

19-8395

No. _____

Supreme Court, U.S.
FILED

DEC 02 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

BAKUBA, PETER

— PETITIONER

(Your Name)

VS.

D'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 BAKUBA (MS2946)

(Your Name)

VIENNA IL

6695 STATE RT., 146 EAST

(Address)

VIENNA, IL 62995

(City, State, Zip Code)

H/A

(Phone Number)

ORIGINAL

GAKUBA
PET.

##

v. O'BRIEN, 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. LAI 768 F.Supp.2d 1154 (E.D.WA 2010); CARPENTER v. US 138 S.Ct. 2206 F.M.R. 4 (4/22/18)

CANFIELD v. CITY OF OKC 248 F.3d 1214, 1233 (10th 2001); STEAK 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); MONEIGH v. COHEN 983 F.Supp.2d 215 (D.DC 1998)

SEMHE 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. LAI + 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 + SEMHE v. PALATINE. THE USDC - NO. 11 - W.D.N. AND USCA 7 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.

☒ 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 GAKUBA A COPY OF HIS COMPLAINT (AUG.-OCT. 2018
DOCKET ACTIVITY IN GAKUBA v. O'BRIEN 12CV7296 (NO. IL.)).

GAKUBA
PL.

#

v.
O'BRIEN ET AL
DEFTS.

U.S. SUPREME COURT

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BAKUBA
PET.

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v. O'BRIEN, ET AL
RESPS.

U.S. SUPREME COURT

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11

DRIVER PRIVACY PROTECTION ACT

18 USC § 2721 ET SEQ.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

18 USC § 2701 ET SEQ.

VIDEO PRIVACY PROTECTION ACT

18 USC § 2710 ET SEQ.

FOREIGN INTEL. SURVEILLANCE ACT

50 USC § 4806e

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

☒ 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,

☒ 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,

☒ 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

☒ For cases from **federal courts**:

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

☒ 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)

7th, 4th, 14th AMENDS VIOLATIONS PER VIOLATING 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 OF KC 248 F.3d 1214 (10th 2001); AMAZON v. LA 758 F.3d 1154 (9th 2014)

CARPENTER v. US 138 S.Ct. 2206 (6/13/2018)

US v. WILSON 630 F.3d 750, 757 (11th 2013) (CITES US v. DOMOVAN 429 U.S. 413, 432 n. 22 (1977))

JOHNSON v. WINSTEAD 900 F.3d 428, 436-37 (7th 2018) (CITES HECK 576 U.S. 622 (2005) + WALLACE v. KATO 549 U.S. 384, 387-88 (2006))

(2) PAULSTROM v. SUNTIMES 777 F.3d 937 (7th 2015); SENNE v. PALATINE 695 F.3d 597 (7th 2012, EN BANC)

STATEMENT OF THE CASE

①

INTRODUCTION / BACKGROUND

THIS IS A CASE OF 1ST IMPRESSION INVOLVING THE IDENTITY THEFT OF GAKUBA BY LAW ENFORCEMENT AGENCIES THROUGH THE DELIBERATE AND EXPLOITATIVE VIOLATION OF THE VPPA (PRIMARY) THEN OPRA (SECONDARILY) WHEN THEY COMPELLED THE ILLEGAL DISCLOSURE OF GAKUBA'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 GAKUBA 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 GAKUBA'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. LAZ 758 F. SUPP. 2d 1154 (E.D.WA 2010); 5TH AMEND. LATIF v. HOLDER 3:10cv750-BR (D.DC).

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 RIBDSTE, COMPLAINED ABOUT M.S.'S CHILD PORN TRAFFICKING (INCL. TEXTING "SELFIES") TO DEFLECT THEIR OUTRAGE, INSTEAD M.S. CLAIMED HE WAS KIDNAPPED AND RAPED BY AN 18 Y.O. WHITE MALE NAMED "PHIL." (GAKUBA: A THEN 36 Y.O. BLACK MALE)

NOT BELIEVING M.S.'S INCREIBLE 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 "SLARY 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 GAKUBA'S HOLLYWOOD VIDEO CUSTOMER ACCT. INFO. INCLUDING GAKUBA'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 ILS 5/12-16 (4)

RETURNING TO THE MARRIOTT THEY ASKED THE FRONT DESK CLERK "DO YOU HAVE SOMEONE HERE BY THAT NAME. GEE WE SURE DO." ASA KURTE EXCITEDLY UTTERED IN ARGUING THAT THIS EVIDENTIARY FUND WAS THE PRINCY ESTABLISHING "100% PROBABLE CAUSE." UPON RECEIPT OF MORE "P11" -- 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. VIOL. 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 SCHAFFER, BUT FROM CHICAGO, IL -- THEN 29 Y.O. BEAD 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 FAULTS WERE EXPOSED, 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 URBWR WHILE PROSE 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 (23) 150744-U (DIRECT APPEAL) AND PEOPLE V. GAKUBA 2019 IL APP (26) 170794-U (POST-CONVICTION) THE IL APP. CT. RECKLESSLY DISREGARDED GAKUBA'S INSISTENCE THAT THEY OBEY + ENFORCE VPPA'S 18 USC § 2710 (b) EXCLUSIONARY MANDATE IN A 58 PAGE + 26 PAGE OPINIONS AFFIRMING GAKUBA'S WRONGFUL CONVICTIONS AND SENTENCE. INSTEAD, THEY FANSIFFLY CONCLUDE THAT GAKUBA'S BIRTHDATE WAS "INDEPENDENTLY SOURCED" SUBSEQUENT TO ITS ILLEGAL OBTAINMENT BY O'BRIEN

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

IN JUNE 2011 GARUBA WHILE PRO SE ANNOUNCED AND HAND-TEMPERED IN OPEN COURT TO THE PROSECUTORS
AND TRIAL JUDGE GARUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT. IT HAS BEEN IGNORED BY EVERYONE.

AS A MATTER OF FACT, AND W/ NO RECORD AT ALL, GARUBA'S AFFIDAVIT IS SUBSTANTIVE, DISPOSITIVE
EVIDENCE IN GARUBA'S FAVOR TURNING ADJUDGED FRANKS PERJURER ISP O'BRIEN INTO A NARPOE PERJURER
FOR HAVING FALSELY TESTIFIED AT GARUBA'S 2 1/2 DAY JURY TRIAL IN APRIL 2015 TO THIS FALSE
FABRICATED "BOOKING PROCESS" Q + A.

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

IN GARUBA V. HEESE 17CV50337 (NO.11), 18-3398 (7TH) HABEAS RELIEF WAS DENIED, 28 USC
§§ 2253, 2254. ACKNOWLEDGING GARUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT, THE US DISTRICT COURT
FAMEFULLY CONCLUDED IT TO BE "IRRELEVANT" YET CITED NO AUTHORITY -- RECORD OR LAW. IRRATIONAL.

IN GARUBA 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)(C) -- BUT W/ ANOTHER MEANS OF OBTAINMENT:
18 USC § 2710 (b)(2)(E). GARUBA AT 403, CITES DAHIEL V. CAMTRELL 375 F.3d 372, 382 (6TH 2004).

INDEED, DAHIEL FM#4 SPECIFICALLY DISTINGUISHES ITSELF FROM GARUBA'S ON-POINT CASE LAW:

CAMFIELD V. CITY OF OKC 248 F.3d 1214, 1233 (10TH 2001)

NOW GARUBA RENEWS HIS STATUTORY RIGHTS' ENFORCEMENT IN GARUBA V. O'BRIEN 12CV7296 (NO.11.)
BY CITING CAMFIELD, AMAZON V. LAY 758 F.SUPP.2d 1154 (ED.WA 2010), CARPENTER V. US 138 S. CT. 2206
FM#4 (2/22/12). (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 GARUBA'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 GARUBA SOUGHT APPELLATE REVIEW FROM THE USCA-7 IEP, US DISTRICT JUDGE DURKIN REAFFIRMS
GARUBA'S APPEAL IS IN BAD FAITH IN A 2-PAGE WHOLLY CONCLUSORY, ROPE, FORMULATIC LEGAL CONCLUSION.

AUGUST 5, 2019 US CIRCUIT JUDGE BRENNAN SUSPICIOUSLY DENIES BOTH BAKUBA'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 BAKUBA'S VOCEIFEROUS OBJECTIONS THAT A DIFFERENT DIST. JUDGE DECIDE BAKUBA'S HABEAS, SEPARATE FROM THIS CIVIL SUIT) - BAKUBA v. O'BRIEN 19-1640 (7TH)

II

DISCUSSION / ARGUMENT

AMAZON v. IAY 758 F. SUPP. 2d 1154 (E.D. 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.D.C. 1998), DAHLSTROM v. SOMETIMES 777 F.3d 937 (7TH 2015).

BAKUBA'S PRIVACY INTERESTS ARE GOVERNED BY STATUTE OVERLAPED 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 STARK II v. REOBEX 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.)).

BAKUBA 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.D.C. 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/HER RIGHTS UNDER THE ECPA. ID. AT 216.

MCVEIGH ALSO ALLEGED THAT HIS RIGHTS WERE ALSO VIOLATED UNDER THE MAU'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 MAU'S ACTIONS WERE 'LIKELY ILLEGAL UNDER THE ... ECPA.' 10 AT 219. THE COURT STATED THAT 'IN SOLICITING AND OBTAINING ... PERSONAL INFO. ABOUT MCVEIGH FROM ADL' THE GOVT 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. 10 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 GARUBA'S ILLEGAL BIRTHDATE OBTAINMENT -- FABRICATED HEARSAY FALSELY ATTRIBUTED TO GARUBA. 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. DOHOVANY 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: GARUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT IS SUBSTANTIVE, DISPOSITIVE EVIDENCE AS NO RECORD EXISTS -- NONE, NOWHERE -- OF THIS MAUVE PERJURY BY ADJUDGED FRANKS PERJURER = ISP O'BRIEN.

THE MCVEIGH COURT REJECTED THE GOVT'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 GOVT MAY BE LIABLE FOR VIOLS. OF §§ 2703(a) OR (b), "THE LANGUAGE OF § 2703(c) DOES NOT PROHIBIT ANY GOVT CONDUCT, AND THUS A GOVT ENTITY MAY NOT VIOLATE THAT SUBSECTION BY SIMPLY ACCESSING INFO. IMPROPERLY." TUCKER AT 693. HOWEVER, TUCKER ACKNOWLEDGED THE POSSIBILITY THAT A GOVT 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 ENFORCE-
MENT ENTITY UNDER THE "COLLECTIVE KNOWLEDGE" / "FELLOW OFFICER" DOCTRINES) NOT ONLY WERE
AIDERS, ABETTORS, CO-CONSPIRATORS TO HOLLYWOOD VIDEOS 18 USC § 2710 (b)(2)(C) 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 FH#4 (4/22/18)
(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 GARUBA IS ENTITLED TO EQUITABLE RELIEF: TRD, PRELU. + PERM. INJUNCTION,
DECLARATORY JUDGMENT PER THE VPPA, AND, THE UNDISPUTED DPPA VIOLATION THEREAFTER.

ON POINT: RODRIGUEZ V. SONY 801 F.3d 1045, FH#1 (9th 2015) CITES STEAK 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)

GARUBA'S COMPLAINTS PLAINLY PLED THAT HE SEEKS EQUITABLE RELIEF AGAINST THE ILLEGAL DISCLOSURERS:
HOLLYWOOD VIDEO AND ALL AIDERS, ABETTORS, CO-CONSPIRATORS -- STATE + FED'L AGENTS / AGENCIES WHO
NOT ONLY COMPELLED GARUBA'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 VIOL. OF LAW TO SUSTAIN, NOW, A MALEVOUS
PROSECUTION AND WRONGFUL CONVICTION, FALSE IMPRISONMENT.

ON POINT: DAHLSTROM V. SOMETIMES 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: INJUNE. + DECLARATORY. DAHLSTROM 39 F. SUPP. 2d
998, 1001 (W.D. 2014). THIS, IN SPITE OF PII HAVING ALREADY BEEN PUBLISHED / DISCLOSED ILLEGALLY, THE COURTS
9/13

NONETHELESS WERE SYMPATHETIC TOWARDS ENJOINING FUTURE PERPETUAL ILLEGAL DISCLOSURES/

PUBLICATIONS. FURTHER, IT CITES TO PRECEDING PRECEDENCE: SENNEV 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, 171).

ON POINT: AMAZON V. LAY 758 F.SUPP.2d 1154, 1167-69 (E.D.WA 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 [MC ATTY GEN'L'S]

DOR CONCEDES THAT THE 1ST AMEND. PROTECTS THEM FROM SUCH DISCLOSURES. "ID AT 1168. (EMPHASIS)

CF DDE 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 FM#7)

(^{*} READ AS A WHOLE THE POINT OF FM#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 EXISTANT CONVICTION WHICH SURRESS IN THAT TORT ACTION WOULD IMPUGH.' 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 IEP, (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 VIOL. OF BOTH THE VPPA + DPPA. THEREAFTER, FALSE ARREST AND MALICIOUS ABUSE OF PROCESS -- NOT MALICIOUS PROSECUTION.

GARUBA V. NEESE 17CYSD337 (NO.11), 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. MAJUE 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 BROOKED 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 HEWTRIAL); BELLAMY v. CITY OF NY 914 F.3d 727 (2ND 2019) (\$1983 FOR FABRICATED EVIDENCE USED TO WRONGLY CONVICT).

SIMPLY PUT, GARUBA HAS BEEN BLACKBALLED BY THE IL STATE + FED'L COURTS. PROOF: IN 2013-14 GARUBA PERSISTED IN SEEKING EQUITABLE RELIEF CONSISTENT W/ AMAZON, DAHLSTROM, AND SEBINE 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 GARUBA'S QUEST TO UPHOLD, DEFEND HIS 7ST AMEND. RIGHT PER THE VPPA + DPPA. SEE GARUBA v. FARDOH 14CY50125 (NO.IL.), 14-02335 (7TH). THUS, THE IL DIST + CIRCUIT COURTS RENDER JUSTICE IN STERK I + II TRW REASONED REVIEW OF THE RESPECTIVE STATUTES -- VPPA (ESPECIALLY) -- BUT OBSCURATELY REFUSE TO DO LIKEWISE FOR GARUBA. SEE ALSO GARUBA v. NEESE ? (US.SCT. 2019) (PRO SE CERTIORARI, MANDAMUS, SUPERVISORY ORDER OF GARUBA v. NEESE 18-3398, 19-2669 (7TH)).

THE ONLY RATIONAL REASON TO BLACKBALL GARUBA IS TO OBSTRUCT JUSTICE PER GARUBA v. O'BRIEN 12CY7296 (NO.IL.) 13CY50218 - GARUBA v. KARNER (NO.IL.). 7ST AMEND. RETALIATION VIOL. BECAUSE GARUBA'S BIRTHDATE WAS ILLEGALLY OBTAINED, THEN RECEIVED BEFORE STATE + FED'L GRAND JURIES IN VIOLATION OF 18 USC § 2710(d) BY THE SOLE GRAND JURY WITNESS -- ISP O'BRIEN -- GARUBA'S IL STATE CRIMINAL INDICTMENT IS VOID AB INITIO. ACCORD GARUBA v. BROWN 19CY5429 (NO.IL.). VOID INDICTMENT = COURTS LACK JURISDICTION = JUDGES' ABSOLUTE IMMUNITY IS LACKING TOO. SEE STERK 672 F.3d 535, 538 (7TH 2012) (§2710(d) VIOLATION DAMAGES WOULD ERASE JUDGES' 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. OF FISA. SO USE §1806e (*§ 2710(d)).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 10/28/2019

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