

19-7727

Miscellaneous Docket No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

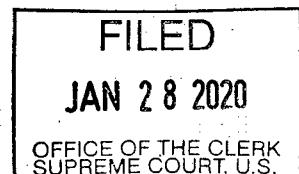
IN RE CHAKAKHAN R. DAVIS,  
*Plaintiff-Petitioner,*

ORIGINAL

Vs.

HINDS COUNTY, MISSISSIPPI., Et Al.,  
*Defendants-Respondents.*

On a Petition for a Writ of Mandamus to the  
United States Court of Appeals for the Fifth Circuit,  
Cause No. 19-60132, Chief Judge Owen, Willett and Oldham  
Circuit Judges, Presiding.



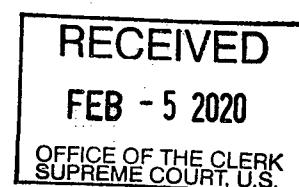
EXTRAORDINARY WRIT OF  
MANDAMUS PETITION

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January 2020



## **QUESTION(S) PRESENTED FOR REVIEW**

The Fifth Circuit Court of Appeals is a Federal Court with Appellate Jurisdiction over the District Courts in the Eastern District of Louisiana, Middle District of Louisiana, Western District of Louisiana, Northern District of Mississippi, Southern District of Mississippi, Eastern District of Texas, Northern District of Texas, Southern District of Texas and Western District of Texas Federal Judicial Districts. Furthermore, it is a Federal Appellate Court with Appellate Jurisdiction created under Section 28 U.S.C. § 1291 to hear Final Decisions. It hears Appeals from all of the Circuit Courts within its Jurisdiction and whose rulings may beAppealed to the Supreme Court of the United States. Accordingly, the questions presented by this Petition for an Extraordinary Writ of Mandamus are:

**(1).** Under this Courts Precedent in *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238, 244 (1944), dictating an Appellate Courts inherent duty to uphold the integrity of its Jurisdiction by Vacating Judgement (s) obtained by Fraud upon the Appellate Court (s), did Chief Judge Owen, Willett and Oldham as a three Panel of Judges of the Fifth Circuit Court of Appeals, violated an inherent duty imposed upon them by a Motion for Vacatur filed by Ms. Davis on November 29<sup>th</sup> 2019, asking a remedy of the Frauds perpetuated upon the Court of Appeals by Ms. Mary Stewart, Connie Brown and an unknown female help desk representative of the Fifth Circuit on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019;

**(2).** Whether Chief Judge Owen, Willett, and Oldham as Circuit Judges of the Fifth Circuit Court of Appeals willful failure to comply with their inherent duty (ies) to uphold the integrity of the Fifth Circuit Court of Appeals Appellate Jurisdiction, by Vacating the Orders entered on November 20<sup>th</sup> 2019 and tainted by Fraud (s) perpetuated upon the Court by Ms. Mary Stewart, Connie Brown and an unknown female help desk representative of the Fifth Circuit on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019, also amount (s) to an willful Usurpation of Judicial Power; and

**(3).** Whether the aforementioned Deputy Clerks of the Fifth Circuit Court of Appeals engaged in a Fraud upon the Court, as to inflict irreparable harm or injury upon the Petitioner, the Public's Confidence in the integrity of the Court and a Manifest Injustice in this action, warranting Equitable Intervention by this Court under

the All Writs Act, Section 28 U.S.C. § 1651 of the United States Constitution, the United States v. Munsingwear, Inc. 340 U.S. 36 (1950) Doctrine and/or Rule of Law and the Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 244 (1944) Case Precedent, by which this Court stated that it had the duty to protect the integrity of its Appellate Jurisdiction against Fraud and that the duty was clearly imposed upon the United States Supreme Court by the Petitions at bar in which the Fraud was practiced.

## CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices and/or the Judges of the United States Supreme Court may evaluate possible disqualification and/or recusal.

1. Judge Owens, Chief Fifth Circuits Judge.,
2. Judge Willett, Fifth Circuits Judge.,
3. Judge Oldham, Fifth Circuits Judge.,
4. Daniel P. Jordan, Chief U.S. District Courts Judge.,
5. F. Keith Ball, U.S. Magistrates Judge.,
6. Ms. Chakakhan R. Davis, Counsel for Petitioner.,
7. Mr. William R. Allen, Counsel for Respondent (s)., and
8. Ms. Jessica S. Malone, Counsel for Respondent (s).

This the 29<sup>th</sup> day of January 2020.

Respectfully Submitted,  
MS. CHAKAKHAN R. DAVIS, PETITIONER

By:   
32942 / 50 Hwy 18, Utica, MS 39175  
[chakakhandavis@yahoo.com](mailto:chakakhandavis@yahoo.com)

## CORPORATE DISCLOSURE STATEMENT

The Petitioner in this action also asserts that she are not a governmental entity, partner corporation or publicly held corporation, in that Counsel for the Respondent (s) Hinds County, Mississippi, et al., may be required to provide a Corporate Disclosure Statement under Rule 29.6 of the United States Supreme Court, upon having appeared in this action before this Court. Nevertheless, the names of all law firms, partners or associates that has appeared for this party in the United States District Court and are expected to give an appearance for the Defendants before this Court, are Mr. William R. Allen., and Ms. Jessica S. Malone of Allen, Allen, Breeland & Allen, PLLC located at 214 Justice Street Brookhaven, MS 39601/2.

This the 29<sup>th</sup> day of January 2020.

Respectfully Submitted,  
MS. CHAKAKHAN R. DAVIS, PETITIONER

By: 

32942 / 50 Hwy 18, Utica, MS 39175

[chakakhandavis@yahoo.com](mailto:chakakhandavis@yahoo.com)

## **PARTIES TO THE PROCEEDING**

Petitioner, Ms. Chakakhan R. Davis, are the Plaintiff, named in the Lower Court (s) and/or Federal Court Action (s)." Respondent, Hinds County, Mississippi is a Political Subdivision within the State of Mississippi, named as a Defendant in the Federal Court Action (s). Respondent (s) Sergeant Bobby Melson/Nichols, Deputy Chris Maddox, Officer Brenda Jones and Sheriff Tyrone Lewis, in both of their capacities, are named as Defendants in the Federal Court Action (s).

## **STATEMENT OF RELATED CASES**

The Petitioner, Ms. Chakakhan R. Davis, respectfully asserts that no other Mandamus or Writ of Certiorari Petition has been previously taken in this civil action before the Fifth Circuit Court of Appeals unto this Court or any other Appellate Court.

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IN THE SUPREME COURT OF THE UNITED STATES

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In Re: Chakakan R. Davis,  
*Plaintiff-Petitioner.,*  
*Vs.*

Hinds County, Mississippi, Et AL.,  
*Defendant (s)-Respondent (s).*

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On Petition for a Writ of Mandamus to the United  
States Court of Appeals for the Fifth Circuit, Chiefs Judge  
Owen, Willet and Oldham, Circuit Judges Presiding.

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**Extraordinary Writ of Mandamus Petition**

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The Petitioner, Ms. Chakakan R. Davis respectfully Petition this Court for an Extraordinary Writ of Mandamus compelling the Judges of the Fifth Circuit Court of Appeals to rescind its Order entered on December 18<sup>th</sup> 2019, denying a timely filed Motion to Vacate two Orders tainted by Frauds committed thereon by Ms. Mary Stewart, Connie Brown and an unknown female help desk representative of the Fifth Circuit, amounting to an willful Usurpation of Judicial Power as set forth in Appx No. Exhibit "A" at 1a attached hereto. Thus, such intentional false and misleading misconduct (s) of these Officials of the Fifth Circuit are procedurally defective and/or inherently flawed as to inflict a substantial degree of irreparable harm or injury upon the Petitioner and the Public's Confidence in the integrity of the Court, that's incapable of being corrected in any other form of Relief (s) or by any other Court. See, e.g., Rule 20 of the United States Supreme Court and the case of *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238, 244 (1944), where *Justice Black* delivered the opinion of the Court and stated:

{T}hat the case involved the duty of the Court of Appeals, upon proof that a Fraud was perpetuated upon it by a successful Litigant, to Vacate its own Judgment entered at a prior term and direct Vacation of a District Courts Decree entered pursuant to the Circuit Court of Appeals Mandate.

What's commemorative about this Courts' Precedent in *Hazel-Atlas* that Judges, Litigants and Scholars remember, is that this Court held that any enforcement of the Fraudulently Begotten Judgement were manifestly unconscionable and wielded the power to direct the Circuit

Court of Appeals to set aside the two Decrees of the Court without hesitation after *Hazel-Atlas* supported its claim of Fraud upon the Court through Affidavits and Exhibits.

#### OPINIONS BELOW

This Petition for a Writ of Mandamus is proper before this Court, since Ms. Davis has filed a Motion to Vacate two Orders of the Fifth Circuit Court of Appeals on November 29<sup>th</sup> 2019, due to Frauds perpetuated upon the Court by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019. Particularly, on December 18<sup>th</sup> 2019 Chiefs Judge Owen, Willett and Oldham as Circuit Judges of the Fifth Circuit entered an Order denying the Request that was followed by a letter from Ms. Mary Stewart as set forth in Appx No. Exhibit "B" at 3a attached hereto.

The Petitioner also has moved the Court for a Stay of further Proceedings in the Fifth Circuit on or about January 8<sup>th</sup> 2020, pending this Extraordinary Writ of Mandamus proceeding unto this Court. An Order denying the Request was issued on the same by Ms. Mary Stewart of the Fifth Circuit, whereas, the Petitioner now invokes the Jurisdiction of this Court under the All Writs Act, Section **28 U.S.C. § 1651** of the **United States Constitution**.

#### STATEMENT OF JURISDICTION

This Court has Jurisdiction to issue a Writ of Mandamus compelling Chiefs Judge Owen, Willett and Oldham as Circuit Judges of the Fifth Circuit Court of Appeals to comply with their inherent duty (ies) to uphold the Integrity of the Courts Appellate Jurisdiction, by rescinding its Order entered on December 18<sup>th</sup> 2019, denying Vacation of two Orders of the Court tainted by Frauds committed by Ms. Mary Stewart, Connie Brown and an unknown female help desk representative of the Fifth Circuit. Rule 20.1 of the U.S. Supreme Court states that the issuance by the Court of an Extraordinary Writ authorized by 28 U. S. C. § 1651 (a) is not a matter of right, but of discretion sparingly exercised. Further, that in order to justify the granting of any such Writ, the Petition must show that the Writ will be in aid of the Courts Appellate Jurisdiction, that Exceptional Circumstances warrant the exercise of the Courts Discretionary Powers, and that Adequate Relief cannot be obtained in any other form or from any other Court. Such is the case, as this Court held in *Cheney v. US. Dist. Court for D. C.*, 542 U.S. 367, 371 (2004) (Writ appropriate where "the [Lower] Court's actions constituted an unwarranted impairment of the Judicial] Branch in the performance of its Constitutional Duties). See also, *Roche v. Evaporated Milk Assn*, 319 U.S. 21, 26 (1943) where the Court suggested:

{T}hat a Circuit Court's power to issue Extraordinary Writs demanded only that the case be within the Circuit Court's

Appellate Jurisdiction even though no Appeal had been perfected, and that any Extraordinary Writ issued under such circumstances would be in aid of Appellate Jurisdiction. The Court proceeded, however, to rule that the facts of the case did not present a proper case for exercise of the Circuit Court's discretion since the District Court's actions did not "thwart Appellate Review" and that "while a function of Mandamus in aid of Appellate Jurisdiction is to remove obstacles to Appeal, it may not appropriately be used merely as a substitute for the Appeal procedure prescribed by the Statute." Id at 26. See also, Wolfson, Extraordinary Writs in the Supreme Court Since *Ex Parte Peru*, 51 Coumx. L. R-v. 977 (1951).

#### **CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED**

##### ***Fifth Circuit Rule 27.1.19***

{I}t provides:

{T}hat under **FED. R. APP. P. 27(b)**, the Clerk has discretion to act on, in accordance with the standards set forth in the applicable rules, or to refer to the court, the procedural motions listed below. The clerk's action is subject to review by a single judge upon a motion for reconsideration made within the 14 or 45-day period set by **FED. R. APP. P. 40**.

27.1.19-To obtain transcripts at Governments expense.

##### ***Fourteenth Amendment (Due Process of Law)***

{I}t provides:

{T}hat Due Process prohibits State and Local Governments from depriving persons of Life, Liberty, or Property without a Fair Procedure. The Supreme Court has ruled that this Clause makes most of the Bill of Rights as applicable to the States as it is to the Federal Government, as well as to recognize Substantive and Procedural requirements that State Laws must satisfy. Further, the Equal Protection Clause requires each State to provide Equal Protection under the Law to all people, including all Non-Citizens, within its Jurisdiction. This Clause has been the basis for many decisions rejecting irrational or unnecessary discrimination against people belonging to various groups.

##### ***Section 28 U.S.C. § 1651***

{I}t provides:

**(a)** {T}hat the Supreme Court and all Courts established by Acts of Congress may issue all Writs necessary or appropriate in aid of

their respective Jurisdictions and agreeable to the Usages and Principles of Law.

*(b) {T}hat an Alternative Writ or Rule Nisi may be issued by a Justice or Judge of a Court which has Jurisdiction.*

#### STATEMENT OF THE CASE

On May 26<sup>th</sup> 2015, the Petitioner in this action was subjected to unwarranted excessive force by some Deputy Sheriffs of the Hinds County Sheriff's Department and falsely arrested at her mother's residence. Ms. Rose Jenkins of who Ms. Davis were a caregiver over at the time of this incident, became upset when her daughter was on the phone speaking to a 1411 automated operator and called the Hinds County Deputy Sheriffs out to 32950 Hwy 18, Utica, MS 39175. The Petitioner video recorded her mother's paranoid schizophrenic episode which caused her to become upset and claim that a gun was pulled on her by her daughter as evidence to show unto the Officers when they arrived. Sergeant Bobby Nichols of the Hinds County Sheriff's Department who initially arrived to the residence made statements that he did not want to watch the video. Further, he informed the Petitioner that there was no need for her to personally record the incident *via* a mobile phone located inside her car because his BWC Unit were conducting the same.

Shortly, thereafter Deputy Chris Maddox and two to three other Deputy Sheriffs of the HCSD arrived to the residence. Deputy Chris Maddox instructed Ms. Davis to leave and she requested to get her shoes from inside the residence before leaving. While, headed toward the front entrance door of the house, she stated that people had died up there at the HCSD/RDC and that the reason the Officers came out was to justify a previous December 8<sup>th</sup> 2014 false arrest/excessive force incident with some other Deputy (ies) and Jail Guard (s) of the Hinds County Sheriff's Department. Afterwards, Sergeant Bobby Nichols stated unto the Deputy Sheriffs he called to the residence, that if he was them, that he would not take that S--- from Ms. Davis and go ahead and take her a—down town and be through with it. That's when, the two to three other Deputy (ies) who later arrived to the scene of the incident attacked Ms. Davis to the ground on top of metal and took her to jail after she refused to ride in an ambulance to the Hospital.

Subsequently, on August 2<sup>nd</sup> 2016 the Plaintiff filed this civil action against, Sheriff Tyrone Lewis, Sergeant Bobby Melson / Nichols, Deputy (ies) Chris Maddox, Hinds County, Mississippi, and John Does within the Hinds County Circuit Court (First Judicial District) that was removed to the United States District Court for the Southern District of Mississippi (Northern Division) on August 29<sup>th</sup> 2016 under Section 28 U.S.C. § 1331, Federal Question Jurisdiction. Afterwards, on September

6<sup>th</sup> 2019 the Respondent (s) filed an Answer and set of Affirmative Defenses unto the Complaint within the United States District Court. However, this case proceeded through immunity related discovery until the general discovery phase of this action were opened by the Court and completed on sometime June 2018. During the discovery phase of this action, on September 26<sup>th</sup> 2017 Counsel for the Respondents produced intentional false and misleading answers/responses to Interrogatories and Requests for Production, by stating that none of the Defendants Officers were wearing BWC Units on May 6<sup>th</sup> 2015 and as such no video recording of the false arrest / excessive force incident existed.

The Petitioner then filed a Motion for Spoliation Sanctions with the Court on February 20<sup>th</sup> 2018, whereas, after discovery had closed in this action on sometime June 2018., Counsel for the Defense propounded one of the HCSD Deputy Sheriff's false arrest/excessive force video footages in this action. {i}t was a video recording of the incident produced by a later arriving Deputies BWC Unit on May 26<sup>th</sup> 2015, named Corey Carr instead of Sergeant Bobby Nichols who stated that his BWC Unit were recording the same on the date in question. Therefore, in the Motion for Spoliation Sanctions it were conceded that the Respondents had a duty to preserve the Officers video footages of this incidents occurrence, were on notice thereof from the Hinds County Sheriff's Department Officer BWC Policy that litigation were reasonable foreseeable and the personal audio-video recording Ms. Davis took of the incident on May 26<sup>th</sup> 2015 were evidence of its existence.

Notably, a Motion for Fraud finding Sanctions was filed by Ms. Davis on July 13<sup>th</sup> 2018 in the United States District Court, conceding that the Defendants had consciously concealed the evidence and knowingly provided false-erroneous discovery responses regarding the Hinds County Deputy Sheriffs wearing of BWC Units on May 26<sup>th</sup> 2015. Especially, since on or about June 28<sup>th</sup> 2018, Judge F. Keith Ball entered an Order in the action as to allow Counsel for the Defense to produce the false arrest/excessive force incidents video footage after participating in its conscious concealment before the Court with them. A hearing on the Motions Request was held before the U.S. District Courts Magistrate Judge on July 17<sup>th</sup> 2018 and on September 13<sup>th</sup> 2018 he entered an Order denying the Requests. On October 19<sup>th</sup> 2018, the Defendants Counsel filed a Motion for Summary of Judgment and on October 23<sup>rd</sup> 2018 Ms. Davis filed a Motion for Prospective Relief of the U.S. District Courts Magistrate Judge Order under Rule 60 (d) (3) of the Fed. R. Civ. P., et seq. Accordingly, the Chiefs United States District Courts Judge entered an Order on January 7<sup>th</sup> 2019 granting the Defendants Summary Judgement Motion and denying as moot the Plaintiffs Motion for Prospective Relief of the Magistrate Judges Orders entered on September 13<sup>th</sup> 2018 based upon Fraud upon the Court under Rule 60 (d) (3) of the Fed. R. Civ. P.

A Notice of Appeal unto the Fifth Circuit from this Fraudulent Order enter by the Undersigned District Courts Judge was taken on February 25<sup>th</sup> 2019, by which Ms. Davis moved to Convert into a Supervisory Writ on or about May 28<sup>th</sup> 2019. Summarily, the Order entered by Judge Daniel P. Jordan on January 7<sup>th</sup> 2019 contained several intentional inconsistencies, inaccuracies and misrepresentations in it from the false arrest/excessive force incidents video footage as to grant Summary of Judgement unto the Defense. Chief Judge Owen, Willett and Oldham as Circuit Judges allegedly denied this Motions Request of Ms. Davis on June 28<sup>th</sup> 2019 that she did not have notice of until October 28<sup>th</sup> 2019. In other words, after she had written the Fifth Circuit Court of Appeals on October 22<sup>nd</sup> 2019 to check the status of the Motion. This is when Ms. Mary Stewart provided the Plaintiff with a copy of the Order allegedly entered by the Court on June 28<sup>th</sup> 2019.

Nevertheless, on or about October 28<sup>th</sup> 2019 Ms. Davis moved the Court for a Stay and/or Suspension of its Briefing Notice dated October 22<sup>nd</sup> 2019, that were followed by a Motion for Reconsideration of the Courts Order received on October 28<sup>th</sup> 2019 denying Conversion of the Appeal into a Supervisory Writ of Mandamus. Particularly, the Motion to Stay the Courts Briefing Notice, were premised upon the pendency of an Motion for Reconsideration of the Courts June 28<sup>th</sup> 2019 Order and October 11<sup>th</sup> 2019 Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense with the Fifth Circuit Court of Appeals. Subsequently, on October 30<sup>th</sup> 2019 Ms. Davis called the Fifth Circuit Court of Appeals who are not an Electronic Case Filer, to check the Courts Receipt of the Motions Request and were informed by the unknown female help desk representative of the Court that an Order was entered on the 15<sup>th</sup> day of October 2019 with regard to the Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense as set forth in Appx No. Exhibit "A" at 1a attached hereto.

Under Fifth Circuit Rule 27.1.19, the Clerk of the Fifth Circuit has discretion to rule on certain motions, which entails the Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense filed before the Fifth Circuit on October 11<sup>th</sup> 2019. However, October 30<sup>th</sup> 2019, Ms. Davis also spoken with Ms. Mary Stewart of the Fifth Circuit, who tried to persuade her that the Order the unknown female help desk representative of the Court was referring to, was an Order entered by the United States District Courts Judge on October 7<sup>th</sup> 2019 denying the initial Motion filed in the U.S. District Court for the preparation of the Court Reporter Hearing Transcripts at the Governments Expense. Summarily, Chiefs Judge Daniel P. Jordan Order went on to state that Ms. Davis could challenge his Ruling by renewing an Request therefor in the United States Court of Appeals for the Fifth Circuit. Subsequently, on October 11<sup>th</sup> 2019 the Petitioner did and had moved the Court to Stay its Briefing Notice dated October 22<sup>nd</sup> 2019 pending a Ruling on the Request. The unknown

female help desk representative of the Fifth Circuit on the same had also claimed that the Petitioners mailing address was incorrect on file with the Fifth Circuit and was the reason why was not in receipt of the Courts Order entered on June 28<sup>th</sup> 2019 (Order denying the Motion to Convert the Appeal into a Supervisory Writ) and October 15<sup>th</sup> 2019 (Ruling made by the Fifth Circuit on the Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense) as set forth in Appx No. Exhibit "A" at 1a attached hereto.

Though, the Court allowed the late submission of the Motion for Reconsideration of its Order entered on June 28<sup>th</sup> 2019, a Fraud was yet committed upon the Court by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Court as to directly impinge the integrity, fairness and other impartial functions of the Court. For example, on November 22<sup>nd</sup> 2019 Ms. Davis received another copy of the Order from Ms. Mary Stewart on the Motion to Convert the Appeal into a Supervisory Writ, after no other Request were made after October 22<sup>nd</sup> 2019 therefor as set forth in Appx No. Exhibit "A" at 1a attached hereto. However, the date shown on the outside of its Mailing envelope were July 1<sup>st</sup> 2019, whereas, it had to have been just prepared and/or withheld by Ms. Stewart in this proceeding as set forth in Appx No's. Exhibit "A" at 1a and "C" at 8a-10a attached hereto. Through, intentional violation of the Courts Promulgated Rules, Fraud and abuse of Power, Ms. Mary Stewart re-sent an copy of the Order to Ms. Davis with the intent of making it appear as if the Petitioner had already been in receipt of the Order supposedly entered by Judge Owen, Willett and Oldham on June 28<sup>th</sup> 2019 before the Court. Without question, the unknown female help desk representative of the Fifth Circuit statement on October 30<sup>th</sup> 2019, that an October 15<sup>th</sup> 2019 Order had been entered by the Fifth Circuit Court on the 10/11/2019 Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense and mailed out to Ms. Davis were actively dishonest.

#### **REASON(S) WHY AN EXTRAORDINARY WRIT SHOULD ISSUE**

Under the All Writs Act, Section 28 U.S.C. § 1651 of the United States Constitution this Court may issue all Writs necessary or appropriate in aid of its respective Jurisdiction and agreeable to the Usages and Principles of Law. *Id.* In order to obtain a Writ of Mandamus, a Petitioner is generally required to demonstrate that she or he has no other adequate means to obtain the relief s/he desires. *Cheney v. United States Dist. Court*, 542 U.S. 367, 380 (2004). Afterwards, it must be demonstrated that her and/or his Right to issuance of the Writ is clear and indisputable and that the Writ is appropriate under the circumstances. *Id.* at 381. All could be easily identified in this case, since the evidence adduced warrants Equitable Reliefs against the fraudulently

begotten Judgments of the Fifth Circuit Court of Appeals on November 20<sup>th</sup> 2019. Consequently, this Court should issue a Writ a Mandamus to preserve the integrity of the Fifth Circuit Court of Appeals Appellate Jurisdiction and to promote the Public's Confidence and/or Collective Faith in the impartiality, integrity, independence and objective fairness or even handedness of the Court of Appeals. Accordingly, this case presents an highly unusual and/or exceptional circumstance as to make it out of one of first impression, warranting Equitable Intervention by this Court via this Mandamus Petition as to remedy the Frauds committed upon the Fifth Circuit Court of Appeals by some of its Members on the dates in question. *John B. v. Goetz*, 531 F.3d 448, 457 (6<sup>th</sup> Cir. 2008). Particularly, since the fraudulent plan, plot or scheme of Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit has nullified its purpose and reason for its very existence. *La Buy v. Howes Leather Co.*, 352 U.S. 249, 256-258, (1957). "

According to *Wright and Miller*, the reference to Independent Action (s) in the saving clause is to what has been historically known as simply an Independent Action in Equity to obtain Relief from a Judgment. 11 C. Wright & A. Miller, Federal Practice and Procedure 2868, at 237-38 (1973). For example, under Rule 60 (d) (3) of the Fed. R. Civ. P., Fraud upon the Court has also included a Fraud Perpetuated by Officers of the Court so that the Judicial Machinery cannot perform in the usual manner its impartial tasks of adjudging cases that are presented for adjudication. *Wilson v. Johns-Mansville Sales Corp.*, 873 F.2d 869, 872 (5<sup>th</sup> Cir. 1989). Consequently, this Mandamus proceeding are necessary as to correct the irreparable harm or injury done unto the Petitioner and the Public's Confidence in the Judiciaries ability to regulate the Administration of Justice and/or Adjudicate this case impartially which are currently before the Fifth Circuit. Thus, such Constitutional harms are not trivial, insignificant and/or speculative, but so substantial, imminent and real, that this Court would properly require Judges Owen, Willett and Oldham of the Fifth Circuit Court of Appeals to Vacate its Order entered on December 18th 2019 denying relief of the two Orders tainted by Fraud upon the Court by its help desk representative and Deputy Clerks. This would not only preserve the integrity of the Court, but remove all obstacles to Appeal since the Frauds committed by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit, if allowed to stand, thwarts Appellate Review before this Court. See, e.g., Section (s) 28 U.S.C. § 2101 (c) and 28 U.S.C. § 1254 of the United States Constitution.

Besides, this Court have held that a Writ of Mandamus is an Extraordinary remedy reserved for special situations, e.g., where the unlawful exercise of Federal Jurisdiction impose Extraordinary harms. As set forth above, such is the case, to the extent, Ms. Davis have been

unlawfully required to take a Direct Appeal of the District Court's Fraudulent Order entered on January 7<sup>th</sup> 2019 denying a timely filed Motion for Prospective Relief-Default of the Magistrate Judges Discovery Orders entered on September 13<sup>th</sup> 2018 moot unto the Fifth Circuit, when the unconscionable acts of the U.S. District Court Judges through intentional misrepresentations of the facts of this case and participating in the Fraud (s) upon the District Court along with Opposing Counsel as to advantage them are irreversible. See, e.g., Cheney v. U.S. Dist. Court for D.C., 542 U.S. 367, 380 (2004); Ex Parte Fahey, 332 U.S. 258, 259-60 (1947) and Mohawk Indu., Inc. v. Carpenter, 558 U.S. 100, 111 (2009). Thus, the Court of Appeals have defined "Extraordinary circumstances" as *inter alia* "good cause" as to "prevent injustice" or in "special circumstances" which have included, (1) *where clarification of a mandate and opinion is critical* (2) *where misconduct has affected the integrity of the judicial process* (3) *where there is danger or incongruent results in cases pending at the same time, and* (4) *where it is necessary to revise an unintended instruction to a trial court that has produced an unjust result*. American Iron & Steel Institute v. EPA, 560 F.2d 589, 593 (3rd Cir. 1977). See also, *Id* at 594 (citing Greater Boston Television Corp. v. FCC, 463 F.2d 268, 278-79 (D.C. Cir. 1971).

While, much of this case facts are similar to the case of Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 244 (1944), on November 29<sup>th</sup> 2019 after Ms. Davis having exercised reasonable and/or due diligence to uncover the Frauds committed upon the Fifth Circuit Court of Appeals by some of its Officials., she immediately brought the Misconducts of Ms. Mary Stewart, Connie Brown and the unknown female help desk representative to the attention of the Court of which it refused to remedy as set forth in Appx No. Exhibit "B" at 3a attached hereto. {I}f the flagrant abuse of the processes of the Fifth Circuit Court of Appeals aren't remedied by this Court, then Judges, Court Personnel and Litigant (s) before the Court of Appeals would continue to find ways to practice dishonesty and deceit within the bounds of the Courts Appellate Jurisdiction. This would not only be of turmoil toward the other Litigant (s) having a Legal Interest in the outcome of the proceeding, but for the sake of the Publics' Confidence instilled in the Circuit Court of Appeals.

- I. The Facts Of This Case Presents This Court With A New Opportunity To Revisit The Importance Of The Circuit Court Of Appeals Moral Obligation To Fulfill Its Duty To Uphold The Integrity Of The Courts Appellate Jurisdiction, That Was Imposed Upon This Court More Than 70 Years Ago By The Petitions At Bar In The Case Of Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 245, 250 (1944).**

This Court, like any other Federal Court, have an Inherent Equitable Power "to set aside fraudulently begotten Judgments" and to restore a Party to the position s/he would have otherwise enjoyed in the absence of the fraud (s) committed and/or perpetuated upon the Court of Appeals. See, e.g., Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 245, 250 (1944) and Universal Oil Products Co. v. Root Refining Co., 328 U.S. 575, 580 (1946). This case presents this Court with a new opportunity to condemn the odiousness of tampering with the Administration of Justice in the Lower and/or Federal Court Action (s) by Litigants, Court Officials and Judges who are also charged with a duty to regulate the Administration of Justice. There are also issues of great moment to the Public in this suit just like the Justices' of this Court stated in Hazel-Atlas. Integrity is not only vitally important, but of assurance to the other Litigant (s) involved over a dispute and the Public's Confidence that just decisions are reached in the Court of Appeals. Simply, meaning that Judges of the Court of Appeals just like Judges of all other Courts have a Moral Obligation to ensure that all wrong doers do not benefit from the fruition of their dishonesty and/or deceit as to procure a Judgment (s) by Fraud upon the Court (s). Historically, every State Judicial System or Federal Court in turn has adopted from the American Bar Associations Model Codes of Judicial Conduct., which vastly declare that Judges shall avoid impropriety and the appearance of impropriety in all of their activities. Furthermore, that a Judge should act in a manner at all times that promotes Public Confidence in the Integrity and Independence of the Judiciary. The American Bar Association Commission on the 21st Century Judiciary explained:

{T}hat appearances matter because the Public's perception of how the Courts are performing affects the extent of its Confidence in the Judicial System. And Public Confidence in the Judicial System matters a great deal . . . . First, and perhaps foremost, Public Confidence in our Judicial System is an end in itself. A Government of the people, by the people and for the people rises or falls with the will and consent of the governed. The Public will not support institutions in which they have no Confidence. The need for Public support and Confidence is all the more critical for the Judicial Branch, which by virtue of its Independence is less directly accountable to the electorate and, thus, perhaps more vulnerable to Public suspicion. See, e.g., AMERICAN BAR ASSOCIATION, JUSTICE IN JEOPARDY: REPORT OF THE COMMISSION ON THE 21<sup>ST</sup> CENTURY JUDICIARY 10 (2003) (JUSTICE IN JEOPARDY) and Mississippi Commission on Judicial Performance v. Wilkerson, 867 So. 2d 1006 (Miss. 2004) where the Mississippi Supreme Court offered a glimpse into the brave new world of deregulated Judicial speech.

Besides, this Court in the case of *Liteky v. United States*, 510 U.S. 540 (1994) held that the Public have an interest in the integrity, impartiality, independence, objective fairness and/or even-handedness of the Courts. See also, e.g., *Minnesota v. White*, 536 U.S. 765 (2002); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 595 (1980) (Brennan J., concurring) and *In Caperton v. A.T. Massey Coal Co.*, 129 S. Ct. 2252 (2009). Public confidence, has been defined as Confidence in American Courts which involves a belief in the fairness and impartiality of the tribunal, with the Judge dispensing speedy decisions in accordance with "the law" considered, as a set of external standards applied in a neutral way. See, e.g., *Liteky v. United States*, 510 U.S. 540 (1994) and *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Accordingly, Judge Owen, Willett and Oldham of the Fifth Circuit Court of Appeals on December 18<sup>th</sup> 2019 have not regarded to the preamble principle(s) of the Codes of Judicial Conduct which read as follows:

An Independent, Fair and Impartial Judiciary is indispensable to our System of Justice. Further, that the United States Legal System is based upon the Principle that an Independent, Impartial, and Competent Judiciary, composed of men and women of Integrity, will interpret and apply the Law that governs our Society. Thus, the Judiciary plays a central role in preserving the Principles of Justice and the Rule of Law. Inherent in all the Rules contained in this Code are the precepts that Judges, individually and collectively, must respect and honor the Judicial Office as a Public Trust and strive to maintain and enhance Confidence in the Legal System.

It is a basic fundamental Right and/or Guarantee that Fairness of the American Court Systems' implicates the notion of Legal Fairness, which prohibits the Government from taking a person's "Life, Liberty or Property without Due Process of Law." The unfair procedures carried out by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit Court of Appeals on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019 were violative of the Petitioners Procedural and Substantive Due Process Right (s) *via* the Fourteenth Amendment to the United States Constitution. To this date, a Ruling hadn't been entered by the Fifth Circuit Court of Appeals on the Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense as claimed by the unknown female help desk representative of the Fifth Circuit on October 30<sup>th</sup> 2019 by via telephone as set forth in Appx No. Exhibit "A" at 1a attached hereto. Even more remote, it was 15 days after the Courts alleged entry of the Order, when Ms. Davis were informed that an Order had been entered on the Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense. Nevertheless, after filing a Motion to Stay the Fifth Circuits Briefing Notice on or about January 8th

2020 pending a Writ of Mandamus unto this Court, an Order from the Court was sent out on the same by Ms. Mary Stewart stating as follows:

The Court has taken the following action in this case:

The appellant's motion to stay further proceedings in this court pending a petition for an extraordinary writ of mandamus petition unto the United States Supreme Court is Denied.

Sincerely,

LYLE W. CAYCE, Clerk

/S/ Mary Stewart

By: \_\_\_\_\_

Mary C. Stewart, Deputy Clerk  
504-310-7694

Mr. William R. Allen  
Ms. Chakakan R. Davis  
Ms. Jessica S. Malone

P.S. To Ms. Davis: Your Motion for transcripts at governments expense will be submitted to the court when your appellants brief is filed. Your brief must raise a substantial question demonstrating a particular need for a transcript by bringing to our attention facts that might require a close examination of the transcript. See *Harvey v. Andrist*, 754 F.2d 569, 571 (5<sup>th</sup> Cir. 1986); 28 U.S.C. § 753 (f).

Notably, in the case of *Davis v. Walmart Stores East, LP., U.S. Supreme Court Petition for Writ of Certiorari No. 16-7731.*, the Fifth Circuit Court of Appeals dismissed the Appeal of that case by Ms. Davis for an inadvertent failure to Order the Court Reporter Hearing Transcripts of the District Court Proceedings upon a Motion to Dismiss by Counsel for the Defense. The alleged October 15<sup>th</sup> 2019 Order on the Motion to Order Court Reporter Transcripts at the Governments Expense not only demonstrates misconduct by the Deputy Clerks of the Fifth Circuit as to affect the integrity of the Court, but an outright egregious usurpation of Judicial Power by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Court of Appeals. This Court has stated that a Writ is appropriate where the Petitioner can demonstrate a "Judicial Usurpation of Power" or an clear abuse of discretion. *Cheney v. United States Dist. Court*, 542 U.S. 367, 380 (2004). See also, *United States v. Taylor*, 487 U.S. 326, 336 (1988) (whether discretion has been abused depends, of course, on the bounds of that discretion and the Principles that guide its exercise). The deliberate false misrepresentations and inconsistencies provided by Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019 are of such a

magnitude, that this Court could properly determine that the U.S. District Court Judges and Counsel for the Respondent (s) who perpetuated a Fraud upon the United States District Court, had personal involvement in bringing about the well-developed executed plan, plot or scheme as to undermine the integrity of the Court of Appeals and/or influenced the incidents happening. Nevertheless, after Ms. Davis sent a letter complaint to the Chief Judge of the Fifth Circuit on November 8<sup>th</sup> 2018 detailing the fraudulent Misconduct (s) of Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019., a response was received from Chief Deputy Mr. Thomas B. Plunkett on or about November 27<sup>th</sup> 2019 finding as follows:

Dear Ms. Davis:

At the direction of Chief Judge Owen, I reviewed your complaint regarding the handling of the above referenced appeal and found no error in authority or procedures. At all times, this matter was handled in accordance with the Federal Rules for Appellate Procedure (FRAP) and Fifth Circuit Rules and Operating Procedures.

On June 28, 2019, the court denied your motion to convert the appeal into a supervisory writ of mandamus. Upon reconsideration, the court confirmed this denial on November 20, 2019. Currently, this case is pending receipt of an appellant brief by January 2, 2020.

Sincerely,

/S/ Thomas B. Plunkett

Thomas B. Plunkett  
Chief Deputy

**A. The Petitioners Right To Issuance Of A Writ of Mandamus Is Clear And Indisputable.**

The Petitioners Right to the Vacatur of the two Orders tainted by Frauds committed upon the Fifth Circuit by some of its Members on the dates in question are clear and indisputable. Cheney, 542 U.S. at 381. It is not only the Undersigned's duty to "uphold the Integrity of the Court, but the Independence of the Judiciary" and to act "at all times" in a way that "promotes the Public Confidence in the Integrity and Impartiality of the Federal Judiciary." Here the "Supervisory Control of the [Lower] Courts by [this Court] is necessary to the proper Judicial Administration of the Federal System. The All Writs Act confers on the Courts of Appeals the discretionary power to issue the Writs of Mandamus in the exceptional circumstances existing here." La Buy v. Howes Leather Co., 352 U.S. 249, 259-60. The Order of the Fifth Circuit denying Reconsideration of its June 28<sup>th</sup> 2019 Order denying a Motion to Convert

the Appeal of that action into a Supervisory Writ and Motion to Stay its October 22<sup>nd</sup> 2019 Briefing Notice pending a Ruling on the Reconsideration Request, including an Motion to Order the Court Reporter Hearing Transcripts at the Governments Expense are procedurally and substantially defective in several independent aspects. For one, Ms. Davis did not receive a copy of the Courts June 28<sup>th</sup> 2019 Order on the Motion to Convert the Appeal into a Supervisory Writ until October 28<sup>th</sup> 2019. Two, on sometime November 2019 Ms. Mary Stewart sent out an unnecessary copy of the same with a postage stamp date of July 1<sup>st</sup> 2019 on it envelope that was not requested by Ms. Davis and received on November 22<sup>nd</sup> 2019. This was did with the willful intent to make it appear as if the Petitioner were already in the possession thereof because it is impossible to receive mail postage stamp dated for July 1<sup>st</sup> 2019 within November 2019 as set forth in Appx No. Exhibit "A" at 1a and "C" at 8a-10a attached hereto. To date, there has been no Ruling entered on the Motion to Order Court Reporter Transcripts at the Governments Expense, so it's impossible that an Order was sent out on October 15<sup>th</sup> 2019 and Ms. Davis address being incorrect on file with the Court is the reason for its non-receipt.

The Petitioner has exhausted all remedy (ies) before the Fifth Circuit and has been "shut out" by Corrupt Officials or Personnel, leaving no other avenue for justice. [W]here the [Lower Court] and its Judges have displayed a persistent disregard of the Rules of Civil Procedure promulgated by this Court, *La Buy v. Howes Leather Co.*, 352 U.S. 249, (1957)", amounting to an intentional Usurpation of Judicial Power. This Court has stated that although a Petition for a Writ of Mandamus is issued in theory to prevent [a Judge] from exceeding her and/or his Jurisdiction or to require her or him to exercise it, that it issued [i]n practice for all manner of errors. *Pulliam v. Allen*, 466 U.S. 522, 532-33 (1984). In other words, that mandamus is described as an expeditious and effective means of confining the Inferior Court to a Lawful exercise of its prescribed Jurisdiction, or of compelling it to exercise its authority when it is its duty to do so. *Ex parte Republic of Peru*, 318 U.S. 578,583 (1943). See also, *In re Link\_A\_Media Devices Corp.*, 662 F.3d 1221, 1222 (Fed. Cir. 2011), where the Federal Circuit held that a Writ of Mandamus is properly granted to correct an Usurpation of Judicial Power. None less, Ms. Davis admits to having received an Letter Correspondence from the Fifth Circuit dated for June 27<sup>th</sup> 2019 enclosed by an U.S. Enveloped dated June 28<sup>th</sup> 2019 as follows:

Dear Ms. Davis,

We received your motion to order court reporter hearing transcript at governments expense and your application to proceed in District Court without prepaying fees or costs. In light of there is a motion for transcript at government expense pending with the district court and

district court entered an order on May 23, 2019 granting motion to proceed in forma paupers, we are taking no action on these documents.

If the motion to order court reporter hearing transcript at the governments expense is denied by the District Court, you may file a motion with the U.S. Court of Appeals for the Fifth Circuit.

Sincerely,

LYLE W. CAYCE, Clerk

/S/ Mary Stewart

By: \_\_\_\_\_

Mary C. Stewart, Deputy Clerk  
504-310-7694

**B. No Other Adequate, Alternative And/Or Available Means Exists To Obtain Relief (s).**

The Petitioner in this action have no other adequate, alternative or other available means to obtain the reliefs sought via the Motion to Vacate the two Orders tainted by fraud on October 22nd 2019 to November 22<sup>nd</sup> 2019 other than this Writ of Mandamus Petition unto this Court. The decision of Judge Owens, Willett and Oldham to deny the Motion for Vacatur by Ms. Davis on December 18th 2019 are an Non Appealable Final Order unto this Court. *Catlin v. United States*, 324 U.S. 229, 233 (1945) (a "final decision" generally is one which ends the litigation on the merits and leaves nothing for the Court to do but execute the Judgement). Eloquently, any Writ of Certiorari unto this Court would be inadequate since the intentional false and misleading misconduct of the Fifth Circuit Court of Appeals Court has made this case out of one suitable for Independent Equity Actions that's separate and/or apart from the merits of the Appeal of this action before the Fifth Circuit.<sup>1</sup> Moreover, this Court would properly be concerned that Judge Owen, Willett and Oldham lacked the Integrity, Impartiality, Independence and Objective fairness or evenhandedness to render a just decision on December 18<sup>th</sup> 2019 with regard to Vacatur of the two Orders tainted by Fraud upon the Court of Appeals by its Deputy Clerks since a Fraud (s) was also perpetuated upon the United States District Court by its presiding Judges and Counsel for the Respondent (s). Though, the Petitioner does not have a precise way of knowing what actually happened behind the scenes as to whether Judge Daniel P. Jordan / F. Keith Ball Colleagues in the Fifth Circuit been contacted by them or

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<sup>1</sup> The Doctrine of Fraud upon the Court has been characterized "as a scheme to interfere with the judicial machinery performing the task of impartial adjudication, as by preventing the opposing party from fairly presenting his case or defense." *In re Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions*, 538 F.2d 180, 195 (8<sup>th</sup> Cir. 1976).

Counsel for the Respondent (s), it is more than probable to state that the Deputy Clerks and Judges of the Fifth Circuit were motivated to act in a prejudged, biased and bad faith manner toward the Petitioner to avoid embarrassment to the United States District Court in which a Fraud (s) was initially committed. None less, any enforcement of the Courts Orders entered on November 20<sup>th</sup> 2019 denying Reconsideration of the Motion to Convert the Appeal into a Supervisory Writ and Motion for a Stay of the Courts Briefing Notice dated 10/22/2019 would be manifestly unconscionable, to the extent, a manifest injustice has occurred before the Fifth Circuit. The intentional Usurpation of Judicial Power by the subject Judges of this Request and Deputy Clerks were an particularly egregious form of subversion of the Judicial Process as to thwart an Appellate Review before this Court.

On the other hand, this Court would also be properly concerned that Chief Deputy Thomas B. Plunkett at the direction of Chief Judge Owens of the Fifth Circuit on November 27th 2019, did not assume the truth of the matters in the Petitioners complaint against Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit despite the audio evidence of the events. Thus, acted in their favor since the audio recording of the Officials of the Court demonstrates bad faith, misconduct or other improper behavior(s), amounting to an deliberate Usurpation of Judicial Power on the dates in question. Consequently, a diring need for this Courts intervention exists since the instruction to Chief Deputy Thomas B. Deputy Plunkett came from the Chiefs Judge of the Fifth Circuit as the highest authority, who shown no concern for maintaining the integrity of the Courts Appellate Jurisdiction. The seriousness of the Court Officials Misconducts not only has affected the integrity of the Court, but has caused the Petitioner to lose Right (s). If this Court does not issue a Writ of Mandamus directing the Judges of the Fifth Circuit Court to rescind its Order entered on December 18<sup>th</sup> 2019, then the integrity of the U.S. Supreme Courts Appellate Jurisdiction could also be defeated and the purpose of the Statute authorizing a Writ of Certiorari unto the United States Supreme Court. Roche v. Evaporated Milk Assn, 319 U.S. 21, 25 (1943). Absent review by Mandamus, the Orders in question of the Fifth Circuit Court of Appeals would be unreviewable on a Writ of Certiorari unto this Court after entry of a Final Judgment.

"There is no Adequate Remedy if there would be potential damage to a Litigant that is irreversible on Appeal." Weinberger v. Romero-Barcelo 456 U.S. 305, 311-12 (1982); Lake Charles Diesel, 328 F.3d at 195-96; Johnson et al. v. Tuba Ciry District Court, No. SC-CV-12-07, slip op. at 3 (Nav. Sup. Ct. November 7, 2007) (citing In re A.P. v. Tuba Ciry Fami!J Court, No. SC-CV-02-05, slip op. at 3 (Nav. Sup. Ct. May 26, 2005). The Court of Criminal Appeals has recognized that [i]n some Cases, a Remedy at Law may technically exist; however, it may nevertheless be

so uncertain, tedious, burdensome, slow, inconvenient, inappropriate, or ineffective as to be deemed inadequate. Id. at 4. Inconsistent with its use, the Petitioner has been forced to take an Direct Appeal of the Chief District Court Judged Fraudulent Order entered on January 7<sup>th</sup> 2019 through Frauds committed upon the Fifth Circuit Court of Appeals by some of its Members when it were obtained by Fraud by Counsel for the Defense, also making any enforcement of it manifestly unconscionable and a Direct Appeal unto the Fifth Circuit inadequate. Id. {I}t is not automatic that all Final Judgement (s) and/or Decree (s) of the Court (s) are reviewable on an Direct Appeal. See, e.g., Smith v. Flack, 728 S.W.2d 784, 792 (Tex. Crim. App. 1987); and Stearns v. Clinton, 780 S.W.2d 216, 225 (Tex. Crim. App. 1989); Houston v. T.C. Ry. Co. v. City of Dallas, 98 Tex. 396, 84 S.W. 648, 656 (1905) (holding 'there is not a plain, adequate, certain, and speedy Remedy'); City of Highland Park v. Dallas Ry. Co., 243 S.W. 674, 681 (Tex. Civ. App. Dallas 1922, writ ref'd) (holding Remedy must be 'equally convenient, beneficial, and effective as the proceeding by Mandamus') and In Smith v. Flack, 728 S.W.2d 784 (Tex.Cr.App.1987), where the Court addressed the substance the term "Adequate Remedy at Law" and stated:

{A} Writ of Mandamus is an Extraordinary Remedy that compels a respondent to perform some Ministerial act. Often involved are sensitive questions concerning an Elected Official's authority to perform a particular duty. To assure that a relator will not prematurely apply for Extraordinary Relief via Writ of Mandamus, this Court, consistent with the Supreme Court, requires that a relator show that s/he has no other Adequate Remedy at Law before Mandamus will issue. Id. See also, e.g., In re Kellogg Brown & Root, Inc., 756 F.3d 754, 761 (D.C. Cir. 2014) (Kavanaugh, J.) (granting Mandamus where Appeal after Final Judgment would not provide an adequate means of obtaining relief), cert. denied, 135 S. Ct. 1163 (2015); In re Justices of Supreme Court of P.R.695 F.2d 17, 20-25 (1<sup>st</sup> Cir. 1982) (Breyer, J.) (same); 16 Charles Alan Wright et al., Federal Practice and Procedure § 3932 (3d ed.2012 & Supp. 2018) (citing similar Cases).

**C. Mandamus Relief Is Otherwise Appropriate Under The Circumstances.**

Here the "supervisory control of the [lower] Courts by [this court] is necessary to proper judicial administration in the federal system. The All Writs Act confers on the Courts of Appeals the discretionary power to issue writs of mandamus in the exceptional circumstances existing here." La Buy v. Howes Leather Co., 352 U.S. 249, 259-60. Overall, this Writ is purely sought by the Petitioner since the subject Judges of this Request have an Inherent Duty to do that real and substantial justice for which

alone and by virtue of their office, are bound to do. While, the Fifth Circuit Court of Appeals was in the best position to correct its own Judgment procured by Fraud upon the Court on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019 by some of its Members, it simply refused to do so on December 18<sup>th</sup> 2019. The argument against the issuance of a Writ was strengthened by the Majority opinion in the case of *c* where Mr. Justice Clark, speaking for the Supreme Court, reaffirmed the case of *Ex Parte Fahey*, 332 U.S. 258 (1947) and stated that a Writ of Mandamus should issue only under drastic and Extraordinary circumstances. The Court also referred to the case of *De Beers Consolidated Mines v. United States*, 325 U.S. 212 (1945) where the issuance of the Writ was proper, but distinguished this from their instant case on the basis that there was no evidence of a clear abuse of discretion or usurpation of Judicial Power, either of which must be present before the Writ will lie. As set forth in Appendix No. A-C, this case isn't devoid of evidence of the Frauds committed upon the Fifth Circuit Court of Appeals by Ms. Mary Stewart, Connie Brown, et al's on October 22<sup>nd</sup> 2019 to November 22<sup>nd</sup> 2019. Thus, in the case of *Hazel-Atlas*, this Court had the authority to set aside the two decrees in question because the evidence adduced warranted Equitable Reliefs. 16 Wright & Miller § 3932 (the most common traditional statement is that the Extraordinary Writs are available to a Court of Appeals to prevent a District court from acting beyond its Jurisdiction, or to compel it to take action that it lacks power to withhold.").

However, *Hazel-Atlas* recognized a Courts inherent duty to vacate a Judgement obtained by Fraud. Expressedly, there exists an age-old well established Principle that every Court have the power to act *Ex Debito Justitiae*, to do that real and substantial justice for the Administration of which alone it exists. Summarily, it have an inherent duty to prevent abuse of its existing processes and is not powerless to grant such reliefs when the ends of Justice and Equity so require under the facts of an given case. *Eichelberger v. Eichelberger*, 582 S.W. 2d 395, 398 (Tex. 1979). Consequently, the interest of fairness, equity and justice so requires the specific reliefs sought via this Mandamus Petition to ensure that the Public's confidence in the integrity of the Judiciary are maintained and that Litigants are treated equitable by correcting the manifest injustice that has occurred in this case while before the Fifth Circuit Court of Appeals. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944). This Court in *Hazel-Atlas* stated:

{T}hat even is *Hazel* did not exercise due diligence to uncover the Fraud, relief may not be denied on that ground alone since the Public's Interest were involved. P. 322 U.S. 246.

The same would properly be applicable here, since this Court has stated that the Public have an interest in the integrity, impartiality,

independence, objective fairness and/or even-handedness of the Courts. See, e.g., *Liteky v. United States*, 510 U.S. 540, 554-55 (1994) and *In Caperton v. A.T. Massey Coal Co.*, 129 S. Ct. 2252 (2009). In the case of *In re Murchison*, 349 U.S. at 136, this Court held that a Fair Trial in a Fair Tribunal is a basis requirement of Due Process. Of course, it is the Petitioners Fourteenth Amendment Right to present one's case before disinterested, independent, fair, unbiased and impartial Judges of the Fifth Circuit, whereas, the unlawful acts of Chief Judge Owen, Circuit Judge Willett, Oldham, Ms. Mary Stewart, Connie Brown and the unknown female help desk representative of the Fifth Circuit are not alone biased, but inconsistent with Due Process of Law. See, e.g., *Id* and *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F.2d 328, 338 (5<sup>th</sup> Cir. Unit B. 1981) (holding that the violation of Constitutional Rights imposes irreparable harm) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Where a Court, in the name of finality and/or expediency, announces a standard that turns a blind eye to corruption of its process (es), it demeans itself and the Public's Confidence which is the Courts most vital source. Assuredly, the Public's Interest are involved over this dispute since it does not only involve the private Party (ies) but the Publics Collective Faith in the Civics of the Justice System. *United States v. Holy Land Found. for Relief & Dev.*, 624 F.3d 685, 690 (5<sup>th</sup> Cir. 2010) (quoting *Littlejohn v. BIC Corp.*, 851 F.2d 673, 682 (3d Cir. 1988).

Public confidence in the United States Court of Appeals for the Fifth Circuit is the issue: How could it ever be maintained, if Officials of the Court, Judges and Litigant (s) involved over an dispute are condoned of Prejudicial Misconduct to the Administration of Justice that cause a Party to lose Constitutional Right(s) embedded in the Due Process Clause of the Fourteenth Amendment. Therefore, this Courts issuance of an Writ of Mandamus would be appropriate, since Ms. Davis have easily demonstrated an intentional Usurpation of Judicial Power and/or "Corruption" by some of the Officials of the Fifth Circuit Court of Appeals on the dates in question. See, e.g., *Cheney v. US. Dist. Court for D. C.*, 542 U.S. 367, 371 (2004) and *Roche v. Evaporated Milk Assn*, 319 U.S. 21, 26 (1943) (the traditional use of the Writ in aid of Appellate Jurisdiction both at common law and in the Federal Courts has been to confine an Inferior Court to a Lawful exercise of its prescribed Jurisdiction or to compel it to exercise its authority when it is its duty to do so. Though, sparingly exercised this case presents an Exceptional Circumstance, involving deceitful and dishonest misconduct as to affect the integrity of the Fifth Circuit Court of Appeals Jurisdictions and/or Decision Making, as well as injustice, warranting Equitable action by this Court as to Supervise and/or Control the unlawful acts of the Fifth Circuit Court of Appeals. *Id.* See also, *Korematsu v. United States*, 584 F. Supp. 1406, 1417 (N. D. Cal. 1984). Ironically, this Court has made it clear that it instead, reserve this Extraordinary Remedy for Special Situations, where the unlawful exercise

of Federal Jurisdiction imposes extraordinary harms. As articulated herein, such is the case since the Order of Judge Owen, Willett and Oldham of the Fifth Circuit Court of Appeals entered on December 18<sup>th</sup> 2019 raise an important question and/or issue of Law for this Court to decide under its own case precedent, *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238, 244 (1944). See also, *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 380 (2004); *Ex parte Fahey*, 332 U.S. 258, 259-60 (1947) and *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111(2009).

As *Cheney* further noted, only exceptional circumstances amounting to a Judicial Usurpation of Power, *ibid.*, or a clear abuse of discretion, *Bankers Life & Casualty Co. v. Holland*, 346 U. S. 379, 383 (1953), will justify the invocation of this extraordinary remedy. However, in order to determine if Mandamus Relief is proper, the Sixth Circuit balances (5) five factors. The Court examine [s] whether: (1) the Party seeking the writ has no other adequate means, such as Direct Appeal, to attain the relief desired; (2) the Petitioner will be damaged or prejudiced in a way not correctable on Appeal; (3) the District Courts Order is clearly erroneous as a matter of Law; (4) the District Courts Order is an oft-repeated error, or manifests a persistent disregard of the Federal Rules; and (5) the District Courts Order raises new and important problems, or issues of Law of first impression. *John B. v. Goetz*, 531 F.3d 448, 457 (6<sup>th</sup> Cir. 2008).

#### CONCLUSION

For the foregoing reasons, the Petitioner in this action respectfully request this Court to issue this Petition and all other Relief (s) it may deem just according to the facts or circumstances of this case.

This the 29<sup>th</sup> day of January 2020.

Respectfully Submitted,  
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