19-8395

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

GAKUBA, PETER — PETITIONER
(Your Name)

vs.

O'BRIEN, CHARLES ET AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S.C.A.-7 (DENIED APPEAL); U.S.D.C.-N.D.IL. (FINAL JUDGMENT)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI, SUPERVISORY ORDER, MANDAMUS, OTHER EXTRAORDINARY WRIT

PETER GAKUBA (M52946)
(Your Name)
VIENNA CC
6695 STATE RT., 146 EAST
(Address)
VIENNA, IL 62995
(City, State, Zip Code)
N/A
(Phone Number)

GAKUBA
PET.

v. O'BRIEM, ET AL.
RESP.

#

U.S. SUPREME COURT

ISSUES PRESENTED FOR REVIEW

(A) ① THE VIDEO PRIVACY PROTECTION ACT (VPPA) 18 USC §§ 2710(a), 2710(b)(2)(C), 2710(d), 2710(e)

AMAZON v. LAY 758 F.SUPP.2d 1154 (ED.WA 2010); CARPENTER v. US 138 S.CT. 2206 FN4 (6/22/18)

CAMFIELD v. CITY OF OKC 248 F.3d 1214, 1233 (10TH 2001); STARK v. REDBOX 672 F.3d 535, 538 (7TH 2012)

② THE DRIVER PRIVACY PROTECTION ACT (DPPA) 18 USC § 2721 ET SEQ.

DAHLSTROM v. SUNTIMES 777 F.3d 937 (7TH 2015); MEYEICH v. COHEN 983 F.SUPP.2d 215 (D.DE. 1998)

SEMME v. PALATINE 695 F.3d 597 (7TH 2012, EN BANC)

AS A MATTER OF LAW, GAKUBA IS ENTITLED TO EQUITABLE RELIEF PER 18 USC §2710(c)+§(d) CONSISTENT W/ AMAZON v. LAY + CARPENTER v. US = TRO, PRELIM. + PERM. INJUNCTIVE RELIEF, DECLARATORY JUDGMENT; LIKEWISE THE SAME EQUITABLE RELIEF IS DOUBLY AFFORDED PER 18 USC § 2721 ET SEQ. CONSISTENT W/ DAHLSTROM v. SUNTIMES + SEMME v. PALATINE. THE USDC.-ND.IL.-W.DIV. AND USCA7 WERE FLATLY WRONG TO ASSERT HECK v. HUMPHREY AS BARRING RELIEF, MUCH LESS THAT GAKUBA'S EQUITABLE RELIEF IS A MIS-CAPTIONED "MOTION IN LIMINE." ARBITRARY, FANCIFUL, OBJECTIVELY UNREASONABLE.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

FRE 201

* THERE ARE ~ 39 DEFENDANTS COMPRISING ILLINOIS + USA POLICE, PROSECUTORS BUT MAGISTRATE JOHNSTON DENIES GARUBA A COPY OF HIS COMPLAINT (AUG.-OCT. 2018 DOCKET ACTIVITY IN GARUBA v. O'BRIEN 12CV7296 (ND.IL.).)

GAKUBA
PL.

v.

O'BRIEN ET AL
DEFTS.

#

U.S. SUPR[illegible]E COURT

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix C to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix A+B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was 9/27/19.

[X] No petition for rehearing was timely filed in my case. (NOT AVAILABLE)

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

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

CONSTITUTIONAL / STATUTORY PROVISIONS INVOLVED

(A) 1ST, 4TH, 14TH AMENDS VIOLATIONS PER VIOLATING ① THE VIDEO PRIVACY PROTECTION ACT (VPPA)

18 USC §§ 2710(a), 2710(b)(2)(C), 2710(d), 2710(e)

② THE DRIVER PRIVACY PROTECTION ACT (DPPA)

18 USC § 2721 ET SEQ.

① CAMFIELD V. CITY OKC 248 F.3d 1214 (10TH 2001); AMAZON V. LAY 758 F.SUPP.2d 1154 (ED. WA 2010)

CARPENTER V. US 138 S.CT. 2206 FN#4 (6/22/2018)

US V. WILSON 630 FED. APPX. 750, 757 (11TH 2013) (CITES US V. DONOVAN 429 US 413, 432 n. 22 (1977))

JOHNSON V. WINSTEAD 900 F.3d 428, 436-37 (7TH 2018) (CITES HECK FN#7 + WALLACE V. KATO 549 US 384, 387-88)

② DAHLSTROM V. SUNTIMES 777 F.3d 937 (7TH 2015); SENNE V. PALATINE 695 F.3d 597 (7TH 2012, EN BANC)

STATEMENT OF THE CASE

(I) INTRODUCTION / BACKGROUND

... THIS IS A CASE OF 1ST IMPRESSION INVOLVING THE IDENTITY THEFT OF GARUBA BY LAW ENFORCEMENT AGENCIES THROUGH THE DELIBERATE AND EXPLOITATIVE VIOLATION OF THE VPPA (PRIMARILY) THEN OPPA (SECONDARILY) WHEN THEY COMPELLED THE ILLEGAL DISCLOSURE OF GARUBA'S HOLLYWOOD VIDEO CUSTOMER ACCOUNT RECORDS W/O THE REQUIRED LEGAL PROCESS, 18 USC § 2710(b)(2)(C). WHEN LAW ENFORCEMENT AGENCIES COMPEL THE ILLEGAL DISCLOSURE OF "PERSONALLY IDENTIFIABLE INFO." (PII)(18 USC § 2710(a)) TO THEMSELVES, SIMULTANEOUSLY THEY VIOLATE THE VPPA'S STATUTORY BARRING RECEIPT AS EVIDENCE "PII" IN OR BEFORE A "GRAND JURY, DEPT., OFFICER, AGENCY, [] OR OTHER AUTHORITY OF THE USA [, +/OR] A STATE [,]" 18 USC § 2710(d).

... HERE, THEY FURTHER ORDERED HOLLYWOOD VIDEO NOT TO NOTICE GARUBA AND, WORSE STILL, RESORTED TO DECEIT AS FRANKS VIOLATIONS THAT ONLY WAS EXPOSED / DISCOVERED YEARS AFTER THE WRONGDOING FIRST OCCURRED. NOW, W/O ANY LEGITIMATE BASES TO RETAIN GARUBA'S "PII" THEY INSIST ON DOING SO; REFUSING TO DESTROY ALL RECORDS ILLEGALLY OBTAINED FULLY 15 YEARS LATER, IN VIOL. OF 18 USC § 2710(e).

... CONSEQUENTLY, RESTING ON PLAIN UNDISPUTED FACTS, THE LAW MANDATES EQUITABLE RELIEF AS THE ONLY EFFECTIVE REMEDY. SEE AMAZON V. LAY 758 F. SUPP. 2d 1154 (ED. WA 2010); 5TH AMEND., LATIF V. HOLDER 3:10 CV 750-BR (D. OR.).

... ON NOV. 4, 2006 IL. STATE POLICE (ISP) WERE CALLED TO INVESTIGATE A MISSING PERSON'S REPORT OF A THEN 14 Y.O. GAY TEEN, MATTHEW S. (M.S.). M.S. COMPLAINED OF PERSECUTION BY DEVOUT CATHOLIC HOMOPHOBIC PARENTS WHO, IN RIPOSTE, COMPLAINED ABOUT M.S.'S CHILD PORN TRAFFICKING (INCL. SEXTING "SELFIES") TO DEFLECT THEIR OUTRAGE, INSTEAD M.S. CLAIMED HE WAS KIDNAPPED AND RAPED BY AN 18 Y.O. WHITE MALE NAMED "PHIL." (GARUBA: A THEN 36 Y.O. BLACK MALE)

... NOT BELIEVING M.S.'S INCREDIBLE STORY, THEY INSTEAD PURSUED "STATUTORY RAPE" CHARGES AS M.S. CLAIMED TO HAVE SPENT THE NIGHT AT A ROCKFORD, IL. HOTEL WHEREBY PHIL HAD RENTED "SCARY MOVIES 1, 2, 3" FOR M.S. TO WATCH WHILE PHIL SLEPT. FINDING NO "PHIL" IN THE GUEST REGISTRY AT THE ROCKFORD, IL. MARRIOTT, ISP LED BY CHARLES O'BRIEN SUPERVISED BY ASST. SA KATE KURTZ, WENT TO A NEARBY HOLLYWOOD VIDEO STORE REQUESTING "WHO ... RENTED THEM MOVIES." 18 USC § 2710(b)(2)(C). IN RESPONSE, ISP + O'BRIEN WERE GIVEN GARUBA'S HOLLYWOOD VIDEO CUSTOMER ACCT. INFO. INCLUDING GARUBA'S BIRTHDATE ... WHICH O'BRIEN CAREFULLY MEMORIALIZED IN HANDWRITTEN POLICE NOTES LEAST HE FORGET. (NOTE:

THE ELEMENTS OF STATUTORY RAPE ARE MERELY THE PARTIES' AGES AND SEXUAL ACTIVITY. 725 ILCS 5/12-16(d)

RETURNING TO THE MARRIOTT THEY ASKED THE FRONT DESK CLERK "DO YOU HAVE SOMEONE HERE BY THAT NAME. GEE WE SURE DO." ASA KURTZ EXCITEDLY UTTERED IN ARGUING THAT THIS EVIDENTIARY FIND WAS THE PRIVITY ESTABLISHING "100% PROBABLE CAUSE." UPON RECEIPT OF MORE "PII" -- ROOM 101 (THE 1ST ROOM BEHIND THE FRONT DESK) -- O'BRIEN ET AL COMMITTED AN ILLEGAL 4TH AMEND. / BROWN v. IL. HOME INVASION. THE FIRST SEARCHED + SEIZED ITEMS WERE GAKUBA AND HIS WALLET -- SPECIFICALLY BIRTHDATE CONTAINED IN HIS DRIVER'S LIC. -- CORROBORATING HE WAS "WHO ... RENTED THEM MOVIES."

DECEMBER 2008 - JANUARY 2009 THE 1ST OF TWO SUPPRESSION HEARINGS WAS HELD. THIS ONE ON 5TH / 6TH AMENDS. VIOLS. THAT QUESTIONING SHOULD HAVE CEASED UPON GAKUBA ASSERTING HIS RIGHT TO SPEAK W/ HIS PERSONAL LAWYER: DAVID SHAPIRO OF BALTIMORE, MD. O'BRIEN WAS THE KEY STATE WITNESS, FALSELY TESTIFYING GAKUBA WAS NOT UNDER ARREST, BUT, A "MATERIAL WITNESS". MOTION DENIED.

JUNE 2011 THE 2ND SUPPRESSION HEARING OCCURRED AS GAKUBA RETAINED NEW COUNSEL NOT FROM ROCKFORD, IL -- DEBRA SCHAFER, BUT FROM CHICAGO, IL: THEN 29 Y.O. BEAU BRINDLEY. ITS CONCLUSION RESULTED IN THE IL STATE TRIAL JUDGE JOHN TRUITT QUASHING ALL 3 WARRANTS EVER ISSUED: HOTEL, RENTAL CAR SEARCH WARRANTS, AND BUCCAL WARRANT FOR GAKUBA'S DNA. THE REASONING: A BROWN v. IL. 4TH AMEND. VIOL. OCCURRED MANDATING SUPPRESSION OF ALL PURPORTED CUSTODIAL INTERROGATION STATEMENTS, AND, THERE WERE FALSE AFFIDAVITS MADE W/ "RECKLESS DISREGARD FOR THE TRUTH" AND, ONCE THE FALSITIES WERE EXCISED, THERE LAY BARE NO PROBABLE CAUSE AS THERE NO LONGER WAS AN IDENTIFIABLE SUSPECT OR PLACE TO BE SEARCHED. FRANKS v. DE.

AT THAT TIME, GAKUBA HAD FILED A VPPA SUPPRESSION MOTION IN JUNE 2011, BUT IT ONLY WAS GRANTED AT GAKUBA'S URGING WHILE PRO SE IN OCTOBER 2013. DESPITE GRANTING THE MOTION, THE IL. TRIAL JUDGE RECKLESSLY DISREGARDED HIS VERY OWN RULING BY CALLING THE VPPA "BIZARRE."

IN PEOPLE v. GAKUBA 2017 IL APP (2d) 150744-U (DIRECT APPEAL) AND PEOPLE v. GAKUBA 2019 IL APP (2d) 170794-U (POST-CONVICTION) THE IL. APP. CT. RECKLESSLY DISREGARDED GAKUBA'S INSISTENCE THAT THEY OBEY + ENFORCE VPPA'S 18 USC § 2710(d) EXCLUSIONARY MANDATE IN A 58 PAGE + 26 PAGE OPINIONS AFFIRMING GAKUBA'S WRONGFUL CONVICTIONS AND SENTENCE. INSTEAD, THEY SANCTIONALLY CONCLUDE THAT GAKUBA'S BIRTHDATE WAS "INDEPENDENTLY SOURCED" SUBSEQUENT TO ITS ILLEGAL OBTAINMENT BY O'BRIEN

FROM A FALSE/FABRICATED "BOOKING PROCESS-VERSION" AND CAHUBA'S FABRICATED HEARSAY RESPONSE FALSELY ATTRIBUTED TO CAHUBA.

IN JUNE 20TH CAHUBA WHILE PRO SE ANNOUNCED AND HAND-TENDERED IN OPEN COURT TO THE PROSECUTORS AND TRIAL JUDGE CAHUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT. IT HAS BEEN IGNORED BY EVERYONE. AS A MATTER OF FACT, AND W/NO RECORD AT ALL, CAHUBA'S AFFIDAVIT IS SUBSTANTIVE, DISPOSITIVE EVIDENCE IN CAHUBA'S FAVOR TURNING ADJUDGED FRANKS PERJURER ISP O'BRIEN INTO A NAPUE PERJURER FOR HAVING FALSELY TESTIFIED AT CAHUBA'S 2½ DAY JURY TRIAL IN APRIL 2015 TO THIS FALSE/FABRICATED "BOOKING PROCESS" Q+A.

CAHUBA'S FEDL DISTRICT AND CIRCUIT COURT PRO SE LEGAL EFFORTS AT ENFORCING HIS VPPA RIGHTS HAVE TOO BEEN IN VAIN.

IN CAHUBA V. NEESE 17CV50337 (ND.IL.), 18-3398 (7TH) HABEAS RELIEF WAS DENIED, 28 USC §§ 2253, 2254. ACKNOWLEDGING CAHUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT, THE US DISTRICT COURT FANCIFULLY CONCLUDED IT TO BE "IRRELEVANT" YET CITED NO AUTHORITY -- RECORD OR LAW. IRRATIONAL.

IN CAHUBA V. KURTZ 523 FED. APPX. 402 (7TH 2013) THE USCA-7 CITES TO THE WRONG CASE LAW THAT DEALT NOT W/ LEGAL PROCESS -- 18 USC § 2710(b)(2)(E) -- BUT W/ ANOTHER MEANS OF OBTAINMENT: 18 USC § 2710(b)(2)(E). CAHUBA AT 403, CITES DANIEL V. CANTRELL 375 F.3d 372, 382 (6TH 2004). INDEED, DANIEL FN#4 SPECIFICALLY DISTINGUISHES ITSELF FROM CAHUBA'S ON-POINT CASE LAW: CAMFIELD V. CITY OF OKC 248 F.3d 1214, 1233 (10TH 2001)

NOW, CAHUBA RENEWS HIS STATUTORY RIGHTS' ENFORCEMENT IN CAHUBA V. O'BRIEN 12CV7296 (ND.IL.) BY CITING CAMFIELD, AMAZON V. LAY 758 F.SUPP.2d 1154 (ED.WA 2010), CARPENTER V. US 138 S.CT. 2206 FN#4 (6/22/18). (ECF 350, 323, 312, 311).

HOWEVER, IN A SPECIOUS AND CONCLUSORY 2-PAGE RULING OF 3/20/2019, NOT ONLY DOES US DISTRICT JUDGE KAPALA AFFIRM THE MAGISTRATE'S R+R, INCREDIBLY, HE GOES ON TO ARGUE CAHUBA'S EQUITABLE RELIEF MOTION IS A MISCAPTIONED "MOTION IN LIMINE". IF TRUE, THERE SHOULD BE AMPLE CASE LAW PRECEDENCE OF SUCH PRIOR OCCURRENCES; NONE ARE CITED BECAUSE NONE EXIST.

WHEN CAHUBA SOUGHT APPELLATE REVIEW FROM THE USCA-7 IFP, US DISTRICT JUDGE DURKIN CERTIFIES CAHUBA'S APPEAL IS IN BAD FAITH IN A 2-PAGE WHOLLY CONCLUSORY, ROTE, FORMULAIC LEGAL CONCLUSION.

AUGUST 5, 2019 US CIRCUIT JUDGE BRENNAN SUSPICIOUSLY DENIES BOTH GAKUBA'S HABEAS APPEAL AND THIS ONE, DESPITE THE FACT APPEALS WERE TAKEN AT DIFFERENT TIMES/MONTHS; UNDERMINING THE PUBLIC'S CONFIDENCE IN THE JUDICIARY'S FAIRNESS AND INTEGRITY AS BOTH CASES ALSO WERE ASSIGNED, THEN DENIED, BY THE SAME DISTRICT JUDGE: KAPALA (OVER GAKUBA'S VOCIFEROUS OBJECTIONS THAT A DIFFERENT DIST. JUDGE DECIDE GAKUBA'S HABEAS; SEPARATE FROM THIS CIVIL SUIT). GAKUBA v. O'BRIEN 19-1640 (7TH)

II DISCUSSION/ARGUMENT

AMAZON v. LAY 758 F.SUPP.2d 1154 (ED.WA 2010) IS ON-POINT AND DETERMINATIVE -- YET NEITHER THE US DISTRICT NOR CIRCUIT COURTS ACKNOWLEDGE SO, INSTEAD, DELIBERATELY IGNORANT OF IT. CF. MCVEIGH v. COHEN 983 F.SUPP.2d 215 (D.DC. 1998), DAHLSTROM v. SUNTIMES 777 F.3d 937 (7TH 2015).

GAKUBA'S PRIVACY INTERESTS ARE GOVERNED BY STATUTE OVERLAYED BY THE 1ST AMENDMENT. AMAZON AT 1160-1163; US CONST. ART. 3, § 2, CL 1. SEE LEWERT v. PF CHENG 2016 WL 1459226 *5 (CITING STERK II v. REDBOX 770 F.3d 618, 623 (7TH 2014) LEGAL INTEREST IN "PII" IN VIDEO RENTAL CONTEXT COMPARABLE TO PROPERTY RIGHT). CF RODRIGUEZ v. SONY 801 F.3d 1045, 1053 (9TH 2015) (EQUITABLE RELIEF DISCUSSED: ILLEGAL DISCLOSURE (OBTAINMENT) VERSUS ILLEGAL RETENTION.)).

GAKUBA CITED TO COMPARABLE FED'L PRIVACY LAW AND CASE AUTHORITY. (18 USC § 2710 IS COMPARABLE TO 42 USC § 4332 + 16 USC § 1456)

FOR EXAMPLE, THE ELECTRONIC COMMUNICATION PRIVACY ACT (ECPA) 18 USC § 2701 ET SEQ.; FREEDMAN v. AMERICA ONLINE 325 F.3d SUPP.2d 638 (D.CT.) (2004) (CITES MCVEIGH v. COHEN 983 F.SUPP.2d 215 (D.DC. 1998)): MCVEIGH AT 219

IN MCVEIGH, A NAVY OFFICER CONTACTED AOL AND REQUESTED INFO. ABOUT THE IDENTITY OF AN AOL CUSTOMER (THAT BEING MCVEIGH, ALSO A NAVY OFFICER). MCVEIGH AT 217. AOL DISCLOSED THE INFO., AND CONSEQUENTLY THE NAVY ADVISED MCVEIGH IT WAS COMMENCING AN ADMINISTRATIVE DISCHARGE PROCEEDING AGAINST HIM ON THE BASIS THAT HE WAS INVOLVED IN HOMOSEXUAL CONDUCT VIOLATING THE 'DON'T ASK, DON'T TELL' POLICY. ID. MCVEIGH SOUGHT A PRELIMINARY INJUNCTION, ARGUING THAT THE NAVY OFFICER(S) VIOLATED HIS/ RIGHTS UNDER THE ECPA. ID AT 216.

MCVEIGH ALSO ALLEGED THAT HIS RIGHTS WERE ALSO VIOLATED UNDER THE NAVY'S OWN POLICY, AS WELL AS THE 4TH + 5TH AMENDS. IBID. IN CONSIDERING THE SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS, THE COURT NOTED THAT THE NAVY'S ACTIONS WERE "LIKELY ILLEGAL UNDER THE ... ECPA." 10 AT 219. THE COURT STATED THAT "IN SOLICITING AND OBTAINING ... PERSONAL INFO. ABOUT MCVEIGH FROM AOL" THE GOV'T FAILED TO COMPLY W/ THE ECPA'S REQUIREMENTS THAT IT EITHER (1) HAD A VALID WARRANT OR (2) GAVE THE PLAINTIFF PRIOR NOTICE AND SOUGHT A SUBPOENA OR COURT ORDER. ID AT 219.

HERE, EVERY STATE AND FED'L COURT TO DATE PROMOTE A FALSE/FABRICATED "BOOKING PROCESS-VERSION" Q+A AS AN "INDEPENDENT SOURCE" FOR GAKUBA'S ILLEGAL BIRTHDATE OBTAINMENT -- FABRICATED HEARSAY FALSELY ATTRIBUTED TO GAKUBA. IT IS AKIN TO THE 2-STEP INTERROGATION ARGUMENT WIDELY DEBUNKED AS JUNK LAW. BOOKING PROCESS EXCEPTIONS APPLY ONLY TO 5TH AMEND. PROTECTIONS. NEVER HAS IT BEEN USED AS AN EXCEPTION TO A STATUTE'S EXCLUSION MANDATE; MUCH LESS THE 4TH AMEND. EXCLUSIONARY RULE THAT MERELY FORTIFIES BUT NEVER REPLACES THE STATUTE'S. SEE US v. DONOVAN 429 US 413, 432 n.22 (1977); BROWN v. IL.; HAYES v. FL.; DAVIS v. MS.

AS A MATTER OF LAW IT FAILS, AND, FACT TOO: GAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT IS SUBSTANTIVE, DISPOSITIVE EVIDENCE AS NO RECORD EXISTS -- NONE, NOWHERE -- OF THIS NAPUE PERJURY BY ADJUDGED FRANKS PERJURER = ISP O'BRIEN.

THE MCVEIGH COURT REJECTED THE GOV'T'S ARGUMENT THAT PURSUANT TO TUCKER v. WADDELL 83 F.3d 688 (4TH 1996) THERE IS NO CAUSE OF ACTION UNDER § 2703(c). 10 AT 220. IN TUCKER, THE COURT ANALYZED THE STATUTORY LANGUAGE AND FOUND THAT ALTHOUGH THE GOV'T MAY BE LIABLE FOR VIOLS. OF §§ 2703(a) OR (b), "THE LANGUAGE OF § 2703(c) DOES NOT PROHIBIT ANY GOV'T CONDUCT, AND THUS A GOV'T ENTITY MAY NOT VIOLATE THAT SUBSECTION BY SIMPLY ACCESSING INFO. IMPROPERLY." TUCKER AT 693. HOWEVER, TUCKER ACKNOWLEDGED THE POSSIBILITY THAT A GOV'T ENTITY MIGHT VIOLATE § 2703(c) BY AIDING-AND-ABETTING OR CONSPIRING IN THE PROVIDER'S VIOLATION. 10 AT 693 n.6. MCVEIGH REJECTED TUCKER BECAUSE THE SECTIONS OF § 2703 "WERE INTENDED TO WORK IN TANDEM TO PROTECT CONSUMER PRIVACY." MCVEIGH AT 220. (EMPHASIS)

HERE, THE UNDISPUTED RECORD PLAINLY SHOWS ISP (ALONG W/ EVERY OTHER FED'L + IL LAW ENFORCEMENT ENTITY UNDER THE "COLLECTIVE KNOWLEDGE" / "FELLOW OFFICERS" DOCTRINES) NOT ONLY WERE AIDERS, ABETTORS, CO-CONSPIRATORS TO HOLLYWOOD VIDEO'S 18 USC § 2710 (b)(2)(E) VIOL. OF LAW, EVERY COURT, OFFICER ... OTHER AUTHORITY ... IN OR BEFORE ... OTHER PROCEEDINGS ... OF THE USA ... +/OR A STATE, ARE LIABLE TOO -- INCLUDING JUDGES. ACCORD CARPENTER v. US 138 S.CT. 2206 FN#4 (6/22/18) (PROVIDERS WHO VIOLATE § 2710 (b) ARE LIABLE TO THE AGGRIEVED PER § 2710 (d)); SEE ALSO BORMES v. USA 133 S.CT. 12 (2012), BORMES v. USA 759 F.3d 793 (7TH 2014) (AT 795: PLAIN LANGUAGE OF STATUTE BREACHES "SOVEREIGN IMMUNITY").

AS A MATTER OF LAW CARUBA IS ENTITLED TO EQUITABLE RELIEF: TRO, PRELIM. + PERM. INJUNCTION, DECLARATORY JUDGMENT PER THE VPPA, AND, THE UNDISPUTED DPPA VIOLATION THEREAFTER. ON POINT: RODRIGUEZ v. SONY 801 F.3d 1045, FN#1 (9TH 2015) CITES STERK v. REDBOX 672 F.3d 535, 537 (7TH 2012) ("OBSERVING THAT 'THE STATUTE SAYS [18 USC § 2710] (d), BUT THIS MUST BE AN ERROR, NOT ONLY BECAUSE THE ONLY "RELIEF" PROVIDED THERE IS EXCLUSION OF THE PII FROM EVIDENCE, BUT ALSO BECAUSE IT IS VERY UNLIKELY THAT A VIDEO PROVIDER WOULD EVER BE SUBMITTING AS EVIDENCE IN A LEGAL PROCEEDING PII THAT THE PROVIDER HAD DISCLOSED.'"). (EMPHASIS)

... CARUBA'S COMPLAINTS PLAINLY PLED THAT HE SEEKS EQUITABLE RELIEF AGAINST THE ILLEGAL DISCLOSURERS: HOLLYWOOD VIDEO AND ALL AIDERS, ABETTERS, CO-CONSPIRATORS -- STATE + FED'L AGENTS / AGENCIES WHO NOT ONLY COMPELLED CARUBA'S PII ILLEGAL DISCLOSURE, THEN RECEIPT TO THEMSELVES, BUT ARE DOING SO BEFORE EVERY AUTHORITY ... EVERY PROCEEDING ... OF THE USA +/OR A STATE IN PERPETUITY. 18 USC §§ 2710 (d), § (e). WORSE, THE UNDISPUTED PLAIN RECORD SHOWS THEY CONCEALED THEIR LAWLESSNESS THEREAFTER AS FRANKS v. DE FLAGRANT VIOLS. OF LAW TO SUSTAIN, NOW, A MALICIOUS PROSECUTION AND WRONGFUL CONVICTION, FALSE IMPRISONMENT:

...

ON POINT: DAHLSTROM v. SUNTIMES 777 F.3d 937, 940 (7TH 2015) HAD AFFIRMANCE OF THE DISTRICT COURT'S RULING THAT PUBLISHING PII (DISCLOSURE) IN VIOL. OF THE DPPA / 18 USC § 2721 IS PROHIBITED BY MEDIA. INDEED, DAHLSTROM SOUGHT EQUITABLE RELIEF: INJUNC. + DECLARATORY. DAHLSTROM 34 F.SUPP.2d 998, 1001 (NDIL. 2014). THIS, IN SPITE OF PII HAVING ALREADY BEEN PUBLISHED / DISCLOSED ILLEGALLY, THE COURTS

NONETHELESS WERE SYMPATHETIC TOWARDS ENJOINING FUTURE PERPETUAL ILLEGAL DISCLOSURES/PUBLICATIONS. FURTHER, IT CITES TO PRECEDING PRECEDENCE: SENNE V. VILLAGE OF PALATINE III 695 F.3d 597 (7TH 2012, EN BANC) THAT ALSO RESULTED IN DECLARATORY AND INJUNCTIVE RELIEF. DISSENTER (POSNER, J) NOTES THAT BOTH THE VPPA + DPPA CONTAIN "IDENTICAL LANGUAGE." (p.32, ¶1).

ON POINT: AMAZON V. LAY 758 F. SUPP. 2d 1154, 1167-69 (ED. GA 2010) GRANTED THE VERY EQUITABLE RELIEF GARUDA HAS SOUGHT PER THE VPPA WHICH VIOLATES THE 1ST AMENDMENT IN TANDEM.

AMAZON AND THE INTERVENORS HAVE ESTABLISHED THAT THE 1ST AMEND. PROTECTS THE DISCLOSURE OF INDIVIDUAL'S READING, LISTENING, AND VIEWING HABITS [.] THE [NC ATTY GEN'L'S] DOR CONCEDES THAT THE 1ST AMEND. PROTECTS THEM FROM SUCH DISCLOSURES." ID AT 1168. (EMPHASIS)

CF DOE V. HARRIS 772 F.3d 563, 583 (9TH 2014) ("THE LOSS OF 1ST AMEND. FREEDOMS, FOR EVEN MINIMAL PERIODS OF TIME, UNQUESTIONABLY CONSTITUTES IRREPARABLE INJURY [- CITATION OMITTED] A COLORABLE 1ST AMEND. CLAIM IS IRREPARABLE INJURY [.]").

REASONS FOR GRANTING THE WRIT

ON POINT: JOHNSON v. WINSTEAD 900 F.3d 428, 436 (7TH 2018) (HECK NOT APPLICABLE PER FN#7)

("READ AS A WHOLE THE POINT OF FN#7 COMES INTO SHARPER FOCUS. CONSTITUTIONAL WRONGS THAT OCCUR AND ARE COMPLETE OUTSIDE A CRIMINAL PROCEEDING (FOR EXAMPLE, UNREASONABLE SEARCHES) ... ARE INDEPENDENTLY ACTIONABLE REGARDLESS OF THEIR IMPACT ON A CONVICTION, WHICH TAKES THEM OUTSIDE THE HECK RULE -- BUT W/ THE IMPORTANT QUALIFIER THAT THE SCOPE OF THE RECOVERY CANNOT INCLUDE CONVICTION-RELATED INJURIES. (EMPHASIS); WALLACE v. KATO 549 US 384, 387-88 (2007) CONCERNED THE ACCRUAL RULE FOR A §1983 CLAIM ALLEGING A 4TH AMEND. VIOLATION FOR UNLAWFUL ARREST. 549 US AT 387.")

JOHNSON AT 437: "A CAUSE OF ACTION FOR VIOLATION OF THE RIGHT TO BE FREE FROM UNREASONABLE SEIZURE IS COMPLETE AND PRESENT BEFORE ANY CONVICTION ENSUES -- INDEED, IT IS AN ACTIONABLE CONSTITUTIONAL WRONG INDEPENDENT OF ANY CONVICTION THAT MIGHT LATER BE OBTAINED (WITH OR WITHOUT THE FRUITS OF THE UNLAWFUL ARREST). ID AT 393-94. WALLACE THUS CLARIFIED THAT HECK DELAYS THE ACCRUAL OF A §1983 CLAIM 'UNTIL THE SETTING ASIDE OF AN EXTANT CONVICTION WHICH SUCCESS IN THAT TORT ACTION WOULD IMPUGN.' ID.") (EMPHASIS)

OVER AND OVER GARUBA CITED TO THIS ON-POINT CONTROLLING CASE LAW: BOTH IN GARUBA'S "REPLY" TO THE MAGISTRATE'S R+R, AND MOTIONS TO PROCEED ON APPEAL IFP, (DISTRICT + CIRCUIT COURTS). NEITHER (NOW RETIRED) JUDGE KAPALA NOR DISTRICT JUDGE DURKIN DISPUTED IT; RATHER THEY DELIBERATELY IGNORED IT.

GARUBA v. O'BRIEN 711 F.3d 751 (7TH 2013) MADE QUITE CLEAR: GARUBA WAS SUING, FIRST AND FOREMOST, FOR VIOLS. OF BOTH THE VPPA + DPPA. THEREAFTER, FALSE ARREST AND MALICIOUS ABUSE OF PROCESS -- NOT MALICIOUS PROSECUTION.

GARUBA v. NEESE 17 C 50337 (NO. IL.), 18-3398, 19-2669 (7TH) HAD DISTRICT JUDGE KAPALA (WRONGLY) CONCLUDE GARUBA'S BIRTHDATE OBTAINMENT WAS "INDEPENDENTLY SOURCED" FROM A "BOOKING PROCESS-VERSION" BY ADJUDGED FRANKS PERJURER ISP O'BRIEN WHEN THERE IS NO RECORD OF THIS OCCURRENCE BECAUSE IT SIMPLY NEVER HAPPENED. NAPUE PERJURY. GARUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT IS BRANDED "IRRELEVANT": THE RACIST DOG WHISTLE OF

IRRATIONALLY BIASED AND PREJUDICED IL. STATE + FED'L JUDGES / COURTS. BIGOTRY.

THE WORD OF AN HONEST ACTUALLY INNOCENT POOR BLACK MAN IS INFERIOR TO THE WORD OF A CROOKED CORRUPT WHITE COP WHO COMMITTED FRANKS PERJURY 3X BY SUBMITTING FALSE AFFIDAVITS IN SUPPORT OF ALL 3 WARRANTS EVER OBTAINED IN THIS CASE. ACCORD MILKE V. RYAN 711 F.3d 998 (9TH 2013) (COA ; HABEAS GRANT : FABRICATED INCULPATORY STATEMENTS BY POLICE OFFICER W/ HISTORY OF LYING / PERJURY WARRANTS NEW TRIAL); BELLAMY V. CITY OF NY 914 F.3d 727 (2ND 2019) (§1983 FOR FABRICATED EVIDENCE USED TO WRONGLY CONVICT).

SIMPLY PUT, GAKUBA HAS BEEN BLACKBALLED BY THE IL STATE + FED'L COURTS. PROOF : IN 2013-14 GAKUBA PERSISTED IN SEEKING EQUITABLE RELIEF CONSISTENT W/ AMAZON, DAHLSTROM, AND SEDIME V. PALATINE BY FILING SEVERAL PRO SE SUITS REFINING EACH TIME HIS PLEADINGS AS A LEGAL NEOPHYTE. RATHER THAN REVIEWING, MUCH LESS RECRUITING APPELLATE LAWYERS, THEY WERE DISMISSED W/O EXPLANATION OR REASONING. INSTEAD, THE USCA-7 THREATENED SANCTIONS TO STOP GAKUBA'S QUEST TO UPHOLD, DEFEND HIS 1ST AMEND. RIGHT PER THE VPPA + DPPA. SEE GAKUBA V. FARDON 14CV 50125 (ND.IL.), 14-02335 (7TH). THUS, THE IL. DIST. + CIRCUIT COURTS RENDER JUSTICE IN STERK I + II TRU REASONED REVIEW OF THE RESPECTIVE STATUTES -- VPPA (ESPECIALLY) -- BUT OBDURATELY REFUSE TO DO LIKEWISE FOR GAKUBA. SEE ALSO GAKUBA V. NEESE ? (US. SCT. 2019) (PRO SE CERTIORARI, MANDAMUS, SUPERVISORY ORDER OF GAKUBA V. NEESE 18-3398, 19-2669 (7TH)).

THE ONLY RATIONAL REASON TO BLACKBALL GAKUBA IS TO OBSTRUCT JUSTICE PER GAKUBA V. O'BRIEN 12CV 7296 (ND.IL.) 13CV 50218 - GAKUBA V. KARMER (ND.IL.). 1ST AMEND. RETALIATION VIOLS. BECAUSE GAKUBA'S BIRTHDATE WAS ILLEGALLY OBTAINED, THEN RELEIVED BEFORE STATE + FED'L GRAND JURIES IN VIOLATION OF 18 USC § 2710(d) BY THE SOLE GRAND JURY WITNESS -- ISP O'BRIEN -- GAKUBA'S IL STATE CRIMINAL INDICTMENT IS VOID AB INITIO. ACCORD GAKUBA V. BROWN 19CV 5429 (ND.IL.). VOID INDICTMENT = COURTS LACK JURISDICTION = JUDGE'S ABSOLUTE IMMUNITY IS LACKING TOO. SEE STERK 672 F.3d 535, 538 (7TH 2012) (§2710(d) VIOLATION DAMAGES WOULD ERASE JUDGE'S IMMUNITY)

CONCLUSION. THIS TRULY IS A CASE OF 1ST IMPRESSION W/ LOWER COURTS' DISREGARDING THE VPPA OR DIVIDED, CONFUSED IN THIS 31 Y.O. LAW'S ENFORCEMENT. CF. FISA 50 USC §1806e (TO § 2710(d)).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 10/28/2019

PETER GAHUDA (M52946)
VIENNA CC
669 STATE RT., 146 EAST.
VIENNA, IL 62995

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

PLRA C.R. 3(b) FINAL ORDER

September 27, 2019

No. 19-1640	PETER GAKUBA, Plaintiff - Appellant v. CHARLES O'BRIEN, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:12-cv-07296 Northern District of Illinois, Eastern Division District Judge Frederick J. Kapala	

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on August 5, 2019 and was given fourteen (14)days to pay the $505.00 filing fee. The pro se appellant has not paid the $505.00 appellate fee. Accordingly,

IT IS ORDERED that this appeal is **DISMISSED** for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of $505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b)*. *Newlin v. Helman*, *123 F.3d 429, 433* (7th Cir. 1997).

AUGUST 5, 2019 COURT ORDER

form name: **c7_PLRA_3bFinalOrder**(form ID: **142**)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
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Phone: (312) 435-5850
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ORDER

August 5, 2019

Before

WILLIAM J. BAUER, *Circuit Judge*
MICHAEL B. BRENNAN, *Circuit Judge*

No. 19-1640	PETER GAKUBA, Plaintiff - Appellant v. CHARLES O'BRIEN, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:12-cv-07296 Northern District of Illinois, Eastern Division District Judge Frederick J. Kapala	

The following are before the court:

1. **AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**, filed on July 15, 2019, by pro se Appellant Peter Gakuba.

2. **MOTION TO PROCEED ON APPEAL IFP**, filed on July 29, 2019, by pro se Appellant Peter Gakuba.

IT IS ORDERED that the motions are **DENIED**. The appellant shall pay the required docketing fee within 14 days or else this appeal will be dismissed for failure to prosecute.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Peter Gakuba (M-52946),	)	
	)	
Plaintiff,	)	
	)	Case No. 12 C 7296
v.	)	Appeal No. 19-1640
	)	
Charles O'Brien, et al.	)	Judge Thomas M. Durkin
	)	
Defendants.	)	

ORDER

Plaintiff's motion to proceed *in forma pauperis* on appeal [385] is denied. The Court certifies that the appeal is not taken in good faith. *See* 28 U.S.C. § 1915(a)(3). To proceed with his appeal, Plaintiff must either pay the appellate fee of $505 within fourteen days or seek review of this Court's denial of his *in forma pauperis* request in the United States Court of Appeals for the Seventh Circuit within thirty days of the entry of this order. Plaintiff's failure to either pay the filing fee or seek review of this order may result in the Court of Appeals' dismissal of his appeal for failing to prosecute it. The Clerk is directed to send a copy of this order to Plaintiff and to the United States Court of Appeals for the Seventh Circuit. The Clerk shall also send a copy of this order and docket entries 380 and 388 to the trust fund officer at Robinson Correctional Center. The trust fund officer is directed to collect the filing fee as to Plaintiff's previous appeals as addressed below. The trust fund officer is reminded of his or her obligation to ensure payment of outstanding filing fees before releasing any money to Plaintiff for any other purpose. The Court also directs the Clerk to ensure that a copy of this order is mailed to each facility where Plaintiff is housed until the filing fees have been paid in full.

STATEMENT

Plaintiff has filed an interlocutory appeal of several of the Court's recent rulings (the sixth appeal filed by Plaintiff in this matter) and seeks leave to proceed *in forma pauperis*.

"An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C.A. § 1915(a)(3). "[A]n appeal taken in 'good faith' is an appeal that, objectively considered, raises non-frivolous colorable issues." *Eiler v. City of Pana*, No. 14-CV-3063, 2014 WL 11395155, at *1 (C.D. Ill. Nov. 1, 2014) (collecting cases); *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000) (explaining that a finding of no good faith is comparable to a finding that an appeal would be frivolous). "An appeal is frivolous when the result is obvious or when the appellant's argument is wholly without merit." *Smeigh v. Johns Manville, Inc.*, 643 F.3d 554, 565 (7th Cir. 2011) (citation and internal quotation marks omitted).

The Court finds that the appeal is not taken in good faith as Plaintiff fails to articulate any non-frivolous colorable issues in his notice of appeal that merits review.

Accordingly, this Court finds no colorable issue meriting appellate review. Pursuant to § 1915(a)(3), the Court certifies that the appeal is not in good faith and that no appeal should be taken. Accordingly, Plaintiff's motion for leave to appeal *in forma pauperis* is denied. Plaintiff is ordered to remit to the Clerk of this Court the $505 appellate fee within fourteen days of the date of this order. If Plaintiff fails to comply with this order, the Court of Appeals may dismiss his appeal. *Evans v. Ill. Dep't. of Corr.*, 150 F.3d 810, 812 (7th Cir. 1998). Alternatively, Plaintiff may file a motion in the Seventh Circuit contesting this Court's § 1915(a)(3) certification within thirty days of the entry of this order. Fed. R. App. P. 24(a)(5).

In addition, Plaintiff and the trust fund officer are advised that the PLRA requires a 20% monthly deduction for *each* case or appeal in which Plaintiff is allowed to proceed *in forma pauperis* or is ordered to pay the filing fee until he pays all filing fees in full. *See Bruce v. Samuels*, — U.S. —, 136 S. Ct. 627, 632-33 (2016). The obligation to collect and remit funds exceeding $10 each month applies to *all* deposits to Plaintiff's account, including, for example, gifts from family and friends, not just income he earns at any institutional job. *See Lucien v. DeTella*, 141 F.3d 773 (7th Cir. 1998). Plaintiff has now been ordered to pay the filing fee in four appeals: 19-1536 and 19-1598 as to appeals in this matter, and 19-1537 and 19-1597 as to appeals in 13 C 50128. Plaintiff owes $505 for each appeal. Thus, the trust account custodian is directed to deduct **20% + 20% + 20% = 20%, for a total of 80%**, each time his monthly balance exceeds $10 until these filing fees are paid in full. Moreover, collections from his account follow Plaintiff, even if he is transferred to another facility.

Date: 6/11/2019

/s/ Thomas M. Durkin

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Peter Gakuba,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No: 12 C 7296
	)	
Charles O'Brien, et al.,	)	
	)	
Defendants.	)	Judge Frederick J. Kapala

ORDER

The court has reviewed the magistrate judge's report and recommendation ("R&R") [312] and agrees with the magistrate judge that plaintiff's motions for equitable relief [311] and emergency equitable relief [323] should be denied. In addition, plaintiff's motion to strike defendants' response [349] is denied.

STATEMENT

Plaintiff, Peter Gakuba, brings this action for injunctive and declaratory relief, claiming that defendants illegally obtained plaintiff's personal information and used it to arrest him in connection with the sexual assault of a juvenile. Before the court is plaintiff's objection to the magistrate judge's Report and Recommendation ("R&R") that injunctive and declaratory relief be denied because a favorable ruling would be inconsistent with his criminal conviction. See Hoard v. Reddy, 175 F.3d 531, 533 (7th Cir. 1999). For the reasons stated below, the court overrules plaintiff's objections to the R&R and adopts the magistrate judge's recommendation to deny, though on additional grounds than those mentioned in the R&R.

I. BACKGROUND

The relevant facts to this case have been oft-repeated in the many years that this case has existed and will only be briefly recited here. Plaintiff sued defendants on or about September 12, 2012 pursuant to § 1983 for damages and injunctive relief stemming from a 2006 accusation of kidnaping and rape that resulted in plaintiff's arrest. Plaintiff was charged with three counts of Aggravated Criminal Sexual Abuse, in violation of 720 ILCS 5/12-16(d), a Class 2 Felony, in the Winnebago County Circuit Court in People of the State of Illinois v. Peter Gakuba, Case No. 06 CF 4324. In 2012, Plaintiff filed this action, presenting claims against defendants for false arrest, illegal search of his hotel room and seizing his belongings, and abusing the judicial process by attempting to revoke his pretrial bond to dissuade him from filing a civil suit. Plaintiff was convicted on or about April 27, 2015, and sentenced to twelve years in prison on or about June 29, 2015.

On September 10, 2018, plaintiff filed a motion seeking equitable relief requesting that the

court prohibit the admission of "personal identifiable information"—i.e., his name and birthdate—obtained by the illegal search of his hotel room. On September 14, 2018, the magistrate judge issued an R&R denying plaintiff's motion, to which plaintiff timely objected.[1] Thus, before the court are plaintiff's objections to the R&R.

II. ANALYSIS

Pursuant to Rule 72(a) of the Federal Rules of Civil Procedure, the district court must "consider timely objections [to an R&R order] and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. Proc. 72(a). Accordingly, because the motion concerns non-dispositive matters, this court will review the magistrate judge's R&R under the "clearly erroneous" standard. See Retired Chicago Police Ass'n v. City of Chicago, 76 F.3d 856, 869 (7th Cir. 1996).

Plaintiff first objects to the R&R, arguing that because evidence was illegally retrieved by defendants he is entitled to equitable relief, i.e., that defendants may not use this evidence in this action. In addition to the reasons for denial set forth by the magistrate judge the court concludes there are alternative bases to deny plaintiff's requests for injunctive and declaratory relief. Despite being filed as motions for "equitable relief," both the objection and the underlying motions [311] [323] seeking to suppress evidence illegally obtained in this civil action are in actuality motions in limine to exclude evidence disguised as motions for equitable relief. In fact, plaintiff does not even mention Federal Rule of Civil Procedure 65 in his analyses supporting his motions. Motions in limine are simply not appropriate at this stage of litigation where discovery has yet to open. See Yager v. Empress Casino Hammond Corp., No. 97 C 3483, 1998 WL 67612, at *1 (N.D. Ill. Feb. 9, 1998) (rejecting a motion in limine as "premature" for being filed before defendant filed its answer). Our court's standing order on motions in limine contemplates parties alerting the court to the intention to file motions in limine "not later than" with the submission of the final pretrial order. Indeed, we state pursuant to Local Rule 37.2 that motions in limine are to be filed as separate documents from the Final Pretrial Order, the form for which is located online. After discovery has taken place, the court will be in a better position to determine whether the defendants' intention to admit the "personal identifiable information" (assuming they do intend to admit it) is proper.

Even if the court were to address the objection and motion as seeking injunctive relief, the court finds at this juncture that plaintiff would not be able to show that he has no adequate remedy at law—a threshold requirement for injunctive relief. Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the U.S. of Am., Inc., 549 F.3d 1079, 1086 (7th Cir. 2008). That is because plaintiff does have an adequate remedy at law by way of a motion in limine to exclude the evidence. In the criminal context, there is little question that motions to suppress are an adequate remedy at law. Inmates of Attica Corr. Facility v. Rockefeller, 453 F.2d 12, 21 (2d Cir. 1971); Spanier v. Kane, 34 F. Supp. 3d 524, 529 (M.D. Pa. 2014); United States v. Douleh, 220 F.R.D. 391, 397 (W.D.N.Y.

[1]On September 28, 2018, plaintiff filed a motion for "emergency equitable relief," seeking a temporary restraining order, preliminary and permanent injunctions, and declaratory judgment that all seek the same equitable relief as his previous motion. The magistrate judge transferred the motion directly to this court because of its overlap with the first motion on which the magistrate judge issues his R&R. The ruling on the instant motion resolves the subsequent filing by plaintiff.

2003). Where there is a lesser liberty interest at stake in a civil case than in a criminal case, the court concludes this principle applies to plaintiff's case with equal force. Thus, the court overrules plaintiff's objection as premature.

As a separate matter, plaintiff filed a motion on November 30, 2018 to strike defendants' response. The basis for plaintiff's motion is that defendants do not have standing to argue matters of law. Plaintiff provides no authority for this proposition, and the court sees no basis for it. The court denies this motion as well.

III. CONCLUSION

The court has reviewed the magistrate judge's R&R and agrees with its disposition. Accordingly, the objections from plaintiff are overruled and plaintiff's motions for equitable relief are denied. In addition, the court denies plaintiff's motion to strike defendants' response.

Date: 3/20/2019

ENTER:

FREDERICK J. KAPALA
District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS WESTERN DIVISION

Peter Gakuba,	)	
	)	
Plaintiff,	)	Case No: 1:12 CV 07296
	)	
v.	)	
	)	Judge: Iain D. Johnston
Charles O'Brien, et al.	)	
Defendants.	)	

REPORT AND RECOMMENDATION

It is this Court's Report and Recommendation that the plaintiff's motion for injunctive and declaratory relief [311] be denied because a favorable ruling would be inconsistent with his criminal conviction. *See Hoard v. Reddy*, 175 F.3d 531, 533 (7th Cir. 1999) ("A civil rights suit is no more a proper method of collateral attack on a conviction when an injunction is sought than when damages are sought," the latter of which "is blocked by *Heck v. Humphrey*, 512 U.S. 477 (1994)). Any objection to this Report and Recommendation is due 10/3/2018. Failure to object may constitute a waiver of objections on appeal. *See Provident Bank v. Manor Steel Corp.*, 882 F.2d 258, 260 (7th Cir. 1989).

Date: 9/14/2018

/s/ Iain D. Johnston
U.S. Magistrate Judge