availed her, the Petitioner's knowledge as to certain matters remains quite limited, which makes it difficult to fight back, particularly when further deprived of access to courts.

The Petitioner went to the Erie county Family Court in late 2013 & in early 2014, so as to have them acknowledge her legal Sole Custodianship, which they already did immediately prior to the fabrication of said false evidence. Said court ultimately informed the Petitioner that she would have to go along with &/or otherwise regurgitate that which was maliciously and incorrectly asserted in said false evidence, which would constitute perjury.

As she was never availed access to that fabricated, the Petitioner still had no first-hand knowledge of the false evidence &/or its contents, and, as such, she could not have perjured herself, as advised, even if she were inclined to do so.

Moreover, in &/or around January 2018, exactly concurrent with the commencement of motion filing in the U.S. District Court for the Western District of New York, on this Section 1983 claim, indexed as 14-cv-693 therein, someone with access to law enforcement databases as well as knowledge of the Petitioner's learning disabilities again entered false evidence into said databases, so that she could not obtain the medication needed for the proper treatment of her learning disabilities, i.e. so as to allow her to do close work, in this case legal writing in the absence of resources, for the ensuing 6 month period.

The Petitioner and her children are crime victims.

Thus, an exception to the *Heck* “favorable termination” requirement need now be established.

The Petitioner is a crime victim who filed this Section 1983 false evidence claim honestly, equitably, and with clean hands as well as good intentions.

Everything the Petitioner does is an attempt to procure the one thing that she and her family have needed since said false evidence was initially fabricated, but were always unable to procure *because* said evidence was falsified.

In filing all documents herein, the Petitioner is seeking some measure of the truth, some acknowledgment of said crimes, et al., and a degree of accountability, however minor, for their ongoing commission.

The Petitioner and her family need this to obtain some resolution. Only then can the crime victims make attempts towards healing as well as efforts to move on, to which one cannot affix a monetary value.

Additionally, since the Respondents’ creation of said false evidence, the Petitioner, alone, has borne the entire burden of attempting to “fix” or “correct” the widespread damage caused by their frauds, which she has done day-in-day-out without relief, remedy, or recompense, since their fabrication.

As the Respondents caused, and remain accountable for, the ongoing hurts, harms, injuries, damages, and other detriments herein, which are egregious and irreparable, perhaps it is their turn to take over damage control.

To further note, the Petitioner is presently in need of, and legally entitled to, the immediate relief that she requested via filing the motion to Show Cause in said Second Circuit i.e. access to and the exclusive use of her houses, her vehicles, her furniture, her washers and dryers, her health insurance, her shoes, her Professional License, her livelihood, etc..

In this case, the Respondents instigated the criminal proceeds against the Petitioner, with an improper purpose and no probable cause. In fact, the Petitioner had a Professional Nanny, not only to ensure her children's safety, to promote their sense of stability, and to provide said children a heightened quality of life, but also to ward off any prospective false accusations in regards to the Petitioner's ostensible ability to mother, which is actually exceptional and exemplary.

Moreover, the Respondents intended to cause harm to the Petitioner, previously a financially self-sufficient and exemplary Mother of four thriving children, and threatened to cause her such harms in person on approximately 8 occasions.

The Respondents' purpose was to create false-evidence, then broadly propagate it as well as verify it falsely under oath, to ensure the Petitioner's continuing harm, which has neither a legitimate nor a legal purpose. 19

The Petitioner is now, and always has been, the sole true owner of the very few pieces of stolen personal property that she asked to be returned, via said motion, above.

The pieces of stolen personal property in issue, although the Respondents would not allow the Petitioner to make a police report or obtain warrant cards in regards thereto, constitute a mere fraction of the stolen property of which she, alone, remains exclusively entitled to use, possess, transfer, convey, destroy, etc..

As the Respondents' use of false evidence, against said Petitioner, had &/or has no legitimate purposes and was designed to cause ongoing harms, which it did &/or does, it is so egregious as to "shock the conscience," thereby violating her 14th Amendment Substantive Due Process Rights as well.

XI. REASONS FOR GRANTING THE WRIT

The Petitioner respectfully invokes the jurisdiction of the United States Supreme Court, having timely filed this Petition for Writ of Certiorari, and as the Second Circuit Court of Appeals has issued a final judgment on an important question of federal law that has not been, but need be, settled by this Court, as said final judgment is in conflict with decisions of the U.S. Supreme Court on the same important matter, as the Second Circuit Court of Appeals has sanctioned a decision

that has so far departed from the accepted and usual course of judicial proceedings, here via effectively rewarding the actual criminals, that it warrants the exercise of this Court's Supervisory Power, etc., there are compelling reasons for grant of the Writ of Certiorari most respectfully prayed for herein.

XII. CONCLUSION

The Petitioners Section 1983 claim is not only meritorious, but timely, as the standard applicable hereto is *not* when she learned of the false evidence herein, or should have learned of such, which she never did, but when this matter was "favorably terminated."

Due to the long term and continuing commission of frauds, crimes, &/or other illegalities by the Respondents herein, this matter has yet to be terminated, favorably or otherwise. Regardless of the Petitioner's every ongoing, due, and diligent human effort to so do, this matter has yet to be resolved.

Although she is only an innocent crime victim, this matter has yet to be terminated, favorably or otherwise, due to the ongoing commission of false evidence and Section 1983 violations by the Respondents, above.

Moreover, even if the standard applicable hereto *was*, hypothetically, when the Petitioner "knew or should have known" of that fraudulently falsified and put

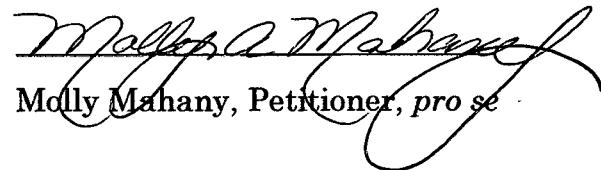
forth as ostensible evidence, as was held by the Second Circuit, the Petitioner may have surmised or guessed that the Respondent's conduct was fishy, but she was never availed any first hand access to the actual false accusations &/or the falsified evidence itself, despite her repeated, due, and diligent efforts to procure such.

Thus, what the Petitioner really "knows" of the evidence falsified by the Respondents, is, in actual fact, nothing. Her awareness thereof is mere conjecture.

For the reasons stated herein, in order to make efforts towards healing and moving forward, for the purposes of preserving the integrity of our judicial system, and in the interest of equity, justice, and the law, the Petitioner most respectfully now prays for relief in the form of issuance of Writ of Certiorari.

I Respectfully Ask For This:

Dated: November 7, 2019



Molly Mahany, Petitioner, *pro se*

Molly Mahany
Petitioner, *pro se*
PO Box 7
Sardinia, NY 14134
Phone: 716-598-4161
Email: mollymahany@hotmail.com

Ms. Maeve E. Huggins, Esq.
City of Buffalo Department of Law
1112 City Hall, Buffalo, NY 14202
Phone: 716-851-4317 / Fax: 716-851-4105
Email: mhuggins@city-buffalo.com

Counsel for Respondent

Ms. Michelle Parker, Esq.
Erie County Department of Law
95 Franklin Street #1634
Buffalo, NY 14202
Phone: 716-858-2209
Email: parkerm@erie.gov

Counsel for Respondent