

St. Peter, Oct. 21, 1904.
F. C. D.

IN THE

SUPREME COURT OF THE UNITED STATES

Robert Lee Mitchell — PETITIONER
(Your Name)

vs.

Miller 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

Robert Lee Mitchell
(Your Name)

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

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

(Phone Number)

QUESTION(S) PRESENTED

Is the order of the U.S. district court dated 8-7-19 void?

Is the order of the U.S. court of Appeals for the Fourth circuit dated 10-18-19 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:

Miller magistrate Judge, Barbara Morgan solicitor,
Costa pleicones trial Judge

RELATED CASES

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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 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[✓] is unpublished.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 _____; 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[✓] is unpublished.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[] is unpublished.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[] is unpublished.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 October 18, 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

As stated in the declaration submitted in this case the petitioner was denied proper due process on numerous occasions by the appellees. (Dec. at 2) on 12-15-94 plaintiff was illegally seized unlawful arrested without cause and without warrant and without miranda warnings. (Dec. at 3) on 12-16-94 Judge miller issued a deceptive warrant for Lt. Ed carroll without verified evidence before him. (Dec. at 4) on 12-16-94 [] Lt.

Ed carroll committed perjury by saying that on or about 12-9-94 one Robert mitchell did with premeditation and design and with malice aforethought commit the crime of murder upon Rev. Frank Rouse to wit: Robert mitchell did strike Rev. Frank Rouse about the head and body with a cane and a stick and then stomp Frank Rouse with his feet causing his death this crime taking place in Barnwell county. see exhibit (A) (Dec. at 5) During the coarse of the defendant illegal detention the defendant obtained apparent coercive statement from plaintiff knowing of plaintiff's mental instability. (Dec. at 6) plaintiff counsels Walter Bedingfield and Karen Fryar knew that the state had isolated plaintiff by himself without being able to speak or see any family members and that the due process clause condemns certain interrogations techniques either in insolation or as applied to the unique characteristics of a particular suspect

are so offensive to a civilized system of justice nevertheless they deliberately failed to take plaintiff's case through an adversal testing without objection. see Tr. p. 19 Line 2-16 (Dec. at 7) plaintiff was prejudiced by trial counsels Walter Bedingfield and Karen Fryar failure to file motions to dismiss knowing that one's capacity for rational judgment and free choice may be overborne as much by certain forms of severe mental illness as by external pressure. (Dec. at 8) on August 5, 1999 plaintiff appeared before Judge King and trial counsel Walter Bedingfield admitted plaintiff want to stand trial. see exhibit (B) Tr. p. 28 Line 14-19 (Dec. at 9) defendant Costa pleades was aware of plaintiff instability consist of organic brain dysfunctional with a serious thought disorder but ignored it despite mental retardation diagnose. see exhibit (C) mental evaluation. (Dec. at 10) The courts abused its discretion when it allowed plaintiff to plea to charges I was never charged or indicted therefore violating fifth amendment right to grandjury and due process of law. see exhibit (D) Tr. p. Line 5-9 (Dec. at 11) The defendant Barbara Morgan was permitted to make factual contention without evidetary support with impunity. see exhibit (E) Tr. p. 31, 32 Line 5-6 Line 24-25 p. 32 Line 1-25 (Dec. at 12) The defendant has acted completely outside the scope of their authority as clearly limited the

scope of their authority willfully and therefore are not entitled to immunity. (Dec. at 13) The defendants action infrusting and hindering plaintiff right to due process clearly impinge on the constitutional rights of plaintiff by substantially reducing the likelihood of plaintiff obtaining judicial redress in the legal matters mentioned herein. (Dec. at 14) The defendants and other goverment officials has maliciously sadistically and deliberately concealed information which was is crucial to plaintiff obtaining judicial redress (Dec. at 15) The plaintiff is suffering traumatic emotional distress and deliberate indifference by being falsely imprisoned due to the afore-mentioned defendants performing outside the scope of their duties. (Dec. at 16) The defendant and other goverment officials conspire together for the purpose of preventing or hindering the constituted authorities of this state from giving or securing to plaintiff the equal protection of the Laws. For the purpose of obstructing or defeating the due coarse Justice. (Dec. at 17) The defendant and other goverment officials conduct does violate clearly established constitutional right of plaintiff which a reasonable person would have known. (Dec. at 18) As a result of plaintiff of defendants acts and omissions and the acts and omissions of other goverment officials whom the defendants were responsible, plaintiff suffers discomfort embarrassment and humiliation prior to during and following the illegal seizure of plaintiff

(Dec. at 19)

SUMMARY ARGUMENT

on 7-22-19 The magistrate Judge recommended dismissing the petitioner's complaint without service of process pursuant to the procedural provisions of 28 U.S.C. § 1915 (e) (2) (B) and unequivocally did not specifically offer or claim any verified supportive evidence petitioner's complaint was frivolous or malicious or petitioner's failed to state a claim on which relief may be granted or the respondent was immune or petitioner claims was based on a meritless legal theory. See 20 S.C. Jur. Libel and Slanders § 45 Verification failure to conduct an independent check of records before publishing defamatory statement may constitute negligence, further when a report is based on an obvious unreliable source failure to verify the report may amount to actual malice). NOTE: The petitioner verified his complaint and the evidentiary support thereof and the magistrate Judge did not recommend any sanctions against

The petitioner for perjury see IN re vancil
contracting INC. CO Illinois, Jan. 16 2008, 381 B.R. 243
(HEADNOTE: Failure to verify by affidavit is clear requirement and failure to verify renders such a claim unenforceable. In this case the magistrate Judge's failure to verify sua sponte is clearly seen upon the face of the record and the district court showed deliberate indifference in failing to satisfy itself of clear error on the face of the record. Diamond v. colonial,
Life', Accident Ins. CO. 416 F.3d 310, 315 (4th cir. 2005))
A district court "must" satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. (Internal quotation omitted).
The petitioner has brought forth genuine "verified" issue of material fact in accordance with Fed. R. CIV. proc. 56 (c) (e) while the district court's R's and order and opinion fails to show that there is some metaphysical doubt as to the verified material facts of petitioner. see DeLuca v. Atlantic Refining CO., 176 F.2d 421, (A2 1949) (L. Hand, J. J. cert. denied, 338 U.S. 943 70 S. Ct. 423 94 L. Ed. 581 (1950) to Ac Wright, A Miller) M. Kane federal practice and procedures § 2727 (1983) the nonmoving party must come forward with specific facts showing that there is a genuine issue...1 Fed. R. CIV. proc. 56(e) The district court has willfully

Failed to verify and issued a incompetent opinion like the court of appeals unpublished opinion. see Code Civ. Proc. 1922, §§ 164, 165 (see Code 1992, §§ 206, 207). see Brooks v. U.S. Fidelity & Guar Co., 159 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 28 U.S.C. § 1651 (A) 28 U.S.C. § 2101 (e) and Supreme Court Rules 16 (A) (c) Rule 11 and Rule 20.1 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 nonfrivolous claims about the conditions of his confinement. petitioner aver the willful acts of the respondent involve herein were done maliciously with the intent to harm the petitioner and committed with a corrupt motive in bad faith. see Autry v. Western Ky. University, 219 S.W. 3d 717 (NO immunity for act done willfully

or maliciously with intent to harm or if committed with a corrupt motive or in bad faith. See Appeal and Error Key 1031 (3) admitting evidence having some probative value upon a material issue of fact in the case is presumed to be prejudicial.) See Appendix A { B NOTE: A "material" fact is one that "might" affect the outcome of the suit governing law. See Anderson v. Liberty Lobby Inc., 477 U.S. 242, 248 106 S.Ct. 2505 (1986) The petitioner's verified complaint and the facts alleged therein are material evidence that there is a definite and firm conviction that the respondent committed a clear error of judgment. See Hart v. Hairston, 343 F.3d 762, 765 (5th Cir. 2003) (per curiam) The plaintiff's sworn statement in that case a verified complaint that his complaint or grievance was true is sufficient evidence to defeat summary judgment on the point, petitioner over the district court's order and opinion and the fourth circuit court of appeals unpublished opinion is resulting in petitioner being falsely imprisoned longer enduring traumatic emotional distress and its plain and obvious pursuant to Rule 52 (B) See Johnson v. Barczak, 338 F.3d 771 (7th Cir. 2003) But a delay becomes

a injury if it results in actual substantial prejudice to specific litigation. (citation omitted) The Supreme Court stated in South Carolina Electric Gas Co. v. South Carolina Public Service Authority 215 S.C. 193, 54 S.E.2d 777 that the existence of an actual controversy is essential to jurisdiction to render a declaratory judgment see Dantzler v. Cullison, 227 S.C. 317, 88 S.E.2d 64 There the court stated where a concrete issue is present and there is a definite assertion of legal right and a positive legal duty with respect thereto which are denied by the adverse party there is a justifiable calling for the invocation of declaratory judgment action. see pleading key 343 (A motion for judgment on the pleadings based on insufficient process is the proper vehicle for challenging the lack of delivery of the summons and complaint.

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 elements.

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 question 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.

5 Fraud upon the court

Fraud on the court whatever else it embodies, require 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 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 concern 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,

Robert Lee Mitchell

Date: 11-14-19