

CASE No. 17-3564 7:13 CV-1575 and Court of Appeals Docket 17-3564

UNITED STATES SUPREME COURT

PAUL TOOLY PLAINTIFF

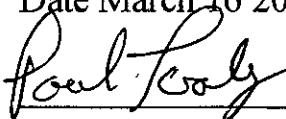
DECLARATION OF SERVICE
13CV-1575 DNH/ATB

STATE UNIVERSITY OF NEW YORK AT POTSDAM,
John F Schwaller INDIVIDUALLY, AND MARY DOLLAN INDIVIDUALLY
Defendants

I Paul Tooly declare that on March 16 2020 ^{And April 1, 2020} I served notice of a rehearing to my Writ of Certiorari that was denied to the following parties by United States Postal Service Priority Mail in their flat rate envelope.

Andrea Oser Firm New York State Attorney General's Office
The Capital Albany, New York 12224-0341

Date March 16 2020 + April 1 2020



Docket 19-7199

Date: March 27, 2020

Supreme Court of the United States: Case analyst- Jacob Levitan

Writ of Certiorari docket No is 19-7199

Two things that are important about this case are:

1. *The importance of this case to the public as well as to the law* is whether the reporting of workplace violence/bullying (and to protect the safety of University students working nearby ..finally to a lawyer) is in jeopardy for every employee (if the then President of SUNY Potsdam, Schwaller, qualifies for Qualified Immunity, especially given all of our evidence of retaliation shown in court documents.)

2. *Substantial grounds not previously presented* : Can John Schwaller lie/use a lie, use falsification, conceal, or covers up by trick, scheme, or device a material fact, and not allowing me to have a lawyer for a disciplinary meeting. All this information came from his Federal Court papers, to get his Qualified Immunity. Will John Schwaller still be allowed to get Qualified Immunity?

The **QUESTIONS PRESENTED** page of my Writ of Certiorari has changed.

This is presented in good faith and not for any delay only for getting this case back to court.

As of this date, I have not received any letter of Writ of Certiorari denial or received any boxes of my Writ of Certiorari application that was returned.

The United States Post Office in Potsdam, New York (when I called them about two weeks ago) said it was not in their post Office. I received my request of a rehearing in the mail on March 25th, that was sent out March 23, 2020.

This means that the Supreme Court of the United States lost my Writ of Certiorari during their 515 cases on February 24, 2020.

(419 Writ of Certiorari that were denied, order pending cases 23, petition on Writ of Certiorari denied 25, rehearing denied 35, habeas corpus denied 9, mandamus denied 7, attorneys disciplined 8, plus cases the Supreme Court made a decision on 7)

With all of the Supreme Court caseloads, with all the lies in John Schaller's court records, and the "felonies of their lawyers" per G.M. Lousignont PhD, (who has a PhD in Criminal Psychology), I truly do not believe that the majority of the Supreme Court Judges would let this case go by and have John Schwaller's Qualified Immunity be allowed. I am pressing that my Writ of Certiorari be reinstated again and not a rehearing.

1. Please take into account that all the "related cases" that the New York State Attorney looked up and used in John Schwaller's Federal Court papers **CAN NOT** be used because Schwaller's federal papers had 11 lies, scams, untruths, falsifications, etc. within page 1

Writ of Certiorari docket No is 19-7199

it, that I have shown and proven in my Writ of Certiorari . These “related cases” that the

New York State Attorney General’s Office tried to use **do not have numerous lies in them**, like Schwaller has in his Federal Court papers. For this reason alone, John Schwaller should **NOT** be getting Qualified Immunity.

2. I responded to the New York State Attorney General’s request in the newspaper for information if you knew of any wrong doings with New York State employees, as he was having trouble with it. What they did with my response was to pass it to the Inspector General’s Office. After my third time being fired via letter, in which I was not even on NYS Potsdam University’s property for 16 months, I wrote to the NYS Inspector General’s and gave them a 6 packet report.(not pages.) The NYS Inspector General’s job is to investigate people’s reports and take oral reports under oath. What the NYS Inspector General did with my information was to pass it along to the State University of New York’s auditors, who can not take oral reports under oath.

in turn, the University auditors got a hold of Potsdam University personnel and asked them if there were any work place violence bullying or any University students safety were in jeopardy. If the Potsdam University President, John Schwaller and Mary Dolan
Page 1

can lie in Federal Court papers, they can also lie to the State University auditors. All of this information came from their own records which I sent in to my Utica Federal Court papers that were up loaded (and my lawyer Spicer reprimanded me for sending this information in.

3. My father and I met G.M. Doc Lousignont PhD, who has a PhD in Criminal Psychology. When we asked him at the end of our meeting how many falsifications would it take to get the papers thrown out of Federal Supreme Court, he said he did not know but if their lawyers knew about it, it is a felony and in reality, would lose their lawyer license. My father said they worked for NYS and that was the end of the conversation.

3A Their lawyers had to know.

A. That Mary Dolan testified under oath that she did not give my lawyer any information on what she was going to have in her disciplinary meeting with me, but in Federal Court papers, she stated she did.

Page 2

Writ of Certiorari docket No is 19-7199

[see page 22 in my Writ of Certiorari line 8 to line 25 please read the whole page]
Appendix 83 & 84 Mary Dolan deposition dated 1-20-2016

Line 8 Q. ---Did you ever speak to Mr. Hartt?

Line 9 A.-- I don't recall.

Line 18 Q. ---So were are clear, nothing was ever made in writing to Mr. Hartt explaining the nature of charges against Mr. Tooley whether it be letter, e-mail, text message, whatever?

Line 22 A.-- No , I tried multiple times to get a hold of Mr. Hartt though.

Line 24 Q. Did you ever send a letter to him?

Line 25 A. No.

Appendix 84

Line 2 Q. Did you ever send an e-mail to him? Mr. Hartt?

Line 4 A. No they were all--I made several phone calls and never a response.

From above Appendix 81 "have been in contact with your attorney who has stated he will not be at the hearings and advised you of your right to CSEA representation

Mary Dolan lied by stating she was in contact with my attorney on John F Schwaller's Federal Appeal form, (their page A52) Page 2
18 U.S. Code 100.1 effects Mary Dolan

Motion 8 of 12 John F Schwaller using Mary's lie.

Supreme Court Judges please make this motion 8 of 15

John F Schwaller used the above lie on page (his Court Page A52) in his **Federal Court papers both the U.S District Court Northern District and U.S. Court of Appeals**

18 U.S. Code 100.1 effects Schwaller
HOW MANY _____ YES _____ NO

I AM ASKING THE JUDGES FOR 12 EASY MOTIONS which any one motion would deny John F Schwaller qualified immunity WHICH THIS IS ONLY ONE see below

Yet in her Federal Court papers she stated she did. You can check this out in my original Writ of Certiorari. Appendix 16A (their Court Page A52) Mary Dolan states:
Page 3

Writ of Certiorari docket No is 19-7199

Item 43 *The plaintiff's allegations that I interfered with his right to participate in a grievance process or otherwise contest the disciplinary charges, and denied him his right to counsel are baseless.*

Appendix 80 -letter from me to Mary Dolan dated 7/14/2011--

*Dear Ms Mary Dolan,
As per phone conversation with you. You already agreed to set this meeting after my lawyer appointment. My lawyer appointment is in the week of 07/18/2011 thru 07/22/2011.*

Appendix 81 - letter from Mary Dolan to me dated **July 14, 2011** You have been directed to report to the Office of Human Recourses at 10:00 am Monday July18, 2011 for

questioning regarding acts for which formal disciplinary actions may be initiated against you.

In response to your letter dated July 14, 2011, please be advised that the interrogation will proceed on Monday July 18, 2011 at 10:00. We have rescheduled the interrogation twice, have been in contact with your attorney who has stated he will not be at the hearings and advised you of your right to CSEA representation

A{1} Not having lawyer representation is grounds for a person facing the death penalty to be thrown out of court. I believe for me not being allowed to have a lawyer, when it is my right, is grounds for John Schwaller not getting **Qualified Immunity**.

A(1)B The reason Mary Dolan did not want me to have a lawyer is the same reason that I wanted a lawyer. Mary Dolan knew from numerous past complaints about my foreman to Page 3

the Union about work place violence/bullying/harassment that she could manipulate the situation with the Union President by claiming it is a he said /you said situation, and nothing would be done to correct the problem. However, when I witnessed the expression on my boss' face escalate and his veins in his neck popping out, I knew the enabling had to stop and something had to be done before a University student got hurt.

A{2} Their lawyer not having the right letter that they sent to
Riverfront Medical
1020 7th North Street
Suite 220

Liverpool N.Y. 13088

1. As shown in my original Writ of certiorari-(wrong letter cover up)
2. For Riverfront Medical to be a state agency, it would be in their title. This would be two more felonies and John Schwaller should not get **Qualified Immunity**.

Page 4

Writ of Certiorari docket No is 19-7199

A{3} Their lawyers from the NYS Attorney General's Office had to know that I could not be charged twice for the same supposable wrong doing like the charges that were written in their Federal Court papers. John Schwaller should not be getting **Qualified Immunity.**

4. Do to the lies stated above plus other lies stated in John Schwaller's court papers, it should have been **thrown out of court** and therefore, he should not obtain **Qualified Immunity.**

The importance of this case to the public as well as to the law is whether the reporting of workplace violence/bullying (and to protect the safety of University students working nearby ..and finally to a lawyer) is in jeopardy for every employee (if the then President of SUNY Potsdam, Schwaller, qualifies for Qualified Immunity, especially given all of our evidence of retaliation/lies proven in court documents.) Lies should not be protected. Stating truth should.

I AM ASKING THE JUDGES FOR 12 EASY MOTIONS (that were in my Writ of Certiorari) which any one motion would deny John F Schwaller qualified immunity

On page 8 in my Writ of Certiorari
Supreme Court Judges please make this motion 1 of 12

John F Schwaller, using June 3, 2011 letter for the June 1 letter in his Federal Appeal, is subject to 18 U.S. Code 100.1

(1) falsifies, conceals, or covers up by trick, scheme, or device a material fact:

HOW MANY _____ YES _____ NO

Page 9 in my Writ of Certiorari
Supreme Court Judges, please make this motion 2 of 12 (They sent their letter for the reason why I had to have medical exam after the date of medical exam, and because of this, I got charged) for not showing up for a medical exam.

Mary Dolan and John F Schwaller schemed by not sending a the letter until June 7th (**Appendix 22 ABOVE**) so I would miss the **medical exam on June 6**, in order to save their own jobs and to have something to charge me for. The letter they sent me denied me the reasons.

John F Schwaller is subject to 18 U.S. Code 100.1

(1) falsifies, conceals, or covers up by trick, scheme, or device a material fact:

HOW MANY _____ YES _____ NO Page 5

Writ of Certiorari docket No is 19-7199

Page 15 in my Writ of Certiorari

Supreme Court Judges, please make this motion 3 of 12.

John F. Schwaller was the cause of me not having my fourteenth Amendment and or Eighth Amendment rights via unfair punishment/ suspended without pay for 8 plus years

HOW MANY _____ YES _____ NO

Supreme Court Judges, please make this motion 4 of 12

John Schwaller using the made up charges and using the charges in his U.S. Federal Second Circuit Appeal. This action falsifies, conceals, cover up, scheme or device a material fact in his appeal. 18 U.S. Code 100.1 effects John F Schwaller
Page 17

HOW MANY _____ YES _____ NO

Page 17 in my Writ of Certiorari

Supreme Court Judges, please make this motion 5 of 12.

John F Schaller using **Riverfront Medical 1020 7th North Street Suite 220 Liverpool N.Y. 13088** as a New York State Department of Civil Service Employee Health Service was a lie/ knowingly used a lie and it was located over 140 miles away.

(1) falsifies, conceals, or covers up by trick, scheme, or device a material fact: (2) makes any materially false, fictitious fraudulent statement or representation: on his Federal Court papers in the U.S. District Court Northern District of N.Y. 10 Broad St. Utica N.Y. in Utica. AND in U.S. Court of Appeals for the Second Circuit 18 U.S. Code 100. Statements or entries generally
Page 5

effects John F Schwaller in both Federal Courts

HOW MANY _____ YES _____ NO

Page 18 in my Writ of Certiorari

Supreme Court Judges please make this motion 6 of 15

John F.Schwaller's legal consultation, with Mary Dolan, knowingly schemed a plan to harass me by trying to get me fired if I failed to fill out their time sheets for those 3 months

HOW MANY _____ YES _____ NO

Page 6

Writ of Certiorari docket No is 19-7199

Page 21 in my Writ of Certiorari
Supreme Court Judges please make this motion 7 of 12

John F. Schwaller broke federal workplace violence laws from The United States
Department of Labor, OSHA, Laws of New York S 740 , Laws of New York S75-b 2. (a)
And then SUNY President John F. Schwaller's own State University of New York at
Potsdam Workplace Violence Prevention and Procedures

John F. Schwaller was the cause of me not having my fourteenth Amendment

HOW MANY _____ YES _____ NO

Page 22 in my Writ of Certiorari
Motion 8 of 12 John F Schwaller using Mary's lie.

Supreme Court Judges please make this motion 8 of 15

John F Schwaller used the above lie on page (his Court Page A52) in his **Federal Court**
papers both the U.S District Court Northern District and U.S. Court of Appeals

18 U.S. Code 100.1 effects Schwaller
HOW MANY _____ YES _____ NO

Page 25 in my Writ of Certiorari
Supreme Court Judges please make this motion 9 of 12

John F Schwaller, using Mary Dolan's lie in his U.S. Court of Appeal Second Circuit.
John F. Schwaller is subject to 18 U.S. Code 100.1 (1) falsifies, conceals, or covers up by trick,
scheme, or device a material fact:

HOW MANY _____ YES _____ NO

Page 26 in my Writ of Certiorari
Supreme Court Judges please make this motion 10 of 12

John F Schwaller using the above TWO MARY DOLAN LIES **VIA FAX letter**

Statements (that falsifies, conceals, cover up, scheme, or device a material fact 18 U.S. Code
100.1 (1) falsifies, conceals, or covers up by trick, scheme, or device a material fact:

effects John F Schwaller Page 7

Writ of Certiorari docket No is 19-7199

HOW MANY _____ YES _____ NO

Page 32 in my Writ of Certiorari

Supreme Court Judges please make this motion 11 of 12

John F Schwaller lied /used a lie in his defense when I had to grieve my grievance with the Office of Employee Relation, SUNY System Administration, F-216, State University Plaza Albany NY 12246 on January 3, 2013

HOW MANY _____ YES _____ NO

Page 35 in my Writ of Certiorari

Supreme Court Judges please make this motion 12 of 12

John F Schwaller should not be allowed “ qualified immunity” due to numerous falsifications and for retaliations against me for reporting workplace violence

HOW MANY _____ YES _____ NO

Exodus 23:6 Do not deny justice to your poor people in their lawsuits

These motions are the shortened version from my Writ of Certiorari on why John Schwaller should not get **Qualified Immunity** and I believe all of his federal court papers should be thrown out of court.

A reasonable person after reading and studying my writ of Certiorari would come to the conclusion that John Schwaller, and his employees under his command, were trying to correct his mistakes that he did under the color of law.

1. Mary Dolan listening to me on speaker phone (while talking to my supervisor and getting vacation time to see a lawyer to report work place violence with the safety of their University students were in jeopardy.)

Page 7

Mary Dolan knew the exact date I was coming back to work.

2. The letter I got from him.

Appendix 15 - their court pg A55 dated May17, 2011

In accordance with the provision of section 72(3) of the civil service law, it is my judgment that your continued presence on the job severely infers with the operation of the Central Printing and Receiving Department

infers - conclude [information] from evidence and reasoning rather from explicit statements

:page 8

Writ of Certiorari docket No is 19-7199

3. Note: none of this evidence and reasoning ever showed up on my two separate charges for the supposedly one wrong doing.. or in John Schwaller's Federal Court papers.

4. Under the civil service law, I asked for the reason I had to go for a medical exam and my request was denied.

5..Appendix 61 (their page A46) #13 states :

I drafted that letter for Dr Schwaller and I did so following consultation with legal counsel. I am not an attorney and based upon my consultation with legal counsel in the office of labor relation at SUNY System Administration, it was my understanding that under these circumstances the plaintiff was not entitled, in advance of the EHS examination to an additional written statement beyond what was contained in Dr. Schwaller's May 17, 2011 letter to him of the reason he was being directed to go for an EHS examination.

6. Under these circumstances in 5 above, the average person would think that their wasn't a legal reason why I should get a medical exam.

7. Why would they not give my lawyer information on what was going to be in my disciplinary hearing, and if they were afraid of me being at my work place, why was I allowed to go anyplace else on the University at that time.

8. Why did I have to get a lawyer in a very short time (over the fourth of July weekend.) and they changed the date of the disciplinary hearing (to the first day of that week) at the last second when I told them I had a lawyer's appointment during that week. If anyone at the University was afraid me, why did they charge me two different charges for the same supposedly wrong doing.

Note: because of Mary Dolan's "not being a lawyer" (by her own words in Federal Court papers), there had to be a 4th charge being that, in her own time frame, one half day missing from work can not be on any charges for disciplinary reasons per Union rules. So in other words, I would have been charged three times for the supposedly one wrong doing. Mary Dolan would have had to keep changing my charges until she found something that would actually be believable in the grievance process. Page 8

9. Why did they send my grievance back (stating wrong address and building etc.) and then they wanted me to send the second and third grievance to the exact same place?

10. Why did the head of all of SUNY did not want John Schwaller as President of SUNY Potsdam anymore?

Writ of Certiorari docket No is 19-7199

11. Why did they charge me a third time..16 months later (after being fired by John Schwaller) when I was nowhere near the University during all that time?

12. Why did Mary Dolan refuse to sign my second set of charges and had someone else sign it for her, Mary Dolan?

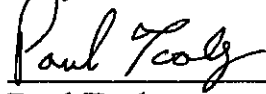
13 Why did Mary Dolan refuse to be involved every time after that, if they or John Schwaller were truthful?

14 I was never terminated for not filing a grievance to the second and third charges (even though letters stated I would be terminated for not filing one.)

15 The average person would know that John Schwaller acted under the color of law. The average juror would conclude that Schwaller failed to follow the clear requirements of New York Civil Service Law that led to the deprivation of my procedural due process rights under the Fourteenth Amendment. As a United States citizen, I am guaranteed due process and equal protection of the laws, even in New York State.

Schwaller and his lawyers violated clearly established Constitutional Rights and it would not be objectively reasonable to believe their acts did not violate my rights.

I declare that all statements made in this are true presented in good faith and not for delay.



Paul Tooly

DATE March 28 2020

**Additional material
from this filing is
available in the
Clerk's Office.**