19-7762

No. 19A490

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FRANCES JANE MOORER SCOTT,
GALEN LEMAR AMERSON

*Petitioners*

v.

DEBTBUSTERS, P.C.,
ATLAS LAW FIRM, P.C.

*Respondents,*



**On Petition For Writ Of Certiorari To The Colorado Supreme Court**

# PETITION FOR A WRIT OF CERTIORARI

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## QUESTION(S) PRESENTED

1. If the right to a hearing, is assured under due process, according to the 6th and 14th amendments, before a person can be deprived of life, liberty or property, does the denial of a hearing, make any judgment or other orders, by issued by the court unenforceable?

2. Is a money judgment, issued as a sanction, without any hearing, even though all the material allegations were denied, constitutional and enforceable?

3. Can the liberty of an alleged civil contemnor, be lost or taken, without a 6th Amendment hearing?

4. If liberty is taken from a person by a court, without a 6th or 14th Amendment hearing, is it kidnapping, by the State, if the period of loss of liberty, is used by the officer of the court, who moved the court to arrest the person, to enter the person's residence and other private and secured spaces, without any warrant, to take, destroy or dispose of property, worth over $300,000 and to take private papers while the person(s) are held in jail?

## LIST OF PARTIES

Frances Jane Moorer Scott, Petitioner

Galen LeMar Amerson, Petitioner

DEBTBUSTERS, P.C., Respondent

ATLAS LAW FIRM, P.C., Respondent

## RELATED CASES

Colorado Court of Appeals 18-CA-1766

Jefferson County District Court 2018cv30922

Oconee County, South Carolina, Court of Common Pleas 19-CP-37-00163

Oconee County, South Carolina, Court of Common Pleas 19-CP-37-00164

Oconee County, South Carolina, Court of Common Pleas 19-CP-37-00811

Laramie County District Court, Wyoming, 192272

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**OTHER**

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

## OPINIONS BELOW

From Colorado State courts:

The opinion of the Colorado Supreme court to review the merits appears in the petition and is reported at Appendix A;

The opinion of the Colorado Supreme court to review of the Motion for Reconsideration, appears in the petition and is reported at Appendix B;

The opinion of the Colorado Appeals court to review the merits appears in the petition and is reported at Appendix C;

The opinion of the Denver County District Court to review the merits appears in the petition and is reported at Appendix D;

## JURISDICTION

The date on which the Colorado Supreme court decided our case was August 19, 2019. A copy of that decision appears at Appendix A.

A timely petition for reconsideration was filed and thereafter denied on September 24, 2020. A copy of that decision appears at Appendix B.

An Amended Motion for extension of time to file the petition for a writ of certiorari was filed October 15, 2019, and granted to and including, February 20, 2020 in Application No 19A490

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

## STATEMENT OF THE CASE

Petitioners have never had a single hearing, but have been deprived of nearly all their property, all their money and deprived of their liberty. Petitioners have had their lives threatened multiple times by law enforcement through Writs of Assistance Ordered by the State court. This civil case is a conscience shocking illustration of the worst that can happen, short of complete loss of life, when the 14th Amendment right to due process is denied and no hearings are held with a jury. Petitioners have been denied due process, a proper hearing in which to challenge the allegations against them before jury of their peers.

Petitioners were sanctioned, by the lower court, in the form of a judgment against them, which is reserved only for parties who refuse to provide any answers at all to interrogatories, after months of requests. The lower court granted a judgment in the form of a sanction because the Respondent was displeased with Petitioners honest answers to interrogatories, and without hearing any evidence, the Court ordered the judgment and later state, "I granted the judgment against you [Petitioners] because I "felt your answers to the interrogatories were inadequate," yet no facts or evidence were ever heard by the court to support that statement.

Respondents principle violated 42 U.S.C. § 1983, as a matter of course as quickly as he could, to deprive Petitioners of their property. April 3, 2018, Respondents principle garnished all the Petitioners' bank accounts to $0.00, by taking Petitioner Amerson's entire paycheck and all of the money in Petitioner's

deceased mother's Estate account. May 15, 2018, Respondents, forcibly took two vehicles[1] not ordered by the Court, from the Petitioners' residence, by requesting the Douglas County Sheriff's Deputies, change the Court Orders, which was done under color of law, at the direction of Respondent's principle Edward Levy. The vehicles were owned jointly with BOS Inc., which was not named in the Writ of Assistance or Levy of Garnishment. Petitioners alerted the Court of the improper action but the Court ignored the violations of the Respondents, thereby serving to embolden the Respondents to continue with their aggressive out of bounds actions that have become increasingly more egregious and allegedly criminal.

Due to the complete denial of the constitutionally required 6th Amendment hearing, before a person can be separated, by force or otherwise, from their property, liberty or life, Petitioners have already lost nearly all their property, their bank accounts were wiped to zero and they have even lost nearly their businesses' assets, business equipment and allegedly the actual business, BOS Inc., a C corporation, which was never a party to the case. All this property was lost, without a single constitutionally required hearing under the 6th Amendment. Petitioners lost their liberty when the Denver County District Court had the Petitioners arrested, alleged contempt, without any hearing to which the Petitioners were/are entitled. A hearing, with a jury, required to establish that the Petitioners were actually in contempt by establishing 1) if the Court was legal; 2) if Petitioners had a duty to comply; 3) if Petitioners were able to comply, including after incarceration;

[1] In all Respondents took five (5) vehicles, all of which were titled jointly with BOS Inc., and all using Writs that do not name BOS Inc., all with the assistance of State actors across three (3) Colorado counties.

and 4) did the Court Order contain a clearly written "purge clause" which the Petitioners understood that would cure to alleged contempt.

Petitioners asked the court on June 14, 2018, three (3) times to define in the "purge clause," due to the fact the sanction which the Court issued in the form of a very large judgment was ordered by the court outside the rules governing sanctions, and without any hearing allowed. The Court refused to define for Petitioners what had to be done, to prevent the court from issuing arrest warrants. Petitioners were held in remedial contempt without the duty or even the ability to comply from jail, with alleged court orders from jail. Petitioner Amerson spent 49 days, and Scott spent just shy of 10 months (282 days) in jail. Petitioners bail was set at an excessive $20,000 all cash bail, which it if had or could have been paid, would have gone directly to respondents, a proverbial ransom, and an abuse of process, as no one can be arrested and held to force payment, or to force the turnover of any asset or title. All the while, the respondents' principle and the court alone alleging Petitioners were in civil remedial contempt.

Petitioners were alleged to be in contempt over the failure to sign a car title, which was held jointly with BOS Inc., a close held Colorado C Corporation, who was not a party to the case. Petitioners turned over the vehicle under threat of arrest, but had no duty to sign over the title in their capacity as President or Secretary of BOS Inc., making the arrest unlawful. Petitioner Amerson was alleged to be in contempt over the displeasure of the Respondents principle, regarding Amerson's answers to interrogatories. The interrogatories could not be answered from jail,

again, making the contempt and arrest unlawful.

Petitioners lives were consistently and repeatedly threatened, by the Court through multiple Orders of Writs of Assistance, in three Colorado counties, not including in Denver County[2]. Petitioners have had their lives, livelihood and family all but destroyed, without a single hearing, or any jury hearing and ruling on the facts in the initial case, or in the multiple charges of alleged contempt which they were charged with by the court at the direction of the Respondents principle, and the court, without a hearing or any neutral eyes to check and verify the facts.

After the Petitioners were arrested and being held, without a hearing, the Respondents on multiple occasions, resorted to self help by breaking and entering Petitioners residence, four storage units and a barn. Respondents had the court clerk issue a Writ of Garnishment to take possession, under color of law, of Petitioners keys, wallets, banking and email passwords, cell phones, including pass codes, and vehicle keys, from immediate family members under threat of arrest, just days after Petitioners were arrested.

In violation of the 4th Amendment as cited in *Mapp v. Ohio*, 367 U.S. 643 (1961), citing *Boyd v. United States*, 116 U. S. 616, 630 (1886), Respondents principle removed personal property from the Petitioners residence, storage barn behind the residence and all four storage units rented by and controlled by a close held C Corporation in which personal property and personal and business

[2] Being put in jail and held was its own threat of injury, and for Scott, who contracted Ecthyma a severe form of impetigo which penetrates deep into the skins and leaves scaring, which turned into cellulitis, from the impetigo not being treated for over a month. Cellulitis can be fatal if it reaches the blood. Both Petitioners are now hyper-vigilance.

papers and effects, protected under the 4th Amendment, were removed, copied and then used to trap and hold Petitioners in jail using interrogatories requiring details regarding bank account numbers, phone numbers including a full detailed accounting of ten (10) years of checks, deposits, balances and other transactions as well as other specific information, all to be given and signed, under penalty of perjury, from jail, without their records. All the while, the Petitioners records, were, in the possession of Respondents, were taken without any warrant from any court, and without their specific consent and permission, and without the consent and permission of the officers of Petitioners' corporation with the required Corporate permission granted in writing. The Petitioners' private papers and effects should be returned, and all evidence of them with the Respondents' should be destroyed, and the evidence and questions should be suppressed. However, the fact remains, the Respondents used the records were to keep Petitioners specifically Scott in jail for over eight (8) additional months.

The Respondents, presented interrogatories to Petitioners in jail demanding they each answer a set without their financial documents to refer to. Petitioners were unable to answer such detailed questions about their day to day banking, checks written and deposits, without their records, which were in the hands of, and on the computers of the Respondents. Petitioners' privacy in all things was violated by Respondents principle, an officer of the court himself. Respondents persisted as Petitioner Scott answered five (5) separate sets of interrogatories, as they morphed and changed so Petitioner Scott, was completely

unable to free herself from incarceration. Due to the details of the records that were required to answer the interrogatories, Petitioners could not ever have had their records while in jail, making the incarceration illegal from the start.

After the Petitioners were arrested and being held, without a hearing, the Respondents on multiple occasions, resorted to self help by breaking and entering Petitioners residence, four storage units and a barn from which personal property and personal and business papers and effects, protected under the 4th Amendment, were removed, copied and then used to trap Petitioners with interrogatories requiring bank account numbers, phone numbers including a full detailed accounting of ten (10) years of checks, deposits, balances and other transactions as well as other specific information, under penalty of perjury, from jail, without their records. The records, in the possession of Respondents, were taken without any warrant from any court, and therefore should have been suppressed, but instead the records were used to keep Petitioners in jail without end.

## REASONS FOR GRANTING THE PETITION

What has occurred in this case and all the related cases, should never happen in the united States of America, even once in a case, but here, in this case, the denial of due process has been as a matter of course. When the State court fails to protect the federal rights guaranteed to citizens, no remedy exists for a citizen other

than to appeal to a higher court.

This Court instructs the Petitioners, that any judgment separating him (them) from his (their) Property, whether of the Colorado courts or this Court, without a hearing, is a non-judicial act and is entitled to no respect whatever in any tribunal, if there has been no hearing. Petitioners' accordingly make no provision for the judgments of the Colorado Courts, as they are not judicial acts. This Court cannot either. This creates a very untenable state of affairs as the respondents have now acted under color of law, and has under threat, has divested Petitioners from nearly all their property and further has had the Petitioners' liberty taken, and their lives threatened in multiple counties by State actors, outside Court orders.

The principle that such non-judicial acts are entitled to no respect in any tribunal vitiates any and all defenses being asserted by respondents under principles of *res judicata,* abstention, or any other jurisdictional basis for one simple reason — Petitioners have not been subject to a judicial act that is entitled to respect in any forum, and Petitioners do not afford any of it any respect, and never will because the highest Court in the land has instructed him very clearly, and affirms and validates Petitioners' course in every respect.

As set forth in *Hovey v. Elliott,* 167 U.S 407, 414-19 (1897); The fundamental conception of a court of justice is condemnation only after hearing. To say that courts have inherent power to deny all right to defend an action and to render decrees without any hearing whatever is, in the very nature of things, to convert the court exercising such an authority into an instrument of wrong and

oppression, and hence to strip it of that attribute of justice upon which the exercise of judicial power necessarily depends.

> The principle stated in this terse language lies at the foundation of all well-ordered systems of jurisprudence. Wherever one is assailed in his person or his property, there he may defend, for the liability and the right are inseparable. This is a principle of natural justice, recognized as such by the common intelligence and conscience of all nations. A sentence of a court pronounced against a party without hearing him, or giving him an opportunity to be heard, is not a judicial determination of his rights, and is not entitled to respect in any other tribunal.

Petitioners allege that respondents, the court and other state agencies all acted under color of law, in multiple violations of Petitioners rights under 42 U.S.C. § 1983:

> Section 1983 was originally § 1 of the Civil Rights Act of 1871. 17 Stat. 13. It was "modeled" on § 2 of the Civil Rights Act of 1866, 14 Stat. 27, and was enacted for the express purpose of "enforc[ing] the Provisions of the Fourteenth Amendment." 17 Stat. 13. The predecessor of § 1983 was thus an important part of the basic alteration in our federal system wrought in the Reconstruction era through federal legislation and constitutional amendment. As a result of the new structure of law that emerged in the post-Civil War era—and especially of the Fourteenth Amendment, which was its centerpiece--the role of the Federal Government as a guarantor of basic federal rights against state power was clearly established. *Monroe v. Pape,* 365 U.S. *167; McNees v. Board of Education:* 373. U.S. 668; *Shelley v. Kraemer,* 334 U.S. 1; *Zwickler Koota,* 389 U.S. 241, 245-49; H. Flack, The Adoption of the Fourteenth Amendment (1908); J. tenBroek, The Anti-Slavery Origins of the Fourteenth Amendment (1951). Section 1983 opened the federal courts to private citizens, offering a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and laws of the Nation.
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> It is clear from the legislative debates surrounding passage of §

1983's predecessor that the Act was intended to enforce the provisions of the Fourteenth Amendment "against State action, . . . whether that action be executive, legislative, *or judicial. "Ex parte Virginia,* 100 U.S. 339, 346 (emphasis supplied). Proponents of the legislation noted that state .courts were being used to harass and injure individuals, either because the state courts were powerless to stop deprivations or were in league with those who were bent upon abrogation of federally protected rights.

As Representative Lowe stated, the "records of the [state] tribunals are searched in vain for evidence of effective redress [of federally secured rights] . . . . What less than this [the Civil Rights Act of 1871] will afford an adequate remedy? The Federal Government cannot serve a writ of mandamus upon State Executives or upon State courts to compel them to protect the rights, privileges and immunities of citizens. . The case has arisen . . . when the Federal Government must resort to its own agencies to carry its own authority into execution. Hence this bill throws open the doors of the United States courts to those whose rights under the Constitution are denied or impaired." Cong. Globe, 42d Cong., 1st Sess., 374-376 (1871). This view was echoed by Senator Osborn: "If the State courts had proven themselves competent to suppress the local disorders, or to maintain law and order, we should not have been called upon to legislate . . . . We are driven by existing facts to provide for the several states in the South what they have been unable to fully provide for themselves; i.e., the full and complete administration of justice in the courts. And the courts with reference to which we legislate must be the United States courts." *Id.,* at 653. And Representative Perry concluded: "Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify its grand and petit juries act as if they might be accomplices . . . . [A]ll the apparatus and machinery of civil government, all the processes of justice, skulk away as if government and justice were crimes and feared detection. Among the most dangerous things an injured party can do is to appeal to justice." Id., at App. 78.

Those who opposed the Act of 1871 clearly recognized that the proponents were extending federal power in an attempt to remedy the state courts' failure to secure federal, right. The debate was not about whether the predecessor of § 1983 extended to actions of state courts, but whether this innovation was necessary or desirable.

> This legislative history makes evident that Congress clearly conceived that it was altering the relationship between the States and the Nation with respect to the protection of federally created rights; it was concerned that state instruthentalities could not protect those rights; it realized that state officers might, in fact, be antipathetic to the vindication of those rights; and it believed that these failings extended to the state comp.

Petitioners 4th Amendment rights to being secure in their papers and effects as cited in Mapp v. Ohio, 367 U.S. 643 (1961), citing *Boyd v. United States*, 116 U. S. 616, 630 (1886) was violated while they were held in jail:

> Seventy-five years ago, in *Boyd v. United States*, 116 U. S. 616, 630 (1886), considering the Fourth and Fifth Amendments as running "almost into each other" on the facts before it, this Court held that the doctrines of those Amendments "apply to all invasions on the part of the government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offence; but it is the invasion of his indefeasible right of personal security, personal liberty and private property. . . . Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods, is within the condemnation . . . [of those Amendments]."
>
> The Court noted that "constitutional provisions for the security of person and property should be liberally construed. . . . It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon."
>
> At p. 635. In this jealous regard for maintaining the integrity of individual rights, the Court gave life to Madison's prediction that "independent tribunals of justice .... will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights." I Annals of Cong. 439 (1789). Concluding, the Court specifically referred to the use of the evidence there seized as "unconstitutional."
>
> At p. 638. Less than 30 years after *Boyd*, this Court, in *Weeks v. United States*, 232 U. S. 383 (1914), stated that "the Fourth Amendment . . . put the courts of the United States and Federal

officials, in the exercise of their power and authority, under limitations and restraints [and] . . . forever secure[d] the people, their persons, houses, papers and effects against all unreasonable searches and seizures under the guise of law . . . , and the duty of giving to it force and effect is obligatory upon all entrusted under our Federal system with the enforcement of the laws."

At pp. 391-392. Specifically dealing with the use of the evidence unconstitutionally seized, the Court concluded, "If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment declaring his right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land."

At p. 393. Finally, the Court in that case clearly stated that use of the seized evidence involved "a denial of the constitutional rights of the accused."

At pp. 398. Thus, in the year 1914, in the *Weeks* case, this Court "for the first time" held that, "in a federal prosecution, the Fourth Amendment barred the use of evidence secured through an illegal search and seizure." *Wolf v. Colorado, supra*, at 28. This Court has ever since required of federal law officers a strict adherence to that command which this Court has held to be a clear, specific, and constitutionally required--even if judicially implied--deterrent safeguard without insistence upon which the Fourth Amendment would have been reduced to "a form of words." Holmes, J., *Silverthorne Lumber Co. v. United States*, 251 U. S. 385, 392 (1920). It meant, quite simply, that "conviction by means of unlawful seizures and enforced confessions . . . should find no sanction in the judgments of the courts . . . ," *Weeks v. United States, supra*, at 392, and that such evidence "shall not be used at all." *Silverthorne Lumber Co. v. United States, supra*, at 392.

## CONCLUSION

The denial of an outcome based on the truth and evidence thereof, confirmed by a jury and a hearing, cannot be tolerated, in this republic where the entire

system our nation was built upon, stands up justice in the light of truth and evidence. In this case, the denial of due process, created a perfect storm for Petitioners' losses of property, and liberty and ongoing threats against Petitioners lives, under color of law, without a single hearing before a jury, and multiple hearings were required to provide due process prior to the loss of property and prior to the loss of liberty.

This petition for a writ of certiorari should be granted, to remind State court of their obligation to protect the rights of citizens to due process in accordance with the constitution, and to prevent such an egregious situation to be wrought upon any other innocent person.

Petitioners seek for this ruling to be overturned or in the alternative remand of this matter to a neutral tribunal. Petitioners further seek reimbursements for costs and expenses as well as the unconscionable and unfathomable damages and losses that the Petitioners have been forced to bear.

Respectfully submitted, February 19, 2020



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