19-6879

ORIGINAL

No.19_____

In the Supreme Court of the United States

Salim Abdul-Malik,

Petitioner

vs.

City Government
Office of Court Administration
et al

Respondents

On Petition for a Writ of Certiorari to
The United States Court of Appeals
For the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

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I. QUESTIONS PRESENTED

1) As a first, *pro se* litigants have the Constitutional right to represent themselves in which this notion has its origins which stem from the Judiciary Act of 1789. Kindled on the implied language of the 6th and 7th Amendment-again addressed by the High Court, espouses pro *se* litigants be provided with a fair and "meaningful" hearing. This again with being afforded a degree of latitude in pursuing claims as the preeminent holding extols. *Haines v. Kerner, 404, US 519, 522* (1972. As the query here goes this as to what sort of reception do *pro se* litigants –particularly plaintiffs, presently receive in the federal system that'd be on level with Constitutional or judicially divined standards. Also in this day and time is the treatment of this group as far as sustainability for America's reputation as being the foremost legal forum in the world- when again some unrepresented litigants endure scathing trials in their attempts to seek to advance their claims in good faith. **As the kernel question of this petition-which is *sans* any precise *litigation* point, Petitioner as archetype of herein complained-on situation by the prismatic refraction of his past experiences -asks under this heading - What might this Court do in terms of implementing administrative reforms throughout the federal system (to trickle down to state level) in order to cope with a practical matter that sees proficiently pleading *pro se* litigants – paid and IFP cases, being marginalized and abused by court personnel and judges in their bids to advance justical causes- tagging the judiciary in being in simpatico with Congress in Prisoner Litigation Reform Act –or PLRA, of 1996 *42 U.S.C § 1997 (e)* initiative; meant chiefly to curb frivolous *pro se* litigation by the incarcerated and reshape statutes of limitations, while at the same time-with less emphasis, there be provided the few of proficiently pleaders of the unrepresented with unbiased hearings to advance their claims or in defense thereof in counterclaim, without hindrance that'd again be vetted by some neutral body? Also, in view of ramped up expulsions and new immigration controls for non-citizens in the Post 9/11 age- Would the Panel kindly define court accessibility procedures for inadmissible alien *pro se* litigants in state suits pursuing liberty or property interests in the US -but with the party's body being outside of these borders? Again could lower court's Order be valid where a portion of the EDNY scanned complaint was not fully availed for the record here as ECF No. 1 has pages 38-83 out of order or missing?**

2) Petitioner duly integrated Declaratory and Injunctive (Prospective) Relief mechanisms into his complaint onto entity Respondents directly in name, to form on-its-face Unconstitutional "state action" claim that cascading in key precedents. *United States v. Raines 362 U.S. 17* (1960), Flagg *Brothers v. Brooks463 U.S. 149* (1978), and *Thornburgh v. American College of Obstetricians 476 US 747(*1986). Clearly the Unconstitutional policy that allows for the "discard[ing]"- on capricious whim or in the furtherance of an artifice of pleadings of Constitutionally protected litigants where

Petitioner maintains that such infringed upon his 5th and 14th Amendment rights. A prefacing query comes as-How is a "state action" properly stated to district court by a plaintiff to the given standard. *Bell Atlantic v. Twombly et al, 550 US 544 127* (2007)? Incorporating still the "plausibility" standard and in *Ashcroft v. Iqbal 556 US 662* (2009)-When is the conciseness standard in notice pleading. met Petitioner under FRCP Rule 9(c) when Petitioner pleaded in "particularity" where detail is necessary to plead fraud in the Racketeering Influenced Corrupt Organization-(RICO)-*18 U.S.C.§ 1642* and Alien Tort Claim Act (ATCA)-*28 U.S.C. § 1350* schemes? **In a nutshell under this rubric-Should the Circuit Court have dismissed the appeal where it offered absolutely nil on such matter-as previously District Court impliedly denied that Petitioner had formed any "state action" claims against entity Respondents (Pet. App-13a-¶2) when in fact he'd done just so with the usual indicia; all when viewed from a scope of Supreme Court precedent. *Ex Parte Young 209 U.S. 123* (1908) ; to which crucially pivots on the fact that 11th Amendment immunity doesn't shield state government from being restrained- prospectively, on any Unconstitutional practice/policy: also as to the High Court in entertaining "state actions" it views immunity differently than from the vista of the lower courts. *Parker v. Brown 317 US 341* (1945)? Furthermore distinguishable from a case of legitimate "rejection" of defective papers for pre-stated reasons that comes with notice -Can then a written policy that allows clerks to "discard" litigant pleadings *without* notice be Constitutional on seeing the stark prejudice that'd be dropped onto participants in them not being apprised of the spontaneous paper rubbishing as such works are forever "disappeared" in a court morass (ECF 1-1 at Pgs. 199-L42, 200-Pt. 3)?**

3) In his complaint Petitioner charted such *Denial of Access to the Courts* and linked *Obstruction of Justice* (as a Civil RICO predicate) claims as to the theft of legal papers and the subversion of his attorney by state/ *quasi*-state actors . In a dichotomy there individual conduct infringes on 1st Amendment rights offends Due Process values laid out in Civil Rights (Section 1983) and Civil RICO legislation to form Constitutional suit or racketeering hybrid. Such "state action" may still evanesce from employee actors' illicit conduct that'd be attributable to the agency. -As espoused before the 1st Amendment hold a "preferred place" in Constitutional echelons for which such actor conduct was trespassing on grounds inviolable.- *Thomas v. Collins 323 U.S. 516,530* (1945) . In proceeding Petitioner's claims were anchored onto the High Court's holdings-in trilogy, *Younger v. Harris 401 US 37,* (1971), *Mitchum v. Foster 407 US 225 (1972),* and *Colorado River Water Conservation District v. United States 424 U.S. 800* (1976). **In a nutshell in the prosecution of individual state/*quasi*-state actor Respondents being propelled into an assured Constitutional suit and possible "state action" -Should the Court of Appeals-have dismissed *sua motu* this appeal under this tine whence again it offered no remark on such matter and where earlier District Court relented to review the claims themselves or even Petitioner's immunity "defeat sheets"-(ECF No. 1 at 374-471) that'd plead-in preface, to upend presumptive-*quasi*-judicial/qualified immunity onto each individual actor Respondent? (*Ibid* at 432-838) (Pet. App 13a). Additionally- in a case where over 20**

of a litigant's pleadings –(ECF No.1 at 478-501) (ECF No. 1-1 at Pgs 32-33, 38, 51, 119-120, 135-137,) were forwarded-then received by clerks where undisputedly these papers were either purposely "discarded" -or accidently "mishandled" (Pet App 8a) by such court personnel -In what instance then would a series of such incidents-on malice or ineptitude, not constitute that of Denial/Impeding Access to the Courts in a Constitutional suit/state action to spark district court review ?

4) On the issue of 11th Amendment bars for vicarious liability attaching to foreign-or domestic, sovereigns there's a chasm in choices among circuits on its applicability. Once a private prosecutor pleads onto the plane of the Foreign *Sovereign Immunities .Act–* or FSIA, *of 1976* 28 *U.S.C. § 1330* exception under *42 U.S.C. §§1605 (a)(2), 1605(a)(5)* in pursuance Civil RICO or ATCA claims there may be an override of such immunity that not . Here *pros se* litigant projected this vector where District Court in its rulings failed to address such matter. No doubt vicarious liability assessment onto a sovereign has -historically, sanction from Congress' and the High Court, where the latter expounded on such smartly. *Sedima, SPR.L v. Imrex Co., Inc., 741 F.2d 482, 503* (2d Cir. 1984). Permissibility comes in codification as well here. *Restatement (Second) of Agency §212* (1957). **In a nutshell-Was the Court of Appeals-under this heading, permitted to dismiss the appeal *sua motu* -instead of remanding the matter back to trial court; all where prior District Court neglected to address the issue of vicarious liability mode prosecution of sovereigns whence Petitioner did plead in preface exemption /exception to 11th Amendment bars for prosecution of OCA/UCS entity under Civil RICO and ATCA commands? (ECF No 1 at 427-431). S till yet again what impact was there on the District Court proceedings whence EDNY personnel-on behalf of Hon Ann M. Donnelly, conferred with actor Respondents *prior to* composing its January 31, 2019 Memorandum of Law Decision & Order?**

5) Last to be examined here is that of Title VI claim of the Equal Protection Clause with 14th Amendment nexus where Petitioner had advanced such a claim of relief amidst a backdrop of where across America Constitutionally protected litigants-*pro se* and otherwise, are many times impacted by race national/regional origin discrimination by some state agency. Here such state agency is City Government Organization of Court Administration-or OCA, and Unified Court System-or UCS,-jointly and severally, for which Petitioner set forth such Title VI claim to District Court which was insolently ignored such . Subsequently, Court of Appeals in dismissing Petitioner's appeal mentioned nothing of this Constitutional claim well rooted the Civil Rights Act of 1964. With such rational basis of review is the appropriate level of scrutiny. *Ramos v. Town of Vernon 353 F.3d 171, 175* (2nd Cir. 2003) citing *Allied Stores of Ohio, Inc v. Bowers 358 U.S. 522, 528-29.* **In a nutshell-Was Court of Appeals correct in dismissing, *sua motu* such appeal under this heading when-yet again, it offered not a syllable as to this claim under Title VI *42 U.S.C. § 2000d et. seq.* hinging on Race and Regional/National Origin Discrimination–(ECF No. 1 at 455) as Petitioner convincingly presented this claim that was underpinned by testimony but where District Court, failed to address such –and snubbed this Court's keystone ruling that cements the Title VI arch. *Lau v. Nichols 414 US 563 (*1974)**

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II. PARTIES TO THE PROCEEDINGS

Within the lower court there is that Appellant/Plaintiff- labeled as *Petitioner* here in *being*:

SALIM ABDUL-MALIK a/k/a MUJTABA ATTIA f/k/a VON KNOWLDEN is a private party foreign national being a former-United States Lawful Permanent Resident in which he had been ordered on consent excluded from this country where such mandate was executed on August 15, 2007:

Otherwise in the lower court there'd be on the opposing side the lead as governmental entity and its sub-entity respectively as Appellees /Defendants for which they are placed as *Respondents* for which both are herein prosecuted in FSIA exception/exemption as those of :

1. CITY GOVERNMENT OFFICE OF COURT ADMINISTRATION-or OCA, and

2. NEW YORK STATE UNIFIED COURT SYSTEM OF THE 11TH JUDICIAL DISTRICT- or UCS.

Such individuals from below were termed as state actors being under "color" of law. In the lower court these were Appellees/ Defendants and further deemed *Respondents*-here. In District Court they were labeled Defendants for which any *quasi*-judicial and qualified immunity the individuals were presumed to have had-were defeated in preface pleading within said complaint for which there are those of:

3. MARIA BRADLEY Law Secretary of Hon. (ret.) Jeremy Weinstein –Queens Supreme Court of UCS sub-entity

4. SHERRILL SPATZ Inspector General of OCA entity

5. KELLY (KAY) ANN PORTER Managing Inspector General of Bias Matters of OCA -entity

6. TAMARA KERSH Chief Court Clerk- Queens Supreme Court of OCA entity

7. R. TEICHMAN Court Clerk Aide Queens Supreme Court of OCA entity

8. KEVIN MORRISSEY Legal Secretary- Queens Supreme Court of QSC Judge Leonard Livote **of** OCA entity

8. AUDREY PHEFFER Chief Court Clerk-Queens County Clerk's Office of OCA entity

9. FRANCIS KENNA Deputy County Clerk-Queens County Clerk's Office of the OCA entity

10. SUSAN WOODS Clerk Aide Queens County Clerk's Office of the OCA entity

11. KEVIN ROTHERMEL Chief Administrator-Queens County Clerk's Office of the OCA entity

12. PAT KELLY Clerk Aide Queens County Clerk's Office of the OCA entity

Lastly, there is included in this action well from District Court proceedings that of:

13. **DANIEL FRIEDMAN** – ordinarily would be viewed as a private party -acting in the capacity as an attorney defending the state defendant in what was a matter of a simple ejectment action. In such case Friedman was to have enjoyed Section 1983 suit exemption as well as litigation privilege from prosecution in the course of representing any "client" of his. In the case here however *New York Rules of Professional Conduct § 1.16-Declining or Terminating of Representation* specifically bars an attorney from representing a client enumerated reasons stating:

> a) A lawyer SHALL NOT accept employment on or behalf of a person if the lawyer knows or reasonably should know that such person wishes to: *i.* [b]ring a legal action, *conduct a defense, or assert a position in a matter, or otherwise have steps* taken for such person, merely *for the purpose of harassing or maliciously injuring any person*; OR *ii.* [*p*]*resent a claim or defense in a matter that is not warranted under existing law*, unless it can be supported by a good faith argument for an extension, modification, or reversal of existing law

Here Friedman knowingly after being warned- all to advance a state actor artifice to usurp a parcel of property, represented the state defendant on a "harassing" counterclaim that is one alleging "fraudulent deed". In such Friedman exposed himself to possible nullification of Section 1983 exemption from a Civil Rights suit. but most certainly saw lifted litigation privilege from prosecution.(ECF No.1 at 807) Pleading to disable exemption/privilege was available for lower courts t . (ECF No 1 at 403-427)

. In District Court Friedman was Defendant for which in Court of Appeals Friedman was pegged as an Appellee/Defendant where lastly here his is affixed as an individual Respondent. Notably throughout the federal proceedings Friedman would be fingered as the "*quasi*-state actor" (otherwise Civil RICO co-manager, and ATCA tort-feasor). One who is not in the employ of OCA/UCS agency but for which he, in the state court arena, acted on the state arm's "authority" to defend the state defendant who is a New York State employee. Such state defendant Gerald Knowlden is long established as being a non-heir of the decedent all surrounding a 1997 property transfer engaged in by the outland Petitioner where all title issues were resolved in Ind. #17178/97-QSC Friedman and all other individual state actor *Respondents* named above are presumed to be United States citizens-along with the unnamed here-state defendant

III. PETITION FOR WRIT OF CERTIORARI

Being a natural person at liberty but who is currently situate outside of the United States herein respectfully petitions this Court for a Writ of Certiorari for it to be reviewed the appendix annexed Orders of the United States Court of Appeals for the 2nd Circuit dismissing so stated appeal *sua motu.* Such bases of this petition rests again with the otherwise included Memorandum of Law Decisions & Orders of the United States Court for the Eastern District of New York.

IV. OPINIONS BELOW

Originally there'd be seen that of Eastern District of New York [AMD] [SMG] in 18-cv-7361 on January 31, 2019 dismissing, *sua sponte,* Petitioner's complaint. This for reason that name Respondents were all supposedly immune and Petitioner failed to state a claim in giving inadequate notice to the opposing side while again said to be for prolixity. Thereafter on a timely submitted Motion of Reconsideration District Court denied the application in its April 18, 2019 Memorandum and Order offering it could "find no reason to reconsider [its] decision"

From Petitioner's timely appeal by was by right in 19-cv-0546 came the Order of the Court of Appeals for 2nd Circuit and the dated June 19, 2019 that'd dismiss *sua motu* Petitioner's appeal as it purported to have "lack[ed] an arguable basis either in law or in fact". Finally upon Petitioner submitting his Motion for Reconsideration, the 2nd Circuit on September 4, 2019 there witnessed a judge panel , without comment, rebuff such latest request of the *pro se* litigant's for reconsideration in it stating " [It is hereby ordered] , that the motion is denied".

V. STATEMENT OF JURISDICTION

As it were Petitioner's Motion for Reconsideration to the Court of Appeals for the 2nd Circuit was denied on September 4, 2017. On this he asserts that this Court's jurisdiction-in novel import lies in *28 U.S.C. § 1254 (1)* on having filed this petition within the 90 period after the issuance of such Order of the Court of Appeals for the 2nd Circuit - thus this petition is timely. Just as well jurisdiction lies in Supreme Court Rule (10)(a) in which the Court of Appeals for the 2nd Circuit at the very least on the matter of its *sua motu* dismissal of the appeal *preempting* allowance for litigant briefing therein all-to term such appeal- as being frivolous has overridden the unequivocal determination of this Court in precedent.

VI. CONSTITUTIONAL/STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment I

The First Amendment provides pertinently:

[P]rohibiting 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 redress of grievances.

United States Constitution Amendment V

The Fifth Amendment provides pertinently:

[N]or be deprived of life, liberty, property, without due process or law; not shall private property be take for public use, without just compensation.

United States Constitution Amendment VI

The Sixth Amendment provides pertinently:

In all criminal [and having implications in civil realm] prosecutions the accused shall enjoy the right to speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law....

United States Constitution Amendment VII

The Seventh Amendment provides pertinently

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of the trial by jury shall be preserved and no fact tried by a jury, shall be otherwise reexamined in any Court or the United States....

United States Constitution Amendment XI

The Eleventh Amendment provides pertinently

The Judicial power or the United States shall not be construed to extend to any suit in law of equity, commenced or prosecuted against one of the United States by Citizens of another State or by Citizens or Subjects of any Foreign State

United States Constitution Amendment XIV

The Fourteenth Amendment provides pertinently

[N]o state shall make or enforce any law which shall abridge the privileges or immunities of citizens (Respondents maintain that "citizens" is meant literally) 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.

United States Constitution Article III, Section 2, Clause 1

The Case and Controversy Clause provides pertinently

The Judicial Power shall extend to all cases in law and Equity arising under this Constitution the Laws of the United States, and Treaties made or which shall be under their Authority .....to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; - between Citizens of the same State claiming Lands under Grants of different States and between a State, or the Citizens thereof and foreign States, Citizens or Subject.

42 U.S.C. § 2000d

Title VI of the Civil Rights Act of 1964, *42 U.S.C. § 2000d*, et seq. provides:

[N]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance

VII. STATEMENT OF THE CASE

In stating his case Petitioner first places emphasis that he is not an attorney nor has he had any formal law school training. He'd hope then for a tolerant interpretation of his pleadings as espoused within High Court opinion/holding in *Haines* Supra . To encapsulate into single word such Order of Court of Appeals such would be- baseless. In this Petitioner sees the mandate as a conundrum wrapped inside of an enigma. As Petitioner pursued his claims, Court of Appeals abruptly dismissed , *sua motu,* the appeal that'd prompt him to file this Petition for Writ of Certiorari. He approaches the Court in solemn solicitude to allow him to move stridently to have undone such Order. If OCA/UCS, its employees/agent along with District Court find that New York inheritance statutes are not to their liking such parties may without hesitation, lobby the legislature for change. But to obstruct Petitioner's accessibility to the courts all as he'd rehearse such laws in justical causes-this is a thing unholy which on being seen -historically, may not receive Constitutional sanction here-where then reversal of said Order is-imminent.

VIII. REASONS FOR GRANTING THE WRIT

As seen the lower court would opt to issue its Order dismissing the appeal *sua motu* without ever touching on any issue sent up from District Court. (Pet. App 3a) This severely compounds the catenation of errors occurring at the trial court level. Therein the judgments of such *nisi prius* court-for which it was necessitated then there be included the District Court Memorandum of Law Decision and Order series into the appendix here, actually form the root of the imbroglio here. Earlier Court of Appeals did properly posit a guiding light holding of the High Court-that is to start. *Neitzke v. Williams,* 490 U.S. 319, 325 (1989). Still there go again a deviant extrapolation of such ruling that is problematic here. This where there in *Neitzke,* Ibid a prior Panel of this Court actually reversed that matter in favor of such other plaintiff where there was in fact Constitutional relevance from the beginning of such pet-cert application. In such 2nd Circuit panel review there-on remand it was iterates that the underlying complaint there

in *Neitzke* Ibid had plausibility. Here in Court of Appeals Order there'd see a pairing of *Neitzke*, Supra along with a judicially-crafted fulcrum- *Pillay v. INS 45 F.3d 14,17* (2d Cir. 1995), all integrated as a means to derail the prosecution and deflate hopes of the pleader progressing to briefing on appeal. One that was set to expose state/*quasi*- state actor *quasi*-criminality. In the awkward match up *Neitzke* Supra and *Pillay* Ibid there'd be a shortcoming in Circuit Court's legal authority where it lost its Constitutional way-becoming basis for this Court's eventual remand of the matter back to the lower court.

With this Court of Appeals questionably employing this providently designed vehicle--*Pillay* Supra, aiming to stunt Petitioner's appeal whereas the Constitutionality of such is already doubtful-*stare decises* confliction is to see such 2nd Circuit Order brought to screeching halt. In the larger picture it seems that such panel has been utilizing this device quite selectively for some time. In a survey of the complaint here not only are the claims *arguable* but they'd have such locomotive force in the law and fact coupling-once put on track, to have seen the *pro se* Petitioner prevail at trial/settlement-smashingly. (ECF No. 432-842). In it, a general reason for granting this Petition for Writ for Certiorari is that the lower courts failed to yield to the genius of the Due Process theorists and also to be in awed awareness of Constitutional Amendment . Frankly -this *other* Great Writ should be granted as the rulings of Court of Appeals and District Court together form a compendium of callous circumlocution and cold cop-outs. This not so much being products of inept opining on pleader eschewed federal jurisprudence but rather such is due to an unfortunate outlook in a shade of pharisaical imprudence. This to think that no layperson-at-law amongst the Constitutionally-protected could put into offering for the Temples of Justice a righteous pleading with merit-worthy claims- being of likes of those who are ably consecrated to practice law in the Legalistic Republic.

1. **COURT OF APPEALS ERRED IN DISMISSING *SUA MOTU,* PETITIONER'S APPEAL CITING THAT ALL OF THE 36 DIFFERENT WELL FOUNDED, COPIOUSLY EVIDENCED AND APTLY STATED CLAIMS-EACH AND EVERY ONE OR THEM -WERE SOMEHOW FRIVOLOUS WHERE THEN THEY NEEDED NOT BE SCREENED**

   A. **Hale Track Record of Petitioner in the Federal Forum Evinces Not So Much as a Whisper of Frivolous Complaint-Making Where in Truth the Case is Quite the Opposite When Seeing His Prior Ascent to This Court-Although Admittedly His Claim Panes Tend to be Rather Elongated**

i. **<u>Unrepresented Serial Filers Bent on Pleading Lunacy Truly Need to Be Ferreted Out But Sane *Pro Se* Plaintiffs-Seeing Attorney Truancy-All the Same, Must be Duly Accorded "Meaningful" Court Hearings on Claims-Even If the Merits are Somewhat in Doubt</u>**

As a first and most satirical here, there is the matter that Petitioner has a proven history of approaching district court in *bona fides* with plumb claims. As a persuasive trailer to this which one circuit court suggested with regards to tracking incessant

frivolous *pro se* submissions in the federal forum, authorities should check on the history of such unhinged litigants. A pre-filing screening procedure was to come in one sister circuit in the jurist stating; "[I]n light of [such other Petitioner's] growing track record of frivolous suits. federal court of the United States without first obtaining leave of that court". *Urban v.United Nations, 768 F.2d 1497* (D.C. Cir. 1985). Here the track record of the verifiable sane Petitioner shows that in late 2001 he'd become embroiled in litigation epics where none of his complaints/appeals said to be frivolous. As said in the Statement of the Case- there are figures here who seek abrogation of New York law to suit agendas. On this there'd be no ferreting out of plausible claims but instead District Court was to find ways to permanently pause an indefensible prosecution. The typical *pro se* plaintiff faces similar hurdles to maintain a suit in such maligning motif -not being accorded meaningful claim screening in their cases- whether a paid or *In Forma, Pauperis*-IFP case. In this maddening model Petitioner became a maven in sorting such situation out and the prognosis -the *pro se* will mostly be mired in misery made to traverse this span.

In the classic syndrome court personnel-chiefly those in the peripheral roles-but always with the acquiescence of judges, marginalize unrepresented litigants-largely plaintiffs. A tricky procedural tightrope was suspended by these administrators between sky-high towers. The feckless honchos demand that the *pro se* make their way across with all the pitfalls. Without fear or favor Petitioner walks such line as if Philippe Petite in his prime- all to mixed results. Indeed there's such scenario over murky waters to shining sea to characterize this gap in outlook where concededly most of the *pro se* can't strike that balance and fall into this abyss without relief being granted. When a proficient pleader comes to bar these detractors attempt to rattle him/her off line but Petitioner's mettle is concretely monolithic and his nerves of steel are of world trade fare. Ironically the floor where Hon. Ann M Donnelly smugly sits on the bench at the EDNY annex spire Petitioner-the aptly welding Ironworker had reinforced the structural integrity of the slab alloy handles –leaving his mark. However he'd have - vice *versa* no soundness of mind where he stands now reflecting on the jurix's signed disavowal of Constitutional reaffirmation and seeks this Court to allay his many fears.

ii. <u>In a Litigation Maze-Pleader's Run Afore He'd Sue Government As a Bully-At Times Keen to Barratry Guffaw but Kept Teem are Claims Atop Process Due Covenant-So Fully in the Court's Read By Citing Good Law-Nothing in Such Constitutional Scrutiny Phase He Cedes -Nary Seen in a Bore Haze But Come Preen Titillation Galore</u>

As it where in March 2002 in Petitioner- abandoning his private paid-for counsel with heavy stature in the legal community leaving her on the immigration court pavement filed *pro se* federal court suit the District of New Jersey in *Abdul-Malik v. Ashcroft, 02-1098* (2002). This as he'd be detained-without bond, solely on immigrations violations starting from October 4, 2001 Such prominent lawyer who'd later be exposed for collaborating with the US Attorney's Office and District Counsel in certain cases had always seemed to Petitioner to have a slack outlook on Constitutionality at least with his matter . Strangely the well known attorney was in his Petitioner's case unwilling to

proceed on his behalf to federal court on Constitutional issues emanating from the immigration-albeit being monetarily compensated-fully. This strategy difference caused such irreconcilability that ended with counsel and client parting ways with the latter having no regrets-more time. In such matter that'd become the main bane of Petitioner's existence in the *habeas* suit that was predicated upon Petitioner 's surreptitious seizure of his persons by federal actors. All to be aided by unwitting local constabulary in this third sovereign state -the Bahamas. On American agents detecting Petitioner's past conviction for a Crime Involving Moral Turpitude-or CIMT, such itinerant flyer was deemed by such team -without disclosing to him the nature of the intrusive stop, undesirable for American society but fit for jailing . This where any further holdup by such US agents of Petitioner's demand to turn around there could not be seen any Constitutional sanction for such depraved government acts. In Petitioner being pegged by these actors as being "inadmissible" into-or "excludable" from the United States-while actually standing on foreign soil. These federal actors stationed at 1 of 2 global preflight inspection checkpoints of yore detained Petitioner. This through employing the INS agency's indefinite detention mechanism–that was all in the face of criticism within what'd be termed by libertarians as such centers being "gulags".

In coming months of being detained without bond Petitioner already recognizing the Constitutional infirmities in US agents forcibly forwarding-often time, profiled individuals to 3rd and 4th country locations in staunch shrouding and into custody or into a slightly milder inconvenient position. Petitioner finding himself in the latter case would, under *Rosenberg v. Fleuti, 374 U.S. 449* (1963)[1] appropriately filed suit-*pro se*. Eventually the Hon. William H. Walls- joyously for one –yet painful for others in éclat-, would issue the Great Writ in favor of the besieged Petitioner. This as legal observers applauded such where government was incensed not for relief being granted but for whom it was granted to-the *pro se*. In response to this federal/state lawyers and immigration removal officers prior resorted to physically spiriting Petitioner out of the District of New Jersey before the writ's issuance –this being on court clerk alert-typical. Wry it is where there was a preliminary stay order-interposed by Petitioner which had prohibited Petitioner's unsanctioned repatriation to Liberia. This for there to be a stealthy change of Petitioner's place of confinement-without bond within America but outside of its District of New Jersey jurisdiction pending outcome of the habeas petition.

As for the inordinate delay Petitioner's case was long overdue ruling on the writ application was set to be in his favor- for which he took a hunger strike to bring unwanted attention to the then BICE's indefinite detention regime wreaked upon such vulnerable segment of immigrants. For such trouble laden onto him Petitioner filed a mixed suit in Southern District of New York that drew agency ire. *Abdul Malik v. Department of Homeland Security 05CV 1441* (2005). This was intended to bring to book parties which after once prior muscling Petitioner away from paradaisical

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[1] Arnei Fleuti was a Swiss national LPR of the United States who was determined to be "excludable" on grounds of amoral conduct-to wit being a homosexual, upon his return into this country after a "brief, casual and innocent" 4 hour excursion into Mexico.

tranquility would then spontaneously whisked him away from refreshing justice to more stewing in concrete and steel chambers of inquisitional sadism of likes of Torquemada. Just as well within this rights-seeking cauldron of detention there vaped onto Petitioner accolades for his indefatigable ghostwriting "practice" on behalf of other immigration detainees. This in a clasped hands-full of actual grants of *pro se* Petitions for Writ of Habeas Corpus minted by such lay paladin purely for reasons of having justice meted-out for those worn out. During the 2001-2004 period there saw the riveting case of Muhammad Abu Shakir -then the vexingly dissatisfied "client" of Attorney Regis Fernandez-in which was the Palestinian was enlightened by Petitioner to the reality that lawyers at times have ulterior motives in their representations and can be at times-exploitatively mercantile with their services.

In the epiphany there was to try out tried and true self help that would lead ultimately to Abu Shakir being release from confinement. This- all on the Petition for Writ of Habeas Corpus in the District of New York that was closet authored by none other than Petitioner. Intriguingly this brief was "adopted"-in an almost verbatim write over by Attorney Fernandez which had been signed by Abu Shakir -the soon later jubilant manumitted soul. Such question was then why had not the prominent lawyer-a fixture throughout the 3rd Circuit, on his own impetus filed such Petition for a Writ of Habeas Corpus in DNJ for the anxiety-wracked client but instead awaited that of Petitioner's intervening manuscript to tick freedom of the assiduous asylum-seeker. There is to be learned from this is that having a retained attorney is not always the rapid routing to relief sought in American Justice. In Petitioner' own matter the vicissitudinous course at various stages parked on the noted *Fleuti* issue Petitioner was hampered by the 3rd Circuit's Due Process-defiant holding as that jurisdiction's controlling case . In due time Petitioner sought to change this die-be-die using his shape pleading tool to bore deep into this Constitutional lie. Meanwhile such loquacious litigant was left with the location of the detention center that had him corralled fell within geographical-boundaries of the higher court. Such was set to with great anticipation address this *Fleuti* issue so as to bring about the law of the circuit. As the topography fielded COA 3rd Circuit had powers covering the detention facility that'd entomb Petitioner but that it was the 2nd Circuit-that was his" home" circuit that ensconcing him in the formidable years in America. The 2nd Circuit however had resisted altogether any ruling on *Fleuti* controversy at that time although there were matters in its adjudication plate there left untended. Later history would repeat itself so surreally.

To his dismay Petitioner saw in such Pennsylvania-centered case the reversal of the overwhelmingly prevailing *Fleuti* majority nationwide in the district and circuit court context . *Tineo v. Ashcroft 350 F3d 382, 394* (3d Cir. 2003)[2]. In this the then *pro se* Petitioner was subsequently notified by the much relieved Department of Justice-DOJ. Such in which the entity head would boast that Judge Walls' Order for Petitioner's

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[2] Carlos Tineo-a citizen of the Dominican Republic and an LPR of the United States was put in BICE proceeding upon his returning to this country from his birthplace as being inadmissible into the US due to a prior CIMT conviction

release was so in nullified by the 3rd Circuit's rather surprising ruling. Therein Petitioner's more entangled appeal to the 3rd Circuit's *Abdul-Malik v. Secretary of Homeland Security* Dock. No. 03-3868 took on solely the Constitutional adherence priority over legislation on the *Fleuti* surviving *IIRIRA* issue and again there were the implications of the illegal detainment that all of this would rotate on .On seeing over the high-wattage immigration attorney-the all-familiar Regis Fernandez, lose-it inspire Petitioner 's push forward-all without ally or votary . Apparently such cash-fueled lawyer had not seen the causation to seek Supreme Court intervention on such modern Constitutional crisis that could be readily guided by the High Court's compass. Petitioner's low key battalion-of-one set out on a campaign for certiorari to the High Court with the morale spirit of the US Constitution. Petitioner pled that the 3rd Circuit rethink its position to hold *Fleuti* was still-good-law but that panel refused. Later he implored this Court allow him to be heard- as an IFP *pro se* petitioner in the foul face-off from such other court of appeals. Always -INS interpretation of Fleuti being repealed by IIRIRA was a Trojan Horse replete with Chimera-like INS figures implementing policy as Due Process labors heaved onto aliens to complete on arrival .

March with such mettle the lone truth trooper did in October 2004 to the steps of the Supreme Court in his adjuration to assay the Constitutional elements on the issue *Fleuti*'s survival on the occasion where there was disputation amongst the circuits. So the legend and the anxiety grew as there would nerve wracking wait for a decision on the Writ of Certiorari in which Petitioner was then the lone protester. This-in a unique approach, pivoted on, in part, with a legendary Supreme Court precedent of *United States v. Amistad, 40 U.S. 518* (1841). In the leering eyes of public scrutiny such illegal detainment even transcended Constitutionality onto the shelf of universal Human Rights. Such being where the liberty interests of a individual inside of the United States is long said to be respected by American security agents- must imperatively be so where the innocent party lies outside of this country. In the holiest of grails in absence of an extradition warrant in what'd be a criminal matter should be left undisturbed abroad and his not being subjected to being hijacked heel to head. Such where Petitioner in the immigration court proceedings was not actually a "special interest case". This where in that time frame such particular sitting of the High Court-to this day the extraordinary rendition issue goes without evergreen resolution. Such where the cultivation of the Constitutional precepts was foresting the expanse amongst the legal lushness. Such in spraying such case and controversy that'd repel such disingenuous counter-pleading. In the end such becomes rife with societal fly traps that courts just won't touch such prickly issues in which these matters could have long ago been quashed. Instead such debate continues-unabated, in numbers while the adjudicative process if anything at all-stalls. .

This sequence would be seen in such matter in the wake of Petitioner's Merlin-like maneuvering as manifested in the matter of *El Masri v. Tenet 416 F.3d 338, 347* (4th Circuit) *–cert. denied (06-1613)* and *Mohammed et al v. Jeppensen Data Plan 579 F.3d 943* (9th Circuit) *–cert denied (10-778)* where such petitioning of these matters to be heard were cut off at the path. This where in seeking permission for Supreme Court review was clipped at the stem by such other governmental agency invoking "state

secrets/privilege". As much legal wizardry-waved on by Petitioner the matter left for those behind the curtain to make heads of tales out of the Constitutionality of such kidnapping. Outwardly it was maintained that the government would first detain Petitioner at Nassau International Airport-the Bahamas on his own sake a call for a U-turn to the bungalow. Such was blocked all to be protractedly on merely administrative immigration violations where the 3rd Circuit's pirouette of the extraordinary rendition issue was submersing. While this inundated the news casts in those turbulent days such topic failed to breach the circuit court gates. Behooved for this Court –Petitioner moved in torridly torpedoing claims on scorching facts and ballistic statutory regimes-shielded by the Due Process aegis against arbitrary detention but then the will was absent and this Court's Panel a bit leery. Truly such issue once in the open civil circles was to see hearing. Unlike *El-Masri* and *Mohammed-* both with counsel but branded "enemy have their cases relegated to summary dismissal. In inclement airs of the era there saw stormy issues in those high times that observed the cases of unpopular plaintiffs of gone unattended. Still Constitutional vitality is supposed to be in play-every day, no matter the weather but avoidance became the bellwether where controversies should go away.

iii. Perhaps Hilariously *Pro Se* Pleader Was First to Swipe Case Bread-With Controversy Butter in a Prior Denied Writ to This Court But Soon Won Out on *Fleuti* Matter-Albeit Vicariously-Yes Through Another He'd Spread Truth and Justice Onto Any Issue Espied-Proof of It is In the Pudding in a Finale Petition Ride-So as to Not Shudder At a Mission and Duty to Spoof Unrepresented Litigant Do-Gooding as Applied.

Culled from the High Court archives there is the fully-open-for-discussion issue on the *Fleuti* Doctrine which was delivered by the sagacious sitting by the eminent Justice Learned Hand. There Petitioner put forth the lucid argument -in hindsight, from the spectrum of other High Court holdings germane to such cutting immigration law issues . *Landgraf v. USI Film Products, 511 US 244 . See also Chevron U.S.A. v. Natural Resources Defenses Council In. 467 US. 837* (1984). Peculiar it was the Government's *Fleuti,* stance in pompously urging that the Court-the ultimate arbiter of Constitutionality, give its cachet to an agency practice/policy that was founded on the retroactivity of laws. Petitioner's argument on Fleuti's survival of *IIRIRA* would at that time correlate nicely with the extraordinary rendition topic . Inopportunely however at that time as the 3rd Circuit as a whole recoiled off the latter in which saw the continuum of the medieval practice of US agents taking to such out-of-bound seizures of persons in interest without Due Process concern. On the other *gauche* side there'd be the DOJ in its braggadocio proclaim that *Fleuti* was supposedly-by statutory amendment, mortally abrogated –somehow through implication, by Congress in which in Petitioner 's day the issue was skipped but in truth that legislative body's never flew the retroactivity flag. .

An absurd notion Petitioner thought at the time for which he condemned such ruling which left other Constitutionalists morosely bereaved-but their woes were only for a term appointed. Lo and behold in the climactic twist some 5½ years after the execution of Petitioner's own repatriation to his Liberia homeland on such abstruse

"inadmissibility" from the Bahamas into the United State on the entry –fiction doctrine, the Supreme Court in its holding, echoed the *pro se* litigant's long standing position. A groundbreaker score on the immigration niche. With Due Process in mind Petitioner had sparked the fire to cook BICE's goose . This as *8 U.S.C. § 1101* of INS lore had no retroactive effect. *Vartelas v. Holder 566 U.S 257* (2012). In it Petitioner never made his way back to the United States-to at the least close out his affairs since his fateful shuttle leg back in 2001 where the book was close on non-retroactivity on any law in America. .

In his previous roller-coaster ride in the 2002 to 2007 period, Petitioner vehemently argued the matter exactly so to the Supreme Court's steps and beyond. Going forward from this interlude-such *Fleuti* Doctrine lives and Petitioner -in his never-fleeting support thereof such Due Process imbued principle, was redeemed. A blissful recompense as Petitioner only learned of Fleuti's resurrection in the process of his forming such latest pleading in the lower court in his scour of Supreme Court holdings. With such there was a requiem for a *pro se* pleader here-the very first litigant ever to bring to the High Court such *Fleuti's*, survival IIRIRA controversy . In the aftermath it'd be Petitioner the High Court Writ of Certiorari letdown to a low point in such affair but again practical upgrade of his legal maneuvering acumen of the issue of *Fleuti.* In it there'd be Petitioner's follow-up application for release yet more Unconstitutional confinement. Such being under a matter that although never reached the judicial officer to a Decision & Order on the Great Writ-proper. This was the holding promulgated in *Zadvydas v. Davis* 533 U.S. 678, 680 (2001) extolling that "reasonable" amount of time to see an alien ordered *inadmissible* –as Petitioner, or *deported* in detention in the post-removal order period beyond the "reasonable" 6 months period was Unconstitutional. In this Petitioner within the District of New Jersey would in *Abdul-Malik v. Gonzalez*, 07-02459 (2005) apply this principle to his situation in which his immigration detention was over this 6 month standard defined by this Court. Hopping back to the genesis here -Why was it Petitioner not allowed to "turn around" as he demanded in the Caribbean isle when accosted by federal agents.? Seemingly this is not a question germane to any Question Presented here. For the taker of this - in correctly answering such, would answer all other questions being offered-where the answer is that some government agencies and individuals believe that are above Constitutionality and that it all boils down to a token paper.

iv. **In Such Kaleidoscope There'd See Many Lax State Courts Which Lack Due Process Raiment, Would Resent it If The High Court Was to Implement New Safeguards for *Pro Se* Pleaders As-Some of the Latter In The Past Colorfully Pled Hues on Subject Matter Ranging From Promoting Medical Hemp to Vying to be Tax Payment Exempt- Topics that Do Matter.**

Moreover this alien here-the Petitioner lies in banishment-barred from placing a foot onto United States *terra firma,* but is still a "son" of the American groundswell - that is as a poster child, of a broken system with no real checks and balances in the administration of justice of the pleadings of the pro se . Intolerant indeed such is of unrepresented litigants-particularly when they are in the role of plaintiff. Such problem

has largely cankered in the Post- *Prisoner Reform Litigation Act* or- *PLRA of 1996* or enactment era where there see what are powerless "Pro Se Clerks" manning district courts. Such however does little to curtail the marginalization of this segment of court participants and becomes the quandary that it is now. This to the point where it may be seen that *pro se* plaintiffs with legitimate claims-though not always stated so adroitly, have otherwise -no advocate voicing that'd advance such causes. As seen *amicus curiae* briefing by groups such as ACLU is for pro se litigants-is scarce. With the courts the mostly blindfolded eyes and plugged ears of jurists to law and facts and are wholly unresponsive to *pro se* pleading. The current apparatus gives perception that the *pro se* is provided with all rights but is really a window-dressed pane of opportunity for relief in bottom to lower strata of the federal justice system. Effectiveness is the key word here as far as any implementation plan to come. As it stands now there are within the masses of the *pro se* only an anomalous few who- on more of a popularity contest, get past this oft time abuse-riddled initial screening process of *28 U.S.C. § 1915(e) (2) (B).*

By all accounts *IFP* status is associated with indigents, radicals and the idle worshippers of the "Bored of Incarceration". This where immutably so these *pro se* litigants overwhelmingly proceed in such IFP capacity are viewed as the dregs of society. This where on independent inspection of a cross-section of *pro se* complaints countrywide shows that most of such pleadings are not frivolous-outright, or motivated on malicious prosecution- as detractors would contend. Rather these pleadings are often undeveloped and poorly worded pieces that give leave for such opportunists to call such unmeritorious. Unmistakably this approach is a menace to Lady Justice's in her vigil over *pro se* litigants with veritable Constitutional causes that here was vivified by Hon. Ann M. Donnelly. Previously the likely-Democrat EDNY doyen it seems took to mining political capital on the current Republican White House. This in which the jurix had such 20/20 vision to claim to have seen the *liberty interests* in America of asylum seeker from Iraq who'd never had footing onto these grounds. This being so much so that Judge Donnelly overzealously issued a TRO in *Darweesh v. Trump No 1: 17-cv-00480* (EDNY 2017) on such administration's so-called "Muslim Ban" enforcement . In effect Hon. Ann M. Donnelly's order there had potential to open a floodgate of restraining orders in other districts but such was rudely nullified thereafter.

Months later the grandstanding jurix in less obscure circumstances could not in such fielding remain so glaucomatous to the mounds of public records presented which confirmed Petitioner's well settled property ownership interests. More saliently was the cataract- caused obliviousness to Petitioner' Due Process rights violated in the . This in his being a one-time criminal alien who otherwise lived and thrived on the US set right within the Eastern District of New York-and lately for more than a score in the shadows of the Cadman Plaza. This in which Petitioner too should've been glimpsed by the jurix to be injunction-relieved and soon thereafter vindicated on government encroachment onto Constitutional infringement. Plain as the alternation of night and day there were the violations of the Denial/ Impeding of Access to the Courts and the Obstruction of Justice (as a Civil RICO predicate) saliently perpetrated onto him. As for Judge Donnelly's stay imposition there'd see this Court *en banc* in a 5-4 split In *Trump v.*

Hawaii Dkt. No. 17-965 (2018) rule that a revised version of the "Muslim Ban" as written in Proclamation 9645 was halal. This as High Court Justice Roberts sharply delivered that such ban in its simplistic reading was not aimed at Muslims *per se* but rather at non-compliant nations which happened to be heavily Muslim populated and in fact was "squarely" Constitutional. Here Judge Donnelly with ovular eye glass frames and in the jurix's well rounded wording -did not espy the Petitioner's square prosecution that had a "strong likelihood of success" against a state entity, its employees and agent for acts that "violatate[d] [Petitioner's] Due Process and Equal Protection rights guaranteed by the United States Constitution". Due to the cardinal sin of the former-Circuit Court's Order must be reversed as District Court's ruling -right along with the "Muslim Ban" stay, were both screening stains based on clear reading restrain. Fair to say then the Hon. Ann M. Donnelly's decisions ran along a dirtied delta of polluted polities all cascading on such crabby determinism that dredged party partisanship. With desired effect District Court for Respondents pulled levers of power to open levies piped on collegial comity to drown Petitioner's complaint in a deluge of disinformation. Seemingly the OCA debacle flooded this case on the jurix's Biblical-like disdain for *pro se* litigation.

To further negate *pro s*e-litigation-is-a-nuisance propaganda there is the media splashed case of Brian Vukadinovich. In his book *Motion for Justice- I Rest My Case* retired school teacher told his of odyssey in navigating the federal civil justice system to vindicate his rights as a *pro se* plaintiff in an Equal Protection suit. Eventually, Vukadinovich in self representation-extraordinarily won at trial. He'd go on in his tome to describe how the system is fraught with obstacles onto *pro se* pleaders that come on juridical and even judicial ends. Petitioner here readily agrees. Demographically speaking however-Vukadinovich isn't your typical *pro se* litigant-rather the Petitioner-with an equally compelling trek in the federal forum- is, and becomes archetype with über-emphasis added to this essay. Ably the former pedagogue evocatively detailed the impasse of *pro se* litigation speaking for the mainstream class of the unrepresented. On the other side are administrators constrained by Constitutional ordinance to allow *pro se* litigants to exercise of their right in representing themselves. As Vukadinovich would have it these Pro Se Offices and *pro bon*o groups need engage in "meaningful tasks " in rendering onto the unrepresented "useful procedural advice". Elsewhere there'd be insightfully offered that clinic-type programs on the federal court that is-the sister patch of EDNY in saying "[T]his task is particularly difficult because the submission may be rambling and illogical ....completely frivolous, if not delusional *pro se* complaints it is essential and fundamental that the court review each complaint for any possible claims" *Fordham Urban Law Journal Exploring Methods to Improve Management and Fairness in Pro Se Docket in the Southern District of New York,* Jonathan D. Rosenbloom, Volume 30 Issue 1 (2002) at Page 308 ¶2 , 369 ¶ 2. So apropos this is here.

In addition to this culled from the text of other manual material for the federal bench that proposes that there are two components to case action equitability under the included heading of that "Having Their Say and Being Heard". This being for the *pro se* litigants to able to tell a story and in such being listened to. *Pro Se Case Management for Nonprisoner Civil Litigation*, Federal Judicial Center at Pg 2¶2. Another very much

in depth study would reveal that administrators, judges and clerks throughout the various different state, circuit and district courts. This where the latter have in-house *Pro Se* Offices , all vehemently keep the telling indices surrounding *pro se* litigation in all forms and the deductions which flow therewith such "phenomenon is all very scant" *The Federal Courts Law Review Patterns and Trends In Federal Pro Se Defense: An Exploratory Study* Jona Goldschmidt and Don Stemen. Pg, 84¶ 3.

All of this is in defiance of Congress' pronouncement that these contestants be provided commodious leeway in the bid to be heard. Many of the circuits/districts law clerks are set to reflexively dismiss *pro se* complaints. Such where appeals upon submission see judges in robo-sign automation simply rubber stamped in clerk/law secretary "findings". In this the celebrated author Vukadinovich in chat-room discussion called such "very poisonous malfeasance of vibrant judicial systems". Much of the critique Vukadinovich drives home is fueled on the rightfully drawn ire is in seeing the growing despisal for *pro se* litigation. This drawn to the wire in federal courts by the vile-to-the-bone hypocrisy in the *bon vivre* democracy. In the individual but mutually flabbergasting outings of Vukadinovich and Petitioner they were each taken for a "fool" in taking into their own hands the Due Process tool of self help. Court workers and sometimes judges who often castigate the *pro se* for coming to the federal bar without counsel to represent their own interests putting them in the driver's seat in presentation a case. *Faretta v. California 422 US 806.* (1975) Unchanged is this principle that is applicable in civil matter angulated on a criminal case where defendant there had been charged convicted and sentenced to prison for automobile theft. Indeed in the usual wrangle in each opposing side trying to see a win the *Faretta* litigant went on to wrestle control of his defense from counsel and steer his case his way . Here is the manifestation of one's own destiny where vindication may come from one interested who sometimes is the most able party to unite what we know to be - law and fact.

v. A Pall in the Spheres Where Petitioner Cares to Dare in the Bawl of Dogged Maltreatment, Shame and Fear Being Plus-Felt to Call in the Game of Intolerance Onto Those Poised for Self-Help As Several So Far as This Avatar Who'd Come to the Federal Bar -Dubbed as Being So Sublime, Have Had The Gall To Bear-All in Such Due Time Meaningful Change Will be Made Here for the *Pro Se* Fare

From this there would evolve his eponymously named theorem that is attributable to such cause .*The Faretta Principle the Right to Counsel versus the Right to Self Representation .Faculty Publication 565, Will & Mary Law School* (1982). True it is that a *pro se* litigant without understanding basic legal concepts or basic speech syntax could end up being a "fool" by representing him or herself-that is a prosaic fact of the matter. Wryly that be not the case for Petitioner-who has a smattering of law awareness and is somewhat of athletic word play- though he tend to be to some degree verbose-for some, in the throes of court proceedings had observed in some cases such court jester - type performances. To clownish proportions there'd be viewed certain unscrupulous opposing government lawyers, venal clerks, and exasperated judges with case backlogs

who'd be foolhardy enough to think that they-in their elliptical machinations, could fool a truly neutral arbiter with their trespasses in such type actions. Amusing it is to see court drones-constantly seeking honeyed counsel complaints, brazenly overlook settled law and established fact only then turn around to place the red nose on the *pro se* litigant as a Bozo at bar-all a reoccurring sitcom. As the liberal Justice Harry Blackmun so sardonically put it such-a *pro se* litigant would have the "Constitutional right" to allow him or herself to be subjected to such tomfoolery of others all to the Dickens.

In such there spawns imbroglio as here for which such should prompt those stewarding the federal justice system to relay the message to bench and gavel that the right to represent oneself in any civil action is plenary, impetuous and near absolute. Court officials would gain the face of the masses of the unrepresented with Constitutional sights only such administrator's imposition of such innovative measures whence done in *bona fides*. Such imposing as Ben Franklin's signature spectacles in inventive pose that on the concept that words in covenants see deeds for the individual government . Picture then this concept is to be passed on in the race for justice-that is the Due Process baton. When including John Q. Public there lies the turbid question to ascertain in answer- Who is truly fooling whom- in this PLRA pledge that has become somewhat nebulous but perhaps here enlightened progress may come In speaking in the framing such government lawyers along with judges –who're part of or is of the barrister fraternity, and clerks under what is often time the Big Top- stay condescendingly barred to see a thing as most vital-that *pro se* litigants' suits must be terminating in favor of government wherever is lies. Then there is the ubiquitous unrepresented plaintiff who almost always sees his/herself as oppressed and most times seeks out causes of action which demand a monetary award. Many of these complaints are malicious in nature but a minority of such pleadings has sound claims tied to strong evidence. In the open screening of prim discernable claims of the *pro se*—being more curious spectacles than those worn by the plumb US Constitution signatory, is a sight to see. A task lies in finding common ground between *contra* and *pro* to then institute a system to guarantee screen-out the uncommon valid complaint of the *pro se*. Leaving off from such circus mentality to more cerebral thought would be a serious start. Where to this Petitioner represents that unrepresented litigation is here to stay .

Outside of the screening of his Petitioner's own track record-is in the digital age the true avatar of the *pro se* litigant experience in America and beyond. This in which Petitioner being sometimes that of an *IFP* case other times a paid status (in the lower court his appeal was in fact paid case).. He'd win some and perhaps lost some-but to a lesser degree –by which the unfavorable outcome being reached was a matter of debate, There are other with harrowing tales in witnessing the defiling of the administrative objective seen in the widespread traducing of the *pro se* litigant. A prime example and witness from those who having been on the inside is that of Kerry Myers –former editor of *The Angolite* a unique publication in which that is currently manned by prisoners in his onetime place of incarceration--Angola State Prison institution . This in which this ex-felon from Louisiana who'd in a commutation of sentence from a murder conviction . Felon or not - prolific works of Myers in his gaining analysis of the such flaws in this

mantel as to unrepresented litigants is well respected and part of the syllabus of teaching resource at Stanford University and in fact has come old oaks desks of this very Court. This in some *Shawshank Redemption* re-do to the likes of a framing for murdering his wife in a mockery of trial proceedings. Therein the condemned lifer had been suddenly released while otherwise he'd receive staunch support from the deceased woman's family and lead investigators for which this is detailed in Myers' memoire *The Meaning of Life*-a best seller among criminal/ civil justice academics. Such utilitarian course of Myers' program need be adopted here in tackling the thorny consequentialism of the envisioned goal of minimizing frivolous litigation. This over such hovering specter of widespread government abridgement of individual liberties in a pivot towards tyranny where *IFP/pro se* access to the courts may to be blocked by court personnel .

Within his accounts of such book in which his Myers had chronicled how the administrators in present state and in the West Feliciana Parish microcosm, the justice system so much reviles *pro se* litigation that many would move to abolish such practice-were it not for the Constitutional hurdles kept watch over by members of Constitutional watchdogs. This-where such pathos of pandering onto the *pro se* litigation problem all in a society that touts itself as committed to individuality and personal freedoms. Clearly the federal judiciary's in its lingering thought on this matter is on a trajectory set to pierce the heart of Due Process. Shockingly, Myers in the treatise recalls how he exposed the abuse of court personnel particularly in such Southern Belt-in which highlighted a case in Louisiana that was prone to Constitutional infringement as here. In the complex's pattern there'd see court officials whitewash complaints of *pro se* molestation coming then the stonewalling of inquiries into PLRA compliance. Most we'll find are presentations to make it appear that the *pro se* is provided with "meaningful" hearings-but in the vast cross section of cases- such is not the case. More times-clerks have been deputized to basically act as the sole adjudicative function where in one case all *pro se* petitions in a jurisdiction-all for Due Process barkers -who sleep light, to awaken.

So it would be learned that such court personnel of the State of Louisiana's 5th Circuit was simply "disposing "-of some cases by literally dumping such into the garbage receptacle, of papers of *pro se* litigant's by "template" order at analog pace. This only thereafter when the matter was in the spotlight of this assembly line-like denials of writ issuance. Such where the assigned judges would never even peer at these pleadings all throughout the process but somehow such jurists' signature would be embossed there to such parchment or monitor screen . In this comes the stern belief of Petitioner here is that the Court for the 2nd Circuit-which covers the New York/Connecticut area, has at here utilized a somewhat similar technique. Here such ritualistic disposal of *pro se* pleadings more high-tech –having gone electronica . All probability has it that clerks/legal secretaries are delegated to tactically move deny/dismiss motions, complaints and appeals which were undertaken in this applicant seeking an unbiased adjudication of issues that'd yield true grit written decisions based on the merits of the case . This unwritten policy of clerks and law secretary of disposing of cases was architected to sideline *pro se* applications so that this litigant segment garners no playing time in court matters that really matter. Operations of this sort are largely

undertaken in chambers seclusion on very stilted interpretation of the PLRA selectivity of the law and fact unification in dismissing frivolous lawsuit but in these times such screening has become weaponized . Therein these closed salons the hidden agendas unfold in what are salient violations of rights. There it may be seen that the electronic John Hancock of judges take cursive shape onto the signature panes on the majority of this unfounded decisions/orders made against the phalanx of the unrepresented .

Sordid are the details of this scheme that looks past plausible claims and Constitutional rights for which is ongoing throughout districts and circuits of this land. For the proficiently pleading *pro se* litigant it sees a huge obstacle as on the slightest of provocation sometimes without any at all, this mean meme, is downloaded on such class member where dismissal/denial comes with almost algorithmic randomness . All of this is to be backed up is hyper-technical takeaway protocol that gives way for flimsy excuses for what is an apocalypse of American Justice. Naturally the defenders of this demeaning *de facto* system-including judges, clerks and even government lawyers would scoff that Petitioner's characterization of the matter as being merely the sour grapes of an expelled foreign national' where his own motions, complaint and appeal were all summarily dismissed supposedly under PLRA . Nay to this-and tangy as a Florida tangerine such is be picked from the PLRA tree. As the truism goes numbers don't lie and he'd dare federal court administrators and New York State Attorney General's Office-or NYSAGO, to make public as to the vital statistics of *pro se* litigants who'd actually advance past the *28 U.S.C. § 1915 (e) (2)(B)* screening in the Eastern District as well as the Southern District of New York. This is to say on their divulging the figures on unrepresented participants who go unimpeded and allowed for opposing side answer or appeal briefing in cases is to be revealing . This in witnessing the objectionable rationale of 2nd Circuit and District Court here in their dismissals that'd halt substantive review of Petitioner's well evidenced claims on pertinent law . What then are the numbers? Clearly, such would reveal that too few of *pro se* litigants are allowed access past adjudicative portals and demands that action be taken by this Court onto providentially imposing reforms synced with Congress' PLRA legislation.

As the history goes Congress monumentally had been introduced and later passed legislation for this cause of the tax-paying citizens and the adjudicative process to curtail nuisance-like suits particularly those formed by incarcerated *pro se* litigants in the federal courts and as always trickles down to the state level. This Honorable Court has it in its powers and by urging of this particular *pro se* litigant to form an inquiry bent on ameliorating such debilitating conditions of the non-conformity to PLRA provision. This being by this setting forth for some type of placement of independent reviewers' part of an empowered commission and last stage review of *pro se* litigant complaint/appeal at circuit court level. These who'd be unconnected to the federal courts-perhaps law professors, to oversee such a process of *pro se* complaint/appeal vetting below –that'd reduce even this Court's IFP *pro se* docket . All this while protecting 6th and 7th Amendment rights of IFP/paid *pro se* litigants who are in sufferance due to practical applicability of PLRA provisions. Again the matter here is to serve as the perfect vehicle for the betterment of the process by way of such study.

Palpably such case here is that paradigm for which Petitioner is somewhat experienced in federal court pleading. But for which the legal arcana may be daunting for other lay persons to be able to state a satisfactory enough claim-agreed . In another context-with enough theoretical instruction-that can often come from just the reading manual, the research material and then such practicality the average person could propel a rocket to the moon-this although he /she not actually being a NASA lift off technician . Such notion holds true as well for lawyering in court where it's possible to see a seasoned *pro se* pleader -being an avid enough reader and an astute observer , to launch plausible claims worthy of adjudication in this forum-with no problems had by Houston command.

To say that such a *pro se* litigant with some aptitude and prior to this Court –as Petitioner, the Court of Appeals would have the world believe, he had failed to state a single plausible claim after putting forth near 3 dozen of them under 20 prosecution regime headings with mounds of exhibits is all disingenuous, mind boggling and confidence rattling. This where he'd include in the complaint a naked "state action" claim- which much like second trimester pregnancy, is or is not Constitutional on a glimpse of a obviously gestated complaint . With this –right off the pad, it would take a Cape Canaveral lift off of faith-again to astrophysical proportions to say that Petitioner did not state at least one plausible claim seeing that he submitted with his complaint over 200 pages of evidence as tangible proof that was too tangy to resist. Illustratively, Petitioner's exploits since the fall of 2001 in the autumn of his life leading up to and after his exclusion from the US until now is indicative of this deteriorating situation of *pro se* litigant molestation by PLRA perverts . In recounting the 2002-2004 span, the then *pro se* Petitioner-- amidst a circuit court split on such debated issue-standing alone enunciated-just as Justice Learned Hand would have, *Fleuti*, was never abrogated by-and did survive, the enactment of *IIRIRA*. The fact remains that Petitioner was the very first party to bring the then contentious issue of *Fleuti* to this Court with the present non-backstep effect of laws platform that is the law of the land as he remains outland.

This being as Congress does not repeal or abrogate laws by implication-rather it does so by explicit language. As for the judicial branch-being headed by this Court-with the US Constitution as the user manual has long rejected any retroactive application of US laws. How is it that the INS/BICE agency's skewed interpretation of the back-stepped effectiveness of IIRIRA was allowed for so long to skirt Due Process remediation when the *pro se* /IFP litigant here first demurred this in 2002? One could think that as the norm his pet-cert then was denied was solely for the sin of his being *pro se* form. By the point of this bid for certiorari Petitioner has over the years developed into somewhat of a polymath-where one of professional hats is that of a freelance International Consortium of Investigative Journalists –or ICIJ-affiliated journalist (currently inactive) would be a weird *déjà vu* as he files "report" to the Court now. To be concluded from the prior episode of Petitioner's move for certiorari in 2004-government is prone to take advantage of a situation. Overstepping bounds in doubtful activities as it does must be checked -at once, on the Constitutionality call-in before such malignancy grows and spreads as if a cancer. This so regardless of who'd be the one making such " report" to the Court even if it be a modern day Cinque in tattered "poor person" garbs . As has been

seen in recent times-probability analysis reveals that the US Supreme Court-receives some 7,000 certiorari application per year would grant certiorari to perhaps one *pro se* petitioner every 3 years. This being somewhere at just over a half a percent chance of a successful petition application to be granted. In this break down such chances would be even lower for such application being in IFP in addition to *pro se* .

So it be the Petitioner's understanding that the last time the Court bestowed such grant on an IFP unrepresented litigant was in 2016 (not counting any to be granted in 2019 thus far) in for which this he would in his tender here would have perfect timing. In it Petitioner should be the latest recipient of any grace of the Court for which the statistical analysis gives wherewithal and face. Such being where a *pro se* petitioner some 15 years prior had been denied by one court of appeals. This on what was to be seen as being a winning platform only for such *pro se* litigant to return now to the iconic ccurt building themed on American Justice but styled in Greco-Roman architecture. Originally, such was prompted on a brusque rebuff of Petitioner's overture to a circuit court with another-and just as compelling set of claims of Constitutional dimensions. This being that of *Fleuti* and otherwise extraordinary renditions based on established fact and well settled law-having again Due Process implications tamped trenchantly into United States groundswell all is rather ironic. This in of itself should pique this Court's interest where traditionally the Panel has had no bounds when it comes to controversial subject matter at odds on the national set. In the springboard here there's the issue of foreign nationals based outside of the United States who are in or set to be embroiled in civil litigation, in New York. Those who'd have either liberty or property interests –here particularly those of real property holdings within the vast United States territory.

Speaking for such unrepresented aliens who are barred, blacklisted, sent back or being just unlucky in acquiring a visa into this country there is a dilemma . As the head-note here it is to be registered that foreigner real property ownership does not – in these times entitle one to residency-or even visitor entry, in an era where admission of alien is most restrictive .This is to leave these outlanders –who are potential *pro se* litigants in the black seeing red and feeling blue when placed in the throes of any such suits emanating from the Empire State. You see in New York there is the "Long Arm Statue" codified in *NYCPLR §§301, 302* which ties in again within *CPLR § 308* that calls for "diligence" in service of process. Such which a court may gain personal jurisdiction over such foreign-based party by the initiator effectuating sufficient service that'd ; bring this outlander within the hearing court's judicial grasp. Going to then the Post Answer period-if the controversy would continue past dismissal screening, into preliminary conferencing-under *22CRR-NY 202.22* , therein onto trial.

Already being a logistical quirk to be able to effectuate service of process with a alien litigant based outside of US jurisdiction-but to complete PC hearings and discovery becomes a litigation nightmare. One that makes it virtually impossible for the outlander to fulfill such procedural obligations of pre trial. Truly the UCS' unwritten policy of not allowing *pro se* participants to appear telephonically is countervailing where again contrary to the sub-agency's policy aliens in New York proceeding have Constitutional

rights as he/she was physically standing inside the US state,. Undoubtedly this position inspires such sinister ritual engaged in by these scurrilous litigators that is to drag the outlander through pre-trial muck leaving the such party besmirched as non-compliant. Simply put wily litigants and crafty lawyers are apt in target those inadmissible into the US and hustle them up to and into trial-many times on claims that have no merit. This where those of the barratry command demand such an outlander-as here, physically appear in court through use of a battery of unartful ruses.

A perilous situation Petitioner saw as he attempted to vindicate his property rights in state court that spawned the Constitutional suit /"state action" in federal court. At present in Ind. #1817/18 and Ind.# 707333/2019-both within Queens Supreme Court, such above-described Constitutional impairment exists. Both courts actively compel the excluded Petitioner somehow physically appear for such PC hearing. Meanwhile Petitioner barred from entry into the US, would point out to both courts that where his physical presence was impossible but that telephonic appearance was available but such was tacitly declined. Intriguingly both opposing sides here are quietly in leagues together, adamantly insisting on Petitioner s appearance -in person, for participation in PC hearings. But in each the counterclaims/claims are facially dismissible-all to form the common canard. Stemming from the Ind.# 1817/18-QSC suit-actors were sued in federal court for , *inter alia,* Denial /Impeding Access to the Courts and Obstruction of Justice (as a Civil RICO predicate) counts . (ECF No.1 at 341) (ECF 1-1 at Pg. 139-141) (NYSCEF Web. Civ. Supr. 11/8/2019). In QSC zones after Petitioner's 3 informal motions for telephonic appearance permission went ignored by one judge here, Petitioner's tact shifted as there'd come the formal permission move where as seen that motion be diverted from QCCO platforms prior. Exacerbated this situation is where in Ind. # 1817/18 –QSC Petitioner's notices/stipulations to convert such hardcopy case to e-file-were too previously discarded by these aides (ECF No. 1 at 545)(ECF1-1 at Pgs.119-120)

By November 8, 2019 the opposing side in such property usurpation sham persists with the shenanigans by counsel in first filing a note of issue to proceed to trial with an outland litigant but still state defendant has no viable counterclaim. This *after* Petitioner obliterated such totally frivolous Answer and bizarrely so as parties by March 7, 2019 stipulated on the record and in writing for voluntary discontinuance- under NYCPLR § 3217 (a) (2)(3). That' is-*mandatory* suit dismissal *with prejudice* of the action that requires no court order. Incredibly, indictable state-*quasi* state actors while already on the federal docks colluded to divert even more state court notices. Such in the wake of EDNY's January 29, 2019 dismissal of Petitioners complaint despite such slew of paper theft claims onto the very same players. As such evidence held by Petitioner of the latest heist couldn't be made part of the record. Otherwise in Ind. # 707333/19 there saw opposing counsel-upon gaining Petitioner's consent for case participation, stipulate that outland alien would be able to appear –for hearings by telephone-but only after a disposition be rendered in any motion to dismiss/summary judgement. Therein counsel reneged and scurrilously moved for prompt PC hearings. This in demanding Petitioner's physical appearance-or face sanction while well aware of his remoteness (NYCEFS at 15, 16). Curious to all this, right in the court building such video/audio relay equipment is in

place within the PC unit, court administers maintain such is availed to "attorneys" where then Constitutional scrutiny is elevated as *pro se* litigants are in fact their own lawyers for such purposes. As of this writing-in both state matters there is -by OCA's *de facto* policy, court part call, and opposing side demand for Plaintiff's physical appearance on counterclaims/claims that are in fact "inarguable on a basis of law and fact" In -this Due Process deficient programming within OCA's Queens Supreme Court zone in pushing for to trial-on frivolous counterclaims should never be-Constitutionally .

To this the thorny 5th/14th Amendment question need be answered by the Court-Where New York thrives on foreigner property ownership- Is an alien *pro se* litigant in real property-or other, matters compelled to proceed to trial on the other side's frivolous counterclaims/claims? and-If such dubious claims were to survive dismissal/summary judgment- Could a court agency, court part , or opposing side deny/object to an outland *pro se* litigant accessing at least telephonic to audio/visual appearance equipment for PC /discovery hearing when such is normally utilized – by lawyers –those local, and in other US states? In Petitioner reprising of a role in seeking to be heard by the Court there truly need be considered placement of actual independent procedural monitors in court facilities-beyond Pro Se Clerks cover in trial level court to counter bold usurpation of rights of *pro se* litigants foreign and domestic by court personnel . In this *beau ideal* there should be impetus for federal court administrators and NYSAGO to fetch *duces tecum* the numbers to set in motion a plan to alleviate this crisis. This where such has become an unfair deterrence to seek relief by aptly pleading *pro se* litigants while utter delight for those who engage in the subjugation of the unrepresented. Arctic are those vehemently opposing *pro se* litigation while feigning the ration-keeping of resources and time-but for these pundits temperate winds in such outlook are indeed coming.

vi. So Real Was the Interposition of Omissions, Hyperbole and Falsification in *Nisi Prius* Deal Till in Supposition of Falstaffian Pleader's Good Will to Retort to Appeal Fate-Seal by an Egregious Sergeant Drill

If one could call federal procedure an art form-Petitioner might be touted as the Jackson Pollack of *pro se* litigation as there's to be wondered by some of where is the supposed talent of the persona . Accordingly, Petitioner's staunchest of critics comment he is pleading pedant with a history of splattering "rambling" complaints and "gibberish"-filled letters onto case management piles as if a litigation vandal. Others in support of the valiant Petitioner- maintain that there's to be unveiled in his undertaking a more Utopic society for the *pro se* practice . This sentiment if not only for self but others of the downtrodden as well as the upscale litigants who form the unrepresented firmament of America and the world-for that ostensibly is his mission. Petitioner it is said on every errand seek to -paints Constitutional images for imperious power who'd make themselves out to be the crown of case and controversy but are truly just serfs creating justical illusions . For Petitioner there in far flung claims drawn out on murals that one need look long and hard for gist as he whips onto a board profound anecdotes and allusions. When however viewing Petitioner's dossier of crime in America-at New York, under moniker-Von Knowlden, he becomes that doubtful Dutch Master of such

contemporary placement but this is not at issue here. A dish of aptitude narrative expressionism and a dash of an legal acumen allow him to fuse law to fact cogently. On the other side of the spectrum -safe to say that such first level adjudication apparatus took to the procedural canvas with eyebrow arcing deletions embellishment and fallacy as a coign of vantage there . Definitively, there saw here Ann M. Donnelly engage in all three tactical fakeries for the obvious reason of subverting the detailed complaint.

Wildly, the jurix persists that Petitioner in complaint had "sued" some mysterious "state court"-to wit a sitting judge acting in an adjudicative capacity which is all pure bunkum (Pet. App 8a¶3). This after repeatedly being corrected by Petitioner as to the sheer reality of things. (ECF No. 8 at Pgs.-5-7). Again District Court in its written rulings misinforms such hostage audience in it playing on trifling troupes and snapping on opaque optics onto the proficient pleader. "[T]he case concerns the ownership of property located at ..." (Pet. App 7a-L 2) that Petitioner had "filed this action against the judicial branch of New York state" (Pet. App 4a ¶ 1) the jurix writes. Further District Court for some reason outside of this galaxy's edge deliberately in its spacey appraisal of a recent state suit's so-called controversy, failed, most conspicuously to note there was a *prior* state court ruling on the matter in Ind. No.17178/ 97 -QSC. (ECF No 1 at 165, 445, 485) (ECF 1-1 at Pg. 24-26) Such state court of first instance in 17178/97-QSC had ruled in the one-and-only title dispute early on- that is *soon after* the parcel's transfer where that decision was, as seen, favor of Petitioner. As to this *lis pendens* outcome state/*quasi*-state actors in such ongoing-or closed, Ind. # 1817/18 state ejectment action wish to nullify to illicitly install state defendant- the non-heir of decedent, as owner. In District Court's willingness to derail Petitioner's federal complaint it had left out vital data in its uncalled-for assessment of the state proceeding. All to be seen here is that federal court attempts to form a new narrative on behalf of Respondents by *inter alia* making key deletions of facts. As it stands now Petitioner is still *technically* the registered owner of the not-at-all-here-subject premises but is now besieged by the unscrupulous state /*quasi*-state actors who long for nothing more than for him to expire but they'd settle for his being discredited-unfoundedly, as a cheat and a liar with a checkered past-that can be inferred. Unfailingly such players are the wrongdoers here lurking to swoop down in vulturine manner onto the carcass of Petitioner's-pleadings as they'd pray-and prey that –such application for pet-cert be denied by the Court.

Yes –woefully so, state authorities and the state/*quasi*-state actors only await this anticipated denial of such Petition for Writ of Certiorari to bring their nefarious usurpation exercise of property to fruition. This although the current deed had already been judicially vetted where again state defendant lacks heir standing and has no legally sufficient adverse possession claim. By January 29, 2019 an accord was reached between District Court personnel and anxiety filled state actors. With such was to see there being concocted a scheme to undermine the *pro se* complaint of Petitioner where Hon. Ann M. Donnelly was to be left in dereliction of PLRA devoir to ferret out viable claims therein. In such, District Court became the ardent defender of such care-free unrepentant Constitutional violators who'd maintain they did nothing wrong. As a result Petitioner has no sighting of relief on his meritorious claims and is still being

vindictively pursued by Respondents in their acting out on race, national/origin and religious bias-to move to gain a house-all unlawfully. As an added catalyst there be District Court's verve towards such vicious campaign to abase Petitioner in it swamping its Decision & Order- in muted, exaggerated and wholly inaccurate lines that creates this quagmire. All this being amplified when Judge Donnelly learned of still yet another Constitutional controversy Petitioner was entangled in 19 years earlier . Such stoked the jurix to take on an even more Machiavellian approach onto him. This matter related to a span prior to his exclusion from the United States where along with a wave of other *pro se* litigants, lawyers and observers, had set to have a Queens Supreme Court judge-the late Hon. Duane Hart rapidly removed from the state bench which for years the OCA entity allowed such outrageous behavior . Through a spectrum participants lobbied for a federal inquiry into the Judge Hart's conduct. Petitioner was on the vanguard of this movement which began more than a decade and a half earlier. True- the late Justice Hart in life, was notorious for depriving rights of litigant out of favor appearing before him. Widely known such judge was merciless in tirades onto the unrepresented- replete with insulting strictures, all meant to demean and belittle .

In the saga there be significantly *pro se* participants- including Petitioner appeared before Justice Hart where the then sitting jurist started with his usual antics . True to form in 2000 Petitioner brought the very same state defendant in the property matter before the now deceased judge for an automobile swindle perpetrated onto Petitioner by his brother. This where perplexingly Justice Hart vacated the judgement only to allow such credit saboteur sibling off the hook-to further dismiss, *sua sponte*, the suit for breach of contract. All for the latent reason that the sibling was a state employee that again sees the collegiality of it all. Peeved by Petitioner's repertoire of remonstrating ferociously against those he'd see as indulging in Due Process sedition- Judge Donnelly -once being part of the state system-as a former New York prosecutor no doubt took out acerbic retribution on the pleader in the ruling here. Ineluctably, one is to expect there to be some proclivity towards this federal judge siding –even in the slightest, with state/*quasi*-state actors. But Hon. Ann M. Donnelly went an extra mile off of the precipice of impartiality by vouching for individual Respondents who are-Due Process rebels. In the bold face of the Petitioner's compelling evidence of the pleading diversion scheme engaged in by those in employ of the OCA group such jurix offered, in jest only glib conjecture onto Petitioner's motives- all for purposes of shifting attention-away in the worst way from real matter of justice on Constitutional violations.

On such uninvited outing Judge Donnelly went on in its meander to largely misplace the state ejectment action particulars but for which none of such issues there were before the District Court! In it the state defendant- Plaintiff's sibling although being a "putative child" as he admits to not an heir of the decedent under *NYEPTL § 2-1.1* . All where District Court continued with its line supporting state/*quasi*-state actors' bogus allegation of deed fraud on a fallacy as non heir do not "inherit" (Pet. App7a, L-5). In truth the set of illicit acts by state/*quasi*-state actors in the recent state proceedings were to suppress the introduction of earlier records into to the latter state suit. Stunningly, these actors attempted to-when unable to erase the existence of such

ancient case, simply disallow remnants of the prior proceeding from being inserted into the recent "law suit" . (Pet App 8a¶ 2). This is how District Court discloses the nature of the latter state proceedings of Ind. # 1817/18 (Queens Sup, Court) (Pet. App. 8a ¶3).. Truly, such was the jurix's pleading-review platform that is - only after consulting with Respondents, there'd be the collusive obscuring of important facts that'd underpin a "state action"/ Constitutional suit against actors and not the state defendant in federal court . Further there saw Petitioner's extensive administrative complaint filing to OCA authorities to exhaust all of his state remedies. Thus he had ripened claims for federal court prosecution and was rightfully presented to EDNY for review. Case in point District Court in a biased account characterized Petitioner's prior state court affirmed title to the parcel by terming such as still being the "family home" (Pet . App 7a¶1).

Comprehensively presented by Petitioner to District Court were the claims against state/*quasi*-state actors that were *inter alia*, for Denial/Impeding of Access to the Court (under Section 1983) and Obstruction of Justice (under Civil RICO predicates). This for which actors had-gangland style, precluded Petitioner's then stand-in attorney from depositing such dispositive outcome docs of the past ruling in Ind. # 17178/97. This a *lis* pendens formed by other putative children of the decedent as state defendant allied himself with Petitioner then where claims against state/*quasi*-state actors toots the "state action" horn now. Unfathomably, District Court rulings concealed the pivotal fact of the existence an earlier state court ruling on the property . This where state defendant-being the Petitioner 's brother and again the former registered New York *RPAPL § 713 (7)* licensee/agent at the premises in the 1817/18-QSC ejectment action, was dispelled as being an heir of the never-married decedent long prior. Such overly supportive state/*quasi*-state actors, having gotten off on the wrong foot in such state suit by urging the state defendant to file impermissible heritable and facially deficient adverse possession claims that could never, validly, pass muster-anywhere in America .

Markedly there was to have been some strident measures taken where such succession of "disappeared" papers continued on with impunity. state/*quasi*-state actors on their Roman holiday pushed a bridge too far- to cross the proverbial Rubicon in hijacking the Petitioner's game-changer and action-ending papers. Such included-besides the original *Summons & Complaint* Petitioner's critical courier delivered pleadings of *Reply, Memorandum of Law* portion of the *Motion to Strike*-, and yet *Motion to Allow for Telephonic Appearances.* All of such pleadings had been physically taken from the QCCO data platform by QCCO workers before their entry. No doubt such thievery-where a *prima facie* case established by administrative complaints, was condoned by the OCA/UCS' Unconstitutional written on-whim "discard" policy. This all then prompted Petitioner to file, furiously, this federal suit. Unprecedentedly, there'd been seen state/*quasi*-state actors , in concert, flitch Petitioner's entire batch of initiating papers. Such was forwarded on January 29, 2018 –that is well prior to the Ind. # 1817/18-QSC suit's March 6, 2018 filing -in his earlier stymied attempt to initiate the same action that's at bar here! (ECF No.1 at 40) (ECF No. 1-1 at Pg 67-68). At the heart of such felonious artifice was the will to insulate the state defendant- a New York State correction officer from an stern ejectment judgment . This to have been carried

out by the recognized owner of the premises all *as per* prior state court disposition. This where all along the sibling-based stateside, was the rental agent and property tax contact suddenly and without warning withheld thereon Petitioner's rent roll portion that had been remitted to the excluded owner for just shy of a decade. made abreast of that the suit was the result a "palace coup" prompting Petitioner to commence such state ejectment action in the first place. Patently, District Court skirted its duty to vet the Constitutional tort claims which were splashed all over the original complaint. Much of this slant was angled upon its callous camaraderie for its state contemporaries that spawned myopia towards its PLRA duty. One sees-by Hon. Ann M. Donnelly's cadence, tenor and tone in the rulings, that the jurix held Petitioner in contempt from the very start all magnified in the staged reconfiguration of facts engaged in here.

Snowball it did downhill trundle was District Court's fallacy of where from opening to end it had failed divulge the true nature of that state proceedings-that is a routine ejectment action. Further in this raucous roll-down of deception of the individual being prosecuted in a state court is an employee of a department closely linked to state courts. (Pet. App. 7a-16a) Lastly for rather trifling reasons, District Court recounted that Petitioner-had been in "deportation" proceedings- he was not. Instead Petitioner upon his October 4, 2001 detainment was later ordered-on consent, "excluded" from the US where such directive was executed well down the road from when the mirrored misstatement cited- that of "2006". In the narration's gyration District Court-to the Respondents' beat, asserted that Petitioner was unavailable because of "his 2006 deportation from the United States" (Pet. App at 8a-) Calculated to cozen credibility, Hon. Ann M Donnelly put Petitioner in "deportation" proceedings he was never in - to sketch a profile in a new storyline . All this done on behalf of indictable actors -who otherwise were out to turn back an adverse possession claim clock to the "2006" mark-but where the clock started on April 15, 2017. This as Petitioner last stood, at *entry fiction's* end, on US soil. (ECF No. 1 at 13)(ECF 1-1 at 133). Such federal judge had to be aware of differences between the disparate immigration proceedings *–deportation* and *inadmissibility,* which are not to be termed interchangeably. From complaint exhibits it was readily confirmed that Petitioner was returned to his homeland in 2007-after nearly 6 years of confinement at the hands of the INS/BICE. So -why the inaccuracies?

Moreover the shuffle of happenstance was to assist in fixing the state suit outcome all was *en sync* with Respondents' agenda. Not coincidently, a 10 year statutory period in needed to sustain an adverse possession claim. Under *NYRPAPL § 501(3)* state defendant "claim of right" would see-on tolling, only 7-9 months credited towards this. With little prospects of surviving summary judgment such actors opted for a snatch-and-run number with Petitioner's forwarded/received papers that were sure-at least on appeal, to thwart the untenable positions held in the state court Answer that was riddled with frivolous counterclaims .Underscored here is that EDNY court personnel-being Judge Donnelly's subordinate-as info went –on resumption of the December 2018 government shutdown had contacted directly the Ind. No. 1817/18-QSC part by January 29, 2019-prior to complaint screening- all to make for an intolerably biased ruling. In it was for these players to collaborate in placing a ghastly spin on a

holistically plausible *pro se* complaint on Civil RICO, ATCA Civil Rights and state law claims with the most fissile of allegations. Had Petitioner's federal pleading received the diligence it deserved- shock waves would've been felt throughout the New York halls of justice. Prior complaints by other jaded QSC litigants with similarly harrowing tales were buried in the basement. Over a parcel of land there sees -part and parcel, the disaffection of proper-pleading *pro se* litigants in America. As it was, District Court focused deflexively on the status of a peregrine pleader afar-instead of grasping the seriousness of home-grown claims against a state entity and its actors before it at bar .

By no means is this to say the mistreatment of *pro se* litigants here occurred only in District Court but is equally so on the Circuit Court floor. All this began on Petitioner filing his COA appeal upon complaint dismissal by Judge Donnelly that was in nose-thumbing PLRA provisions. In the lower court-not having "Pro Se Clerks", Kevin Ramos was assigned as case manager for Petitioner. Ramos though would have been better suited as a USMC drill sergeant rather than a Circuit Court procedural facilitator. Petitioner being based outside of the US, was unnecessarily put through grueling rounds of redundant filings of pre-appeal papers to the hostile hack's caprice. Badger Petitioner Mr. Ramos did in niggling on the repetitive same-paper filing. Forms of the likes of A, B, C, and D were-filed at a minimum of 3 times by Petitioner on each order as Ramos grew not weary of such tautology that almost brought Petitioner to his tether. (CMD No. 1-15). Alphabetic was this chastisement heaped onto Petitioner by this mandarin with a martial mien. His boot camp mentality spewed nothing but spite onto the *pro se* "client" as if the latter was a kindergarten tyke. In this Ramos was awaiting an outburst or some frustrated end-call by Petitioner but -neither would ever come.

Constant it was- the carping as Ramos hauntingly threatened to have the appeal dismissed for admin non-compliance. This degrading vitriol spewed by the document processor is usually reserved for "boots"-that being a Marine new recruit Sensing the animus-as anyone with a modicum of self-esteem would have Petitioner took to his "kill 'em with kindness" approach. Apparently the short-tempered court worker was gunning to be a cruel antagonist where in return the *pro se* pleader contemplated sending the caustic case manager-long stemmed roses. Petitioner placed still in such new recruit stance would give report to such paper pusher in pelts of "Sir-Yes Sir" responses. In the private first class role playing Petitioner didn't falter in publicly enduring harassment by Ramos who grew even more irate over the Five-Star treatment he got in return. In the window of opportunity that'd come to the case manager as Petitioner had the Court of Appeals appeal fee paid by his seeming supporter-a property buyer. Such same party later along with his counsel did an about-face in refusing to advance the funds allocated to pay for this instant action to honor the parcel purchase agreement. This compelled Petitioner to switch from paid to IFP case status to file this petition. Soon learned was that such reneging was on behalf of Respondents' wont to avoid this exposure. On Ramos –who'd prior professed not in receipt of such supplemental submissions, being alerted by Petitioner of the June 25, 2019 payment of the appeal fee such was a watershed. Reports had it the cagey case manager hightailed it to higher-ups noting that such

payment could change the complexion of the appeal processing. Hint he did on the immediacy of summary dismissal of the appeal and head off Petitioner at the relief pass.

In all fairness there are on the other hand personnel at circuit court level who are courteous and supportive of the *pro se*. At 2nd Circuit there was such of the likes of Clerk Aide Richard Alcantara who assisted Petitioner dutifully with all of his reasonable request. Within days to come Plaintiff received an unexpected e-alert from the COA Case Management portal-the bubble has burst to foreclose direct vindication-where the panel dismissed *sua motu* the appeal. By the quirkiness of it all so came the syllogism to make it quick to understand. In real life when a new recruit makes it through boot camp-he/she would move to the rank of private and in left to savor on the achievement. So Petitioner had been put through Ramos' arduous rigors in his role of supposed appeal prepping in such pesky paper collective-being amongst a class of Constitutionally protected so nothing was be gained here. This for a private pleader who'd pled earthshaking principles in the federal forum with distinction -right up to the High Court. Conclusively 'twas never to be any by the preparation towards an appeal for Petitioner as such was not in the plans-no matter what he'd advance therein. Again for unpopular *pro se* participant with plausible but no less "inconvenient" claims there'd see a COA "sergeant" facilitate fast track dismissal of an appeal making for a casualty in a queasy culture of cutting loose unrepresented litigation-the frivolous along with the meritorious.

Normally not a mountain range full of the discrepancies' of fact that'd run the gamut of crucial deletions, tactical hyperbole and even the outright lie being shot at by an opposing side or even lower federal courts would be basis of an individual petitioner being granted such storied Writ of Certiorari. This in seeing the stated preferential matters that the High Court would normally entertain. And perpetrators of such acts are well aware of this criterion and use such as a stratagem . Still on seeing a pattern becoming *en vogue* to do so by colluders of the nation's establishment in targeting vulnerable groups so to deprive of meaningful hearings through Hook & Crook outerwear they should not nurture the reliance that that High Court's selectivity will always save the day. On such curve there'd be rung the Constitutional carillons beckoning this Court to action. In plentitude are unrepresented pleader's complaint that a good many of the district courts are either accepting on mere utterance-farcical storylines of government defendants or the reviewer's themselves setting to craft incredible narratives-the script may indeed be flipped. When such appointed arbiters in this trend of dizzyingly parrying on *pro se* plaintiff presented codified/case law all engineered to foment dismissal of a pleader's claim on behalf of government defendant the liberalized bell on standards should toll-as here, to still entertain a pet cert review.

Clearly there is here an hapless situation where reviewers were to undermine a *pro se* litigant's prosecution and allow the state actor defendants to escape justice level them to be recaptured successful pet-cert. As it is no circuit is immune from some included district court playing to this sort of picayune tune to keep government defendants virtually immune –when they are not. On appeal the subterfuge is affirmed All this quintessentially Petitioner compared to this complaint that of the pretextual car

searches by highway police (ECF No 1 at 847-848) . Realized it should be that these moves by jurists or court staff that many time permit Constitutional infringers to dodge accountability using pretext is worthy of censure to the highest order here. In Petitioner's case District Court sought avoiding liability placement onto state/*quasi*-state actors. These who be cut off their appendage of legal reality hopefully have then a prosthesis to limp he negotiation table where the OCA's man had in state court no legal claim. Perfectly these handlers of state defendant with handicaps failed to consider Petitioner's original settlement offer that'd forego any litigation to have and hold the premises on a heavily discounted price. Where Petitioner exhausted his administrative remedies-and defeated-in prefacing, the immunities/privileges, state-*quasi* state actors need be put in the pillory and the OCA entity to stake. Otherwise District Court's failure to review complaint on such immunity, notice failure and prolixity on improvised jazz is just is another form of pretextual stop. And so came the specious *sua sponte* dismissal of Petitioner's complaint. Surely, under 28 U.S.C. § 1915 District Court's "plausible screening that never was–was instead a less-than-charming partisan offensive in breach of 6th and 7th Amendment trust as now Petitioner is left not endowed to the Constitution.

For this Petitioner tested these waters in the Circuit Court in which his $505 filing fee was fully paid-in which he was abruptly blocked thereafter from proceeding to the review desks when he'd have a valid appeal in hand. So it went Circuit Court "on its own motion" outside orbits of pertinent High Court holding and 28 U.S.C.§ 1915(e)(2) (B)(i) powers claiming that the herein appeal is "inarguable".-but only after Petitioner paying the appeals fee. This again on issues that are in fact contentiousness and/or seeing circuit court split all of which is problematic to. (Pet. App. 3a) (CMD Nos. 11, 17 at Pg. 2-5)(CMD No. 26). District Court of course opted that the underlying complaint had to be dismissed due to 11th immunity bars as well as for insufficient notice onto the opposing sides- but still not in any way for being "frivolous or malicious". This where it was only acknowledging its 28 U.S.C.§ 1915(e)(2) (B)(i) options (Pet. App at 8a¶3). Incongruence comes in tandem by District Court and Court of Appeals rulings having no jurisprudential overlap all worsened by their view of the unrepresented gaining relief in *haute* legal matters as abhorrent. This Panel-remaining so professional, should address-on this microcosm-seen through the peephole of Petitioner's confessional -in his being a sometimes paid and at other times IFP, *pro se* pleader on the post-PLRA plane-all then for the sake of none other than -We the People .

B. No One is Above the Law-By Name, High POTUS-King Me And Everyone Should Get a Due Process Sheath Even a Lowly *Pro Se* Plaintiff-So Same is Set as SCOTUS' Tweet

In America often time indigent applicants seeking relief-are met by the keepers of gates and those of judicial thrones who'd hardly ever glower down to condescendingly behold *pro se* litigants as being *bona fide* players in this game of legal fates. Such continues unabated without being considered the weightiness of evidence presented, interests at stake or if the matter is of grave national concern, in the unrepresented soul's case of woe. This as it relates to *pro se* litigant that those of the manor rarely-if

ever, -cogitate but do estimate-on how fast dismissal with all the prejudices in the world could be bestowed onto these initiators of such "nuisance" cases .A question is then posed as -Need there be a fare to be paid riding the coattails of Lady Justice along the procedural highways and byways of America? Still again- Must there be an member of the bar to articulate what is the basis of a suit when the plaintiff is capable of doing such lonesome? In Post-PLRA times, the answers to these Constitutionally charged questions may be delivered by this Court in granting the *other* Great Writ. Now dismay may come when irked opponents are forced to unlatch creaky court fencing for such unrepresented segment to warmly enter. Still the former insists that the latter is a burden. But nay the safeguards are for those of the *pro se* with "plausible" claims seeking relief in earnest on undisputed fact that couples with codified/case law. And this is how the cogent pleading cookie should crumble.

In the end while skipping the hash tag for Petitioner might add that–the pleadings of *pro se* litigants -whatever color or creed that they might be of, do indeed matter. In such dynamics the only race that is of import is the one towards the finish American Justice dash in a pulse of rehash of the US Constitution. All then to see the cheering throngs of spectators -as certain unruly FIFA fans in Europe would do in their discriminations, without adjudicators and aids peering at the contestants' face, in the dash to the tape-the near statics of law and fact. Both matters eluded Court of Appeals here as seen by its bland ruling amounting to slur slinging-on the call of frivolousness-while Black . This makes the rants of soccer (football) hooligans onto dark-skinned contestants seem pale in comparison. Fascinatingly, the 2nd Circuit upheld in wider publicity that the fine fellow who is domiciled at 1600 Pennsylvania-with less melanin in his skin than Petitioner was compelled to turn over 8 years of personal tax returns. New York State Attorney General uploaded onto defendant's favorite internet platform "As the elected AG of NY, I have sworn duty to protect & uphold state law. My office will follow the facts of any case wherever they lead Make no mistake: No one is above the law, not even the President. P.S My name is Letitia James (You can call me Tish.)"

In a serendipitous parody Petitioner in his own tweet onto New York's top lawyer retorted " Lady Tish I'd kindly ask that your high & mighty office follo d 'facts' and law of Ind. #. 1817/18-QSC dat emanates from a case of deprivation of Constitutional rights dat was succinctly heard by COA 2nd Cir. in Docket # 19-0546-seeking now cert pet 2 the High Court- So watch 4 it.... With no mistake to be made everyone should be protected by state/federal law –even a lowly alien plaintiff. Dis though I wasn't in Case # 18-7361 PS. my pen name is Mujtaba Attia (You can call me Muj)" So went the Twitter exchange where a little birdie chirped to the world the wormy state of affairs of *pro se* litigants in the State of New York. This -as the prime-and crime, example there'd see intermittently, over eight months some 8 pounds of Petitioner's critical pleadings- marked as received by electronic signatures of OCA employees. "Disappeared" such had been from entry platforms of Queens Supreme Chief Clerk's Office and Queens County Clerk's Office for a most obvious of Constitutional reasons for which the lower courts fathomed it not.

In the end the federal courts of competent jurisdiction -EDNY and such 2nd Circuit, for almost a year to date has ignored Petitioner's demand for accountability of the Constitutional transgressions onto him. Further OCA entity, its named employees and the *quasi*-state actors having been excepted 11th Amendment immunity, defeated presumption of *quasi*-judicial/qualified immunity and litigation privilege being upended. Undeniably any harborer of a tree-jumping flesh violator would be most reviled and just the same a keeper shady Constitutional infringers of rights likewise this vile sort is detested. Widely known-OCA does not manage its house by permitting blatant denial of access to the courts while again assenting to failure of service, notice, and alert of court events. Most chilling the agency permits the blockage of Constitutionally protected litigant's pursuit of justical causes –this-as here, OCA refrained from intervening when Petitioner's then counsel tried to submit most dispositive evidence but where he was prevented from doing so. All this is topped off where in general there witnesses that the OCA arm's written policy itself encourages clerks to "disappear " litigant pleadings.

None of this has nay linkage to the ownership of said property –as District Court emotes in coached deflection for which the title to said property was resolved in Ind. .# 17178-QSC Invariably OCA entity and its state/*quasi*-state actors were enabled by a district court judge and the circuit court panel-all within Trump's reign , to remain above and beyond federal law. Assuredly this all by these reviewers wantonly evading screening of claims on a "state action" , Constitutional suit and comprehensive prosecution on complex federal regimes. As s crude consolation prize Judge Donnelly left for refilling of the state claims. Disturbingly- OCA's Inspector General's Office had from the outset- at real time-as reports flooded in, turned a blind eye to allegations of OCA worker illicit activities of state actors which such unit was formed to detect and disrupt such. Most troubling was that the agency had unleashed the choking Due Process reins placed upon its employees and agent all to achieve its partisan objectives. of giving state defendant a house. In a rundown, Lady Justice has her shiny sword at arm but still Petitioner needed don himself with some sheath to protect from salivating bites of ravenous-and rabid, pursuers as he'd just as well barrel down a slippery slope-that' being the Constitution that he wields as his salvation in such justice-barren romp.

vii. <u>In Constitutional Airs There'd be Waiting in the Wings- Pegasus for the Eavesdropped Flight from Federal Prosecution All to See Bellerophons Tend to a Beleaguered Heir's Parcel Dissolution</u>

So as the curtains fell on this chapter that witnessed the abusive maltreatment, cheap shot deriding and bandying of foul fakery . All this sprinkled profusely about the rulings and the procedure by District Court and Circuit Court who'd bow out their bodacious dismissal of complaint and appeal. This for which would not bode well in light of the unanswered Constitutional questions first asked by the *pro se* pleader in both IFP and paid mode here. Petitioner comes into this fray dealing with the wolf-like individual Respondents who'd trample on the alien's rights all lurking to pounce upon his property on the coda of litigation . For this daunting task to insure success there'd require enlistment of aiders to the scheme. Pretending all the while to be Petitioner's best

friend more than FIDO, were those who'd gain accessibility, trust and seeming objective alignment with his cause. He who'd set out to sell, *legally,* whatever interest he had in the parcel so as to sustain himself in the 3rd World via global business-which he was doing at the time of his INS detainment. This while mortifyingly entangled in the midst of an awful usurpation exercise by mob wannabes with absolutely no morals.

According to the state court decision of Ind. # 17178/97-QSC there could only have meant that Petitioner had a 100% stake in the parcel but for which of his own volition on conscience he'd share the property with his non-heir brother. Such in which Petitioner had sought for 2 decades to sell all his interests in the residence to his non-heir sibling at the median of the market value therein giving in essence a half-stake in the parcel on this familial tie and not that of legality . To the surprise of onlookers the voracious appetite brother refused-claiming title to the entire parcel for no stated reason of law and there being no remuneration being made to Petitioner. In accommodating the sibling's gluttony there's the arch malefactor amongst individual Respondents- Daniel Friedman. He is the catalyst of state *quasi*-state actor plot that'd forge the Unconstitutional push to seize the plush property that the two brothers shared since 1996 though Petitioner owned his own bought home . All of this curiously under banner charge of the actors sharing with the state defendant US citizenship right along with American patriotism that hummed on wicked jingoism. Therein was to enter 335 Radcliff Ave. LLC, Glass Capital Ventures LLC and American Regional Real Estate Partners LLC. Wherein out of this roster-one is an outfit said to be planting spyware onto the e-accounts of victims of its scamming that saw here the owlish Petitioner's digitalia. Another firm is a defunct Delaware-S corporation illegally doing business in New York as a flunky for the "partnering" in crime with the domestic outfit engaging in such espionage. Still yet one other these group-but no connected to the others is a predator *lis pendens* filer -attaching such onto properties mainly belonging to Constitutionally protected homeowners. Such entails obtaining Specific Performance/ Breach of Contract judgements on properties they never intended to buy in the first place as these courthouse shakedowns are orchestrated by "house counsel" in mill operations-working on sheer numbers that thrive in New York's City's five boroughs-and out.

Once of such accomplices of state/*quasi*-state actors vied to tap Petitioner's every word so as to be aware of his savvy counter-maneuvering to their brazen property usurpation drive set to take flight. Lupine this move of these state/ *quasi*-state actors was -running with pack of foxy so-called property buyers-being Petitioner's own potential purchasers of his parcel. These who'd place the Pegasus app dispatch as snoop windows on the communication mediums of the outlander seller aspirant. With his coop thrown into loop but otherwise with the potential of penal law books boomeranging on the grift-minded insiders. As the first tip off of such turn coat activity one of the property buyer cohorts who play one of the probing email blockage feints. Again was a sudden query onto Petitioner if he happened to "have WhatsApp" on his mobile phone." Such Deep Fake monitoring of a foreign national, inescapably turned to the peering into messages of US citizens-who were not at all tied to their operation, whom Petitioner would confab with. All of this again that stems from state defendant's

parsimony in not accepting such neat settlement offer that on the such refusal prompted Petitioner's move to sell. Still all this opens ups another bale of hay for the dogged horse riders set to rustle "The Ponderosa" from a faraway owner who was in pariah status.

When all is said and done in this federal forum the non-heir state defendant and the iniquitous state/*quasi*-state actor cabal-upon settling with their property buyer confederates, such malefactors -as if Bellerophon, would soar off atop the equine'-over the clouds -and again above the law. In tow-would be the property-that *legally* belongs to Petitioner seeing the earlier Ind. #17178/97-QSC state-court-vetted-deed. Egregiously such owner-the Petitioner had for decades shared such land plot with the serpentine sibling who recently-so as to appease his insatiable avarice by the take-in, sibilates now of some fantasy fraudulent deed plot. All of which was to capitalize off of Petitioner's banishment from the Republic-is what onlookers comment as being a cruel hoax. No mythical Greek tragedy this is -but rather an American Justice travesty-still in the making! Derogation goes to District Court and Circuit Court which allowed for this *en masse* flight from federal prosecution of the highfalutin OCA entity, its employees and agent aided by such a deranged screw crew. Only the lofty heavens know that without the High Court's intercession the personal toll on Petitioner in this cautionary tale-will be just as high onto the federal system. As the watching Constitutionalists call would it-this a Due Process sleight where Petitioner-need be pulled from such tortured plight.

C. District Court Never Adjudged Any of Petitioner's Complaint Claims as Being "Frivolous or Malicious"-Yet Court of Appeals Conflictingly Ruled that His Pleadings "Lacked Arguable Basis Either in Law or in Fact"-and Hence Such Be Deemed as Frivolous-Although No Showing Has Been Made to This Effect.

On the surface of things the Order of Court of Appeals in maintaining that Petitioner's appeal was devoid of the law and fact edifice . Such itself is in a vacuum as to federal appeal procedure. (Pet. App 1a) Otherwise District Court's Decision & Order in which it appears by the catty cadence the jurix is not too fond of Petitioner. But nevertheless such is off kilter as it discusses as its gist some phantom property dispute *between siblings* when Petitioner stated Due Process claims *against actors* but not the brother. Totally such court duo allowed for the terrible tyranny of a state agency to marinate here and upsets all system. Petitioner sought in the federal forum Constitutional refuge from OCA oppression on the state level-in which he'd be shooed off by a compromised priestess therein. If it be that the EDNY jurix and the Circuit Court panel would portray such as it being a sin -Petitioner in such prayer herein to what is the Vatican of American Justice shall never seek to atone for that one as seeking justice is not a vice . Veritably at issue here is that Hon. Ann M. Donnelly provocatively finger-dipped the review pool to ripple suggestive semantics. This in proposing "[n]onetheless, under *28 U.S.C. § 1915(e) (2) (B)*. I am required to dismiss a complaint "*if* it (i) is frivolous or malicious". (Pet. App. 8a3).

Such clever innuendo in District Court's Decision it seems had subliminally washed up on the sandy shores of Court of Appeals' Order to prompt granular verbiage

thereof. Such Panel summarily dismissed that appeal as it being akin to frivolous: this when District Court in actuality did not say the same.. When uncorking the bottled riddle-there'd cling in -How could this be that the never-reviewed appeal points of Court of Appeals had mutated to inarguable on the basis in law and fact-from the EDNY decision citing lesser reasons? -Such all defies logic. Key to the phraseology here is that of District Court's usage of the word "if" for which it'd be noted in its given authority has the ability to dismiss a complaint *sua sponte* under such damning subsection (i) of *28 U.S.C.1915 § (e) (2) (B).*This is read as "if" the pleading were to be "frivolous or malicious". In no form or fashion does the jurix attribute dismissal of the complaint to such prong as this is clearly a whole other matter . In fact such EDNY dismissal grounds were under two other prongs of the statute-this being that of immunity bars and also FRCP 8 of "Rule 8" grounds. (Pet. App.10a¶1), (Pet. App. 12a¶ 2).

Actually District Court's stated grounds for dismissing the complaint has a missing element where Court of Appeals came along with an inconsistent ruling that is incompatible with the former. A Damocles Sword this was in such hotly-contested rush of Court of Appeal to enter judgement-or order rather, that was in fact well out of High Court holding order . Such steely move by the lower court was cold-tempered by Petitioner presenting this Court's prior holding which warmly offered "[b]ecause indigent plaintiff's so often proceed *pro se* and therefore may be less capable of formulating legally competent initial pleadings. See *Haines* at 19 ..... may be necessary for a *pro se* plaintiff to clarify his legal theories." *Neitzke* at 327. On sound advice by this esteemed Court the lower court rejected such. Appropriately said-this is error- such when District Court hadn't found Petitioner 's complaint to be "frivolous or malicious" for which there leaves for dissonance with Court of Appeal's Order for *sua motu* dismissal of the appeal as somehow such becoming frivolous. To this the jurix simply quoted relevant statute but this was in passing as Judge Donnelly related as to such "frivolous and malicious" comment-that merely being –as District Court just in the realm of possibilities in disposing of the matter. Right along with this, the High Court grippingly urges that resource-challenged *pro se* plaintiffs should be permitted to elucidate on appeal points so to seal what is a valid prosecution-but Court of Appeal diverges

Demonstrative of the situation of there being in Circuit Court forces opposed to Petitioner's partaking in any appeal briefing was that of the adjudication of the Motion for *IFP.* Here once Petitioner had paid such $505 appeal fee his status jilts. This as such *IFP* application was indeed pending –for which there'd see no further *case and controversy* issue under Article III of the US Constitution for the COA panel to render a positional ruling on that matter thereafter. (CMD 26) One that'd have effect on Petitioner's rights for relief in his being-or not being, deemed indigent enough for him to have been afforded an appeal filing fee waiver. Still yet the lower court took the unusual step of "den[ying]" –first, the *IFP* application-well aware of the payment being made on June 25, 2019 for which the panel in the same Order seamlessly dismissed, *sua motu,* the appeal. This of course was its main goal-that is, nixing the appeal so as for the allegations to not see the light of day. (Pet. App.1a). Seemingly such chess-like tactic was to take the appeal dismissal matter out of the province of *Neitzke, Supra* .This

holding centered on the dismissability of a frivolous *IFP pro se* appeals in the 28 U.S. C. 1915(e)(2)(B)(i) context. Circuit Court could not have used an assessment of Petitioner IFP application-where it was squelched by fee payment as being basis for dismissal of the appeal *sua motu* for which it did do so. (emphasis added). In sophistry the lower court regularly spots such into these equations-this *Pillay* Supra holding –a wholly 2nd Circuit invention, to boilerplate justify shutting down a paid or *pro se*-whether being IFP or not, appeal. Clearly Court of Appeal was to on July 19, 2019, by Constitutional standards pronounce the IFP issue as being "moot"- but not ruled on it to be "as denied'. *DeFunis v. Odegaard, 416 U.S. 312* (1974). While issuance of an erroneous denial on mootness regarding what is an undisputed issue is negligible in terms of prejudice felt by Petitioner- however there lies problem with this type move elsewhere.

On this in the original federal complaint in District Court such Article III *case and controversy* in the Ind.# 1817/18 state case such state/*quasi*-state actors- with harassment in mind, insisted that Petitioner still go to trial against the state defendant on such impermissible "fraudulent deed" counterclaim. This although state defendant readily admits he's no heir of decedent-but rather he is a putative child. Such a move that'd give helter-skelter kinetic towards trial -where Petitioner's Memorandum of Law portion of his *Motion to Strike-, Reply* papers and efile conversion notices after being received were diverted from the QCCO archives by state/*quasi*-state actors, is a common ploy in QSC zones. District Court's case and controversy alarms should have been set off here. However District Court slyly sidestepped such complaint-stated claim (ECF No 1 at 433) (Pet App 6a-13a). Vital to the New York property market is that dodgy claimants mustn't be allowed to demand for what are sham trials against owners if the initiating side lacks standing/legal capacity to sue other parties-especially true for "inadmissible" litigants. A sizable number of owners in this US market fragment are aliens not living in the United States. Critically the Article III Doctrine is to nip such artifice in the bud . Here seeing the actors pilfering Petitioner's responsive papers to then go on to demand trial on such comatose counterclaims is palpably absurd.

Presently Ind. # 1817/18 Respondents demand for Petitioner's presence onto US soil for participation in "trial" where peculiarly the whole matter was to have been dismissed *with prejudice* on stipulation thereto by the litigant such leaves the alien aggrieved under the Case and Controversy Clause of 14th Amendment as it relates to the fraudulent deed counterclaim. Aside from state defendant's own admission of his non-heirship, such idea is independently affirmed in Ind. # 17178/97-QSC *lis pendens.* With that state court apparently under sway of state/*quasi*-state actors such calls for the coercion persists to date. All are aware that Petitioner can make no footing on US grounds to proceed to trial on what is an impermissible counterclaim designed only to annoy. Ably the bogus fraudulent deed counterclaim in Ind. # 1817/18-QSC was decimated in the Post-Answer period but such still somehow remains as a viable counterclaim in what state actors claim is an "active" case. Nevertheless the deed validity is still without a controversy as state defendant is no heir. As is the 2nd Circuit employed its providently-designed device of *Pillay* Supra for *sua motu* dismissal of appeals in vying to override Supreme Court precedent. In such, the *Pillay* gadget must

be disengaged here. Plaintiff formed incising claims but COA brass showed its teeth in bitingly having dismissed the appeal to avert Petitioner's down-the-road relief. This as such device' is outside of PLRA authority where it allows for arbitrary ends to be achieved. Properly, the Order of Court of Appeals should be reversed as the ruling was not in conformance to the age old principle of *stare decises* –which is key to uniformity in issue adjudication and further such frees up procedural gridlock. The aberrance of Court of Appeals in dismissal/denial of appeals and rehearing applications under *Pillay* Supra is abrasive to the smooth texture of the 5th Amendment and may not stand here.

D. Petitioner Presented an On-its-Face "State Action" Claim—This Being That of, a Long Ongoing Topically Unconstitutional Policy/Practice of the State Arm –That May Never be Discounted as Frivolous, As Again District Court Prior-Impermissibly, Opted for Abstention –All to Cue in the Court of Appeals' Unfounded Dismissal of Such Appeal as Being "Inarguable"–But the Proficiently-Pleading Petitioner and the Constitutionally Protected-Group Public-At Large, Must Have Their Day in Court on

Painstakingly, Petitioner has the requisite private litigant standing- to form a "state action" by virtue of his being an aggrieved party,. There was assuredly submitted-but purposely never-filed, the crucial pleadings that had undisputedly "disappeared" by state actors. On this the *pro se* litigant was in an active controversy against state employees in a *bona fide* case . *Lujan v. Defs. Of Wildlife 504 U.S. 555, 560- 61* (1992) Currently, Petitioner 's property is still his by name only but for which he has little practical control over such residence. This for which prior court action had certified his title in Ind. # 17178/97 *lis pendens* but such is rendered lame by state/*quasi*-state actors acts. This is due to actor machinations along with the employing state agency having an Unconstitutional policy/practice that allows for discarding of papers on whim. This where such ongoing malfeasance-that continues to date-was acted out by state/*quasi*-state actors-as some were sued in individual capacity-others in official capacity yet others cited in both capacities. (ECF No 1 at 1) (Ibid at 176 ¶ 579), (ECF No 1-1 at 116). Firstly and otherwise, under the in-of-itself state action doctrine Petitioner ably demonstrated that the OCA policy at Queens Supreme Court which allows clerks to partake in such whimsical and/or scheme driven "discard[ed]" spree[3] of litigants' pleadings. and no doubt is facially violative of Due Process. (ECF No. 1-1 at 199, 200). Somehow the Court of Appeals saw this not. In this, Petitioner clearly identified in his complaint this on-its-face "state action" portion being "of the Bill of Rights behemoth". (ECF No.1 at 6 ¶ 1) (ECF No 1-1 at 198-202). Additionally he "secured a right under the Constitution of the United States". Also the violative policy/practice was impacted upon him by parties "under the color of the statute [or administrative provision]". (ECF No. 1

[3] As opposed to the valid and perfectly acceptable *rejection of defective-on-notice of papers* plan that is widely in play by courts in America and not the clandestine rubbishing of papers to deny claims on whim or on scheme driven motivations as was combination of such here.

at 256 ¶ 839-852), *Flagg Brothers at 153*. Established it is that state policies/practices that are facially Unconstitutional must be broached by the district court on . (ECF No. 1-1 at 199-200) (ECF No. 1 at 260 ¶ 852). *Thornburgh at 756.*

Otherwise to District Court's ruling the rigid Anti-Injunction Act *-28 U.S.C. § 2283* may not be the basis of dismissal as it implies but not an actual ruling. Such in any event would be applicable here as the case falls within the clear exception. One that is of Congress' specific intent that was embodied in *Mitchum at 22*. Here it was actually a *mandate* for District Court itself to have proceeded with review of such state action claims in being wholly civil in nature as to "state actions". *Colorado River Water at 800.* As such there engendered the notion that hat District Court-after dismissing Petitioner's complaint claims in which its stated bases that were so unreasonable that such was of the likes of abandoning a crying baby in a tub with dirty bathwater only to go on to other household duties leaving the tending of such infant to others. As a second matter, there was to be established by District Court if the Section 1983 *Denial of/Impeding Access to the Court* conjoined with Civil RICO predicate of *Obstruction of Justice* all amounted to acts attributable to the state or state/*quasi*-state actors –and scrutability so when in taken in regards to private citizen/agent involvement. *Flagg Brothers at 152*. Just as well, Petitioner pleaded that the state/*quasi*-state actor conduct places *de minimus* reprobation on the agency by the myriad of OCA Inspector General grievances that had gone unanswered in Due Process apathy as ripe for action.

Moreover such could have been and actually was to be painted by Petitioner in such pleading as a separate prong of a "state action". (ECF No. 1 at 196 ¶ 658) *Adickes v. H.S. Kress & Co. 398 U.S. 144 190-191* (1970). Emphatically so,-in District Court having asserted such grounds to quash the entire complaint that the "state action" wraps snugly in such again is ambiguous . This as Petitioner pleaded his actual claims after "defeating" individual immunities and 11th Amendment bar "exemptions". (ECF No. 1 at 127-132) Further complaint text wasn't to be considered verbose-in the sheer number claims and defendants being sued nor did it violate Rule 8-all by such falling in the way of Rule 9(c)-*particularity* exception. In any event when a filed *pro se* complaint is indeed "prolix" such deserves "ample" second-chance amending before ultimate dismissal by district court as the law of the circuit. . *Salahuddin v. Cuomo, 861 F.2d 40, 43* (2d Cir. 1988) In this "dismissing of the complaint [and appeal]" surrounding an undissmissable "state action" such will not be "well taken" on subsequent High Court review. *Raines at 27*. Clearly, when an on-its-face "state action" is brought to bar hawkish attention should not stay in nitpicking pleading style to the stratosphere. Dastardly unfair this is to undermining litigation all behind the cloak of legal hyper-technicality. Rather the eyes of the majestic eagle are to scour in Due Process propriety in a state policy or practice that's to remain within staid Constitutionality. Primarily there was the failure of District Court to even acknowledge the facially Unconstitutional "state action" claim. As illustrious Supreme Court alum Justice Story would articulate it the mandate of the lower court in immediacy to have such reversed should made to "quit by day". Here and now pet-cert should be graciously granted by this Panel for Petitioner's briefing.

2. THE CIRCUIT COURT HAD GROSSLY ERRED IN IT UPENDING PETITIONER'S APPEAL FOR WHICH THE PANEL THERE RELENTED TO CONSIDER SUBSCRIBING TO ITS OWN PRIOR HOLDINGS OR EVEN DEFERRING TO THIS "LEARNED" COURT'S PRIOR PRECEDENTS ON SPARING SUMMMARY DISMISSAL OF VALID APPEALS/COMPLAINTS OF IFP/ *PRO SE* LITIGANTS

E. There Exists a Nationwide Split of More Than Two Circuits on the Matter of FSIA Exception in Vicarious Liability Mode Prosecution of a Foreign/Domestic State- Its Arm or Agency, Yet Court of Appeals Failed to Broach This Matter Here After Petitioner Raised Such Issue of Circuit Discord Where Notably 2nd Circuit Prior Took No Firm Position on the Controversy for Which this Petition Forms an Ideal Vehicle to Resolve the Issue

On this it has been seen the 10th Circuit has ruled on the vicarious liability issue- which such is less harsh liability then *mens rea-* associated-direct liability, that FSIA precludes jurisdiction over Civil RICO [and ATCA] claims against foreign [and domestic] sovereigns. *Southway v. Central Bank of Nigeria 198 F.3d 1210* (10th Cir. 1999). This where FSIA exception of criminal and civil actions-inclusive of those in vicarious liability mode could in fact proceed. Otherwise the 6th Circuit accepting the subordinate district court's analysis set forth in *Gould. Inc v. Mitsui Mining & Smelting 750 .F Supp 838,843 -44* (N.D. Ohio 1990), reject such position of the 10th Circuit. This in opining, amongst other things, jurisdiction over foreign [or domestic] sovereigns with respects to FSIA does not exist. *Keller v. Central Bank of Nigeria 227. F3d 811.* Additionally, the 11th Circuit recognized such grounds for jurisdiction in which there 'd be reconciled the issue waiver allowance but in the end such had parried the germane FSIA impact of Civil RICO and ATCA claims onto the vicarious liability pile. *United States v. Campa 529 F. 3d 980. 1000-01* (11th Cir. 2008). As it was in the round up here -which perhaps had the lower court wound up, that throughout the encompassed districts of the 2nd Circuit, these courts remain somewhat divided on such vicarious liability of the state agency. This Court of Appeals itself has never quite issued a controlling Decision on such matter despite that fact that such vicarious liability controversy had come before that panel. This jurisprudential matter as for circuit court interpretation is in shambolic state and need be brought into cohesion as this Court is bound to do eventually.

Inevitably, there was to see a growing trend amongst the circuit courts calling for vicarious liability prosecution of state arms which is highlighted by the matter of a think-tank series. *Civil RICO Section 1962 (c)-Vicarious Liability and Argument for Expanding Its Scope And Element-Part II* USSG Ch. Intro Comment. Included in the text there'd be emphasis on "Guidelines" for Congress explores vicarious liability prosecution, particularly those being state arms. Here under FSIA commercial activity exception of *28 U.S.C. 1605 (a)(2)* to the sovereign immunity stated a vicarious liability mode claim under Civil RICO provisions which places such squarely within the purview of such discussion here. This very much so where Petitioner again adequately ascribed

of proximate injury suffered by such Civil RICO predicate acts impacted upon him in a pattern by individual actors' conduct. Run amok the situation was- hence the OCA/UCS agency is secondarily responsible for injury to Petitioner (ECF No. 1 at 187 ¶ 623-755).

Further Section 1605 (a)(5) which qualifies what exactly constitutes *non-commercial/* non-discretionary tort and *entire tort* exception to presumptive immunity. This was accordingly pled by Petitioner in the original complaint under the ATCA regime in which here the OCA/UCS was secondarily responsible. (ECF No. 1 at 774 (d) [*i*][*ii*] [*iii*]).Under such in the tort-feasing engaged in by its actual employees in cooperation with state court defendant's attorney (within a real property *ejectment action* in which its outcome would not have had title implications upon a state court plaintiff or defendant. This where such was not a *property dispute* as state court, Respondent Friedman-with others and strangely Hon. Ann M. Donnelly claim; such was an *ejectment action*. So as to give vitality here to vicarious liability mode prosecution there was that of voluminous Inspector General grievance complaints filed to the OCA and UCS groups. This in alerting the agency that state/*quasi*-state actors-some already involved in Civil RICO and ACTA activity had colluded to intercept, divert and discard Petitioner's relatively extensive pile of relevant pleadings within such state case. Including in a this catalog of "missing" ultra-critical papers were his *Reply to Answer/ Counterclaims* and his *Memorandum of Law* portion only of the *Motion of Strike, Dismiss Summary, Judgement and Impose Sanction* were disappeared (ECF No. 1 at 224-333) (ECF 1-1 at Pg 186-196) (Ibid at 32, 120, 137).

With perspicuity when a plaintiff who- in a civil-*and not that of a criminal* state proceeding, is to be felt by Due Process violations perpetrated by individual state actor(s) ,such litigant may form a *Constitutional* suit typified in some Section 1983 prosecution. Further-and the situation might allow for such, a plaintiff could as well commence an empirical "state action" from such suit of individual state actor players. Concomitantly there may be assumed liability-largely in vicarious liability centroid attributable to the state. Here it was clear that District Court could have sought to enjoin the OCA practice/policy that is lucidly Unconstitutional-which is quite different than that of issuing an injunction onto the Queens Supreme Court part hearing the civil ejectment action Plaintiff commenced against his sibling in state court as District Court feigns. (Pet App 8a ¶1) Eerily Petitioner never requested that District Court enjoin the actors' for their "tradition" but rather have injunction placed on the agency's Unconstitutional policy/ practice is that to under the "state action" he moved the OCA/UCS for immediate injunction on his such policy/practice that disaffected him . (ECF No.1 at 257 ¶843-559). This for which critically Petitioner was prosecuting another in a civil action and he himself was not being prosecuted-criminally. *Younger at 37* Still yet in full disclosure on the nationwide the scholarly positioning rift, circuit split and High Court Panels of past sitting seemed to have had reservations on the matter it comes to bear here . This where in foresight there has been expressed the possibility of overuse of Civil RICO pleading against a sovereigns in vicarious liability mode. Concededly such has propensity to place a great strain on tax payers-play out as the "body politic". Likely proliferation of vicarious liability suits on FSIA exception would breed discussion for

unanimity of the standard which this Court may easily resolve now. See e.g. *Lancaster Com. Hosp . Antelope Valley Hosp. Dist.* 940 F2d 377 (9th Cir. 1991) , *Newport v. Fact Concerts Inc, 453 US 24, 101* (1981).

Contrary to what District Court espouses in its avoidance and Court of Appeals in its silence in such subordinate court disconnect-with 11th Amendment FSIA exception immunity is not absolute as is contended in such rulings here. One being an extraneous deflection and the other a bland custom boilerplate where both were set to derail Petitioner's prosecution. Actionability of Civil RICO and ATCA claims in vicarious liability mode against sovereigns has no Constitutional prophylactic fit that'd allow for lower courts to relent to review items placed in a claim pane when exceptions/ exemptions are raised by a pleader. At the very least there's to be a review of the validity of such exception claim-where this happened not here. (Pet. App. at 4a-15a).(Pet. App 1a-3a) Emphatically so where District Court and Court of Appeals neglected to touch on the matter of OCA/UCS being held responsible as *respondeat superior* as permitted by FSIA loophole. In the words of Thomas Paine the Britain-born New England patriot— "The time has come..."where Petitioner the New Providian Liberian who'd be a onetime expatriate on American grounds, realized an evolutionary comeuppance in law. He in taking to a plane for discerning applicability on legal matters on land swath filled with-plains. In such, Petitioner curries concurrence with the Revolutionary hero. Truly the wait is over and the final -authority on American Justice need decide on the issue of vicarious liability mode prosecution on foreign/domestic sovereigns to quiet the circuit discord for which such move would engender jurisprudential certainty for the masses.

F. Within His Complaint-Petitioner Pled a Title VI Race-National/Regional Origin Bias Claim But the Matter Was Never Reviewed in the Lower Courts' Rush to Judgement

Perceived by Petitioner and others was that of discriminatory intent that does in many ways express itself as vicarious liability from the actions of the employees of the state entities here. This in taking on testimonial evidence in the backdrop of the past that show this intolerable condition of such OCA agency having policies pivoting on race/ national origin discrimination that beset the Constitutionally protected and festers. See *Alexander v. Sandoval 532 US 275, 280-81*(2001). While speaking on his own behalf Petitioner believes such resonates other for *pro se* as he implore that the Court reverse the dismissal of his appeal Conspicuously in the complaint Petitioner stated his Title VI claim with witness evidence that'd prompt review for certain at the bottom rung of the federal adjudicative ladder. (ECF No. 1 at 99 455-458) For some odd reason the Title VI claim Petitioner presented were not considered by the lower courts as the "argu[mentative]" possibilities in coupling "law" and "fact" could have been explored then. Lucid this is that without the lower court pirouetted the evidenced Equal Protection claim under *42 U.S.C. § 2000d.* This being where Plaintiff with all took to this challenge. In such insensitivity to such 5th and 14th Amendment esteem there saw District Court's myopia engulfing the gall-having once denizen of the Republic-the Petitioner,

but such was not there for the Barbars of the "Muslim Ban" lore entering Rome. Such Order of Court of Appeals Court must then be reversed.

G. As per Long-Standing 2nd Circuit Holding- Evidenced Claims by a *Pro Se* Plaintiff in a Section 1983 Conspiracy Appeal Between State Actors and a Private Party(s) Must Survive any Such *Sua Sponte/Sua Motu* Dismissal of Complaint/Appeal in Lieu of Hearing But Here Circuit Court Failed to Remand the Matter Back to the District Court

Under this rubric there lies an articulated quote by the Court of Appeals panel-truncated here that Petitioner presents as the perfect dovetail of the law and fact cutouts forming the lower court's dismissal. *Dory v. Ryan 999 F. 2d 679* (2d Cir. 1993).

> [W]here the district court however dismissed [Petitioner 's] claim *sua sponte* without any hearing on the merits.....In San Filippo.....how we warned that *[42 U.S.C.§1983]* suits against [state actors] and [private parties who'd be in leagues with state actors] alleging.....Therefore we conclude that [Petitioner's] complaint should be remanded to district court.
>
> Id at 683.

Seeing the holding hierarchy in *stare decises* what is an even more compelling and vebry much controlling Decision from the High Court has said that when in Section 1983 context private party operates "under color"-and to a lesser extent on authority, of state and its law in conspiratorial acts-he/she is then wholeheartedly of them. *Dennis v. Sparks 449 U.S. 24, 27-28* (1980). Here a "plausible" legal theory buoyed in preservation of Petitioner 's claims in consideration anew to be seen from the Due Process scope. Apparently the sitting of the Court of Appeals did not take heed such prior holding and placed ruling gag all out of fear for opening the panicking-at-the-prospect-of-having-exposed the state actors' Pandora's Box of bad acts and seeing Petitioner such would have to keep as the "Victim's Secret" a multitude of violations of rights overlooked. Such takes on scandalous proportions even more as District Court personnel- had contacted individual Respondents prior to taking to the *sua sponte* dismissal of Petitioner's complaint. In the load of email colloquy that'd read in Respondent Friedman interjecting in a chat stream a thing most revealing. This ridiculously being that Petitioner had no "entitlement" to file a Reply paper to such lawyer's Answer and clandestine filing of forged document. An Answer rife with falsities for which remark all displays collusive markers in the scheme's DNA engaged in by him and certified state actors. (ECF No. 1 at 68 ¶ 201) (ECF No. 1-1 at 159 ¶ 4). When these conspirators shirked their service of papers responsibilities Petitioner thereafter forwarded his *Reply*[4] packet. Along with such went the application for hard copy-to-efile case conversion all to be stolen from.

By undertaking in such later responsive step Petitioner intended to radically curtail the rampant hardcopy pleading diversion/theft actually perpetrated by QCCO

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[4] Having garnered elsewhere a finessed copy of the filed Answer from the QCCO archives

state actors. Still yet again this fair response to the nauseating pleading-theft would be again stunted while conversely his injuries were amplified. (ECF No. 1 at 14 ¶27, 587, 598, 658, 775-g, h) . In all of this there was is nothing at all "delusional" about such pleader himself- nor was anything fanciful about his legal theory where the Order of the Court of Appeals went in over the rail in a dead man's curve. Widely seen, the Order of Court of Appeals here from the standpoint of what are truly guiding light excerpts of *Neitzke, at 324-331* and *Denton v. Gonzales 504 U.S.25, 33* (1992) if utilized here would've had a different result. This in which *Denton,* Supra should have been interposed with such Order as a criterion handhold of *Neitzke* Supra instead of that of *Pillay,* Supra. This latter is an off kilter device meant to induce dismissal of the appeal warrants reversal of the lower court's Order on 5th and again 14th Amendment concerns.

IX. CONCLUSION

In closing and in a nutshell-Could Court of Appeals have dismissed, *sua motu* Petitioner's appeal as frivolous-but where District Court-Hon. Ann M. Donnelly failed to screen the complaint for *plausibility-* under *Bell Atl. Corp.* Supra , in Constitutional, "state action" and federal law claims; when the district court jurix with a disdain for *pro se* litigation- who prior misconstrued the clear reading of vital Due Process matters as to government branches, arms and agents disaffecting private parties, would herein allow a state agency along with state/*quasi*-state actors to escape prosecution on state remedy-exhausted, immunity defeated/excepted claims-some in circuit court discord, pled again in *particularity*; all on an accord founded on collegial comity with state counterparts to *sua sponte* dismiss said pleading without such valid claims ever seeing the light of day?

For all the reasons set forth above the Petition for Writ for Certiorari should be granted for the Order of the Court of Appeals dismissing *sua motu* Petitioner's appeal of District Court's Memorandum of Law Decision & Order for which Court of Appeals' mandate should be vacated and the case ultimately remanded for Consideration upon further reasons to be set forth in Petitioner's briefing to this Honorable Court.

DATED: November 28, 2019
Accra, Ghana

Respectfully Submitted

/s/ Salim Abdul-Malik Petitioner Pro Se
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I Salim Abdul-Malik do on this 28th Day of November 2019 affirm/declare under penalty of perjury that all cited above and afore is true and correct to the best of my knowledge

Salim Abdul-Malik