No. 20-1540

IN THE SUPREME COURT OF THE

UNITED STATES

VICTOR J. EDNEY JR. - PETITIONER

versus

EONDRA LAMONE HINES; OFFICER JORDAN WENKMAN; OFFICER BOBBY KING; SERGEANT DAVID CONLEY; SERGEANT KEITH VAUGHAN – RESPONDENTS

"ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT"

"PETITION FOR WRIT OF CERTIORARI"

PRO SE: VICTOR J. EDNEY JR.

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QUESTIONS PRESENTED FOR REVIEW

1. Why should the petitioners' motion of frivolous claims be granted by this court?
2. Why did the petitioner not negate the respondents qualified immunity question in the United States Court of Appeals reply brief?
3. Why should the petitioner be granted - the wavier of governmental immunity; permission to sue?
4. Why should sovereign immunity not stay intact or why should the respondents not get qualified immunity?
5. Why the petitioners' motion of default judgment should be granted?

A LIST OF ALL PARTIES TO THE PROCEEDINGS

VICTOR J. EDNEY JR. - PETITIONER

EONDRA LAMONE HINES - RESPONDENT

OFFICER JORDAN WENKMAN - RESPONDENT

OFFICER BOBBY KING - RESPONDENT

SERGEANT DAVID CONLEY - RESPONDENT

SERGEANT KEITH VAUGHAN – RESPONDENT

A LIST OF ALL PROCEEDINGS IN FEDERAL, AND APPELLATE COURT OF THE UNITED STATES

United States District Court of the Western District the Waco Division: in docket 24, 25, 26, 27, 28, Plaintiff - Victor J. Edney Jr. versus Defendants - Eondra Lamone Hines; Officers: Jordan Wenkman, Bobby King, David Conley, and Keith Vaughn, in the Motion of Frivolous Claims in which judgment was entered on the 26th of March 2020.

United States District Court of the Western District the Waco Division: in docket 15,19, and 20 Plaintiff - Victor J. Edney Jr. versus Defendants - Eondra Lamone Hines; Officers: Jordan Wenkman, Bobby King, David Conley, and Keith Vaughn, in the Motion for Default Judgment in which judgment was entered on the 26th of March 2020.

United States Court of Appeals Fifth Circuit: in docket: no. 20-50327, Plaintiff - Victor J. Edney Jr. versus Defendants - Eondra Lamone Hines; Officers: Jordan Wenkman, Bobby King, David Conley, and Keith Vaughn, in the Motion of Frivolous Claims in which judgment was entered on the 23rd of October 2020.

United States Court of Appeals Fifth Circuit: in docket: no. 20-50327, Plaintiff - Victor J. Edney Jr. versus Defendants - Eondra Lamone Hines; Officers: Jordan Wenkman, Bobby King, David Conley, and Keith Vaughn, in a Petition for rehearing in which judgment was entered on the 30th of November 2020.

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CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE

OPINIONS BELOW

In appellate court:

The opinion of the United States Court of Appeals - appears at Appendix (i) to the petition and was reported on 23rd day of October 2020 and is unpublished.

In federal court:

The opinion of the United States District Court appears at Appendix (ii) to the petition and was reported on the 26th day of March 2020.

JURISDICTION

In appellate courts:

The date on which the United States Courts of Appeals decided my case was the 23rd of October 2020.

No petition for rehearing was timely filed in my case. But a motion to file rehearing and rehearing en banc out of time was filed and granted.

The petition for rehearing was denied by the United States Court of Appeals on the 30th of November 2020 and a copy of the order denying rehearing appears at Appendix (iii). With the above stated, the jurisdiction of this Court is invoked under 28 U. S. C. section 1254(1).

THE CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED IN THE CASE

First Amendment to the United States Constitution: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Texas Constitution: Article 1. Bill of rights; Sec. 8. Freedom of speech and press; Libel. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Fourth Amendment to the United States Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Texas Constitution: Article 1. Bill of rights; Sec. 9. Searches and seizures. The people shall be secure in their persons, houses, papers, and possessions, from all unreasonable

seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Texas Civil Practice and Remedies – LIBEL Ch. 73.001. Elements of Libel: A libel is a defamation expressed in written or other graphic form that tends to blacken the memory of the dead or the tends to injure a living person's reputation and thereby expose the person to public hatred, contempt or ridicule, or financial injury or to impeach any person's, honesty, integrity, virtue, or reputation or to publish the natural defects of anyone and thereby expose the person to public hatred, ridicule, or financial injury.

Motion of frivolous claims: Section 105.002 states: a party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party. . . is entitled to recover, in addition to all other costs allowed by law or rule, fees, expenses, and reasonable attorney's fees incurred by the party in defending the agency's action if: (1) the court finds that the action is frivolous, unreasonable, or without foundation; and (2) the action is dismissed or judgment is awarded to the party.

Civil Practice and Remedies: Title 5. Government Liability Ch. 101. 025 - Wavier of governmental immunity; permission to sue: states two exceptions: (a) Sovereign immunity to suit is waived and abolished to the extent of liability created by this chapter. (b) A person having a claim under this chapter may sue a government unit for damages allowed by this chapter. It notes: Note 1, if a plaintiff fails to prove the existence and violation of legal duty sufficient to impose liability under the Texas Tort Claims Act

(TTCA), sovereign immunity remains intact (Corbin v. City of Keller).

Motion to recover: section 105.003. Motion of Frivolous Claims. Which states: The motion must state if the action is dismissed or judgment is awarded to the party, the party intends to submit a motion to the court to recover fees, expenses, and reasonable attorney's fees.

STATEMENT OF THE CASE

I Victor J. Edney Jr., first time - pro se' petitioner - who requests' the Supreme Court of the United States to: grant this petition for his motion of frivolous claims that has now fulfilled the federal question jurisdiction. The petitioner is asking the court to grant this petition because he has been denied by the two lower levels of the federal court system - district and appellate courts for two different discretionary reasons and for the stated - this case requires immediate determination in this court after this statement of the case. The motion of frivolous claims is now on appeal in the United States Court of Appeals the Fifth Circuit based on part thereof the United States District Court for the Western District of Texas the Waco Division - decision entered for final judgment towards the Texas statue: motion of frivolous claims to recover relief that was denied for recommended reasons here:

"A party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party . . . is entitled to recover . . . a total amount not to exceed $1 million for fees, expenses, and reasonable attorney's fees incurred by the party in defending the agency's action." Tex. Civ. Prac. & Rem. Code §

105.002. Plaintiff filed this motion to recover costs under the Texas Civil Practice and Remedies Code. Pl.'s Mot. for Finding of Frivolous Claims, ECF No. 24. However, no state agency has asserted a cause of action against Plaintiff. The only claims in the present case are asserted by Plaintiff. There are no causes of action asserted against Plaintiff. Therefore, it is recommended that Plaintiff's Motion of Frivolous Claims should be denied." . . . . . .

The recommended reasons of denial by the district court are being petitioned to assist in this libelous lawsuit against the respondents who initially violated our constitutional civil rights of the – first and fourth amendments of the United States Constitution, and the same as in the Texas Constitution under article. 1 section 8. Freedom of speech and press: libel; and article 1 section 9. Searches and seizures. And now accordingly, the case has transition to the United States Court of Appeals the Fifth Circuit. While on appeal, the Fifth circuit reviewed the brief of the petitioner - and then the reply briefs of the respondents and petitioner . . . and then the Fifth Circuit decided to deny the petitioners' motion of frivolous claims and oral argument for a non-recommended reason appealed - from the district court. . . In the Fifth Circuits panel opinion (per curiam); they denied the petitioners motion and oral argument because the petitioner did not negate the respondents - raised question of quailed immunity. And for the court, the petitioner did not answer the respondents raised question of qualified immunity because of the districts' court recommended reasons of denial - differed . . .whereas the petitioner was under the impression that the district courts

recommendations should have only been corrected and answer with no assumption by the petitioner in order to prevail over the respondent's in this appealed civil suit. But that is not the case according to the appellate court. The petitioner should have negated the respondents raised question of qualified immunity in which the defendants stated it involves a two-step analysis: (1) whether the facts alleged by the plaintiff demonstrate a violation of a clearly established constitutional right and (2) whether the defendant's conduct was objectively reasonable in light of the established right. Now with that stated, the petitioner is asking the Supreme Court of the United States to review this statement of the case that reports the respondent officers conduct that was not objectively reasonable which made violations occur that are of clearly established constitutional rights of the first and fourth amendment of the United States Constitution. By reviewing this statement of the case, the court will hear and allow the petitioner to answer the respondents entitled federal question jurisdiction inquiry that exists. At this time, the petitioner will again ask the court to grant this statement of the case for his motion of frivolous claims that requires immediate determination in this court. . . for the libel acts of suicide and statements of being mentally ill asserted and pressed by the respondent officers who are licensed under the Texas Commission on Law Enforcement agency that has ruined the petitioners' identity and reputation locally and statewide in Texas.

Now the statement of the case, on April 24, 2018 - the city of Waco police department (WPD) received a report of a possible drowning and a attempted suicide in progress in a portion of the Brazos river that flows through a local park (as seen in the

reference of the police sequence) in the ROA.14-15. WPD arrived on the scene of Pecan Bottom and a crowd of people who are unknown - directed officers Wenkman and King to a man, later identified as the petitioner, who was standing to his ankles in the river.

When officers approached the petitioner along the riverbank this night . . . on the other hand the petitioner saw two guys at night with flashlights who wanted to ask him questions about a drowning. In addition, stating were Waco P.D. can you come to the top of the riverbank where we at . . . the petitioner did with a sense of urgency. As the petitioner approached them - he asked the police if they can identify themselves because it was dark - and they did. After that the petitioner started answering their questions, like have you seen anyone in the water drowning? The petitioner stated no one was drowning near him. Immediately following the officers ask why where you in the water and the petitioner explained. For instance, he was looking for his key sole in the water. Following that the petitioner told the officers from first instance how he lost the key sole - that he was looking for; like, I throw a ball at a target - that was in front of a tree - that hit the target - then hit the tree and rolled in the water. The petitioner then retrieved the ball from the water, while doing so he lost the key sole. After telling the officers what happened, the police tackled and arrested the petitioner. And from assumption – the police assumed the petitioner stated an illogical story. But it was what truly happened! Officers in the witness statement on record said: because of the petitioners' disoriented behavior and explanations, as well as the initial report of a possible suicide, the officers decided to detain the petitioner while they attempted to determine if he posed a threat to

himself or others – stated in witness statements in the ROA.13. At this point, the officers violated the fourth amendment of the United States Constitution. The officers in their witness statements never seen anyone trying to commit suicide or heard the petitioner himself verbalizes trying to kill himself. . . so why place him under assert in hand cuffs. For this instance, the petitioner will imply the plain view doctrine to assist with the violated fourth amendment of the constitution because the officers acted based upon hearsay and not by sight - assaulting the petitioner violating the Texas penal code 22.01/Assault. Under the plain view doctrine police may seize without a warrant when they observed incriminating evidence in plain view. Again, the respondent never seen anything. And to add to the stated, in ROA.13 officers stated the petitioner did not wish to harm himself and was not a threat to others - the decision was made to release the petitioner. With the existent presented violation of the fourth amendment of the constitution by the police respondents' - sovereign immunity should not stay intact and the officers do not deserve qualified immunity.

After the initial violation of the officers, the officers walked the petitioner in hand cuffs for about two hundred yards to a patrol vehicle with no hassle and then searched him – and for the court - you can check their body warn cameras' that are now required on all officers. While the officers were searching, they seen the petitioners' firearm. They asked do you have a licensed and the petitioner told them yes. They continued to search. . . and during the process the officers assaulted him with body weight pressure and the twisting of the arm and wrist . . . being unfriendly for no reason. Like grabbing and

pulling on the jewelry of the petitioner for nothing. The officers' asked where is your license and the petitioner stated it is in his wallet. They opened the wallet and started reading all the contents in it. While they were illegally searching the wallet – they were verbally reciting every note the petitioner had in his possession out loud. The petitioner then asked the police can you make the crowd of people leave because they are listening to all of my personal business and should not be. The people around the scene are not family nor where they initially on the scene. The police then place the petitioner in the patrol vehicle. At this point, the officers continued to violate the petitioners fourth amendment civil rights of the United States Constitution. Following a local background search of the petitioner by WPD that came back clear . . . officers decided to release the petitioner from custody. After being released from the patrol vehicle and hand cuffs · the petitioner asked for his property. The officer stated we gave it to your mother. The petitioner then stated my mother · I did not come to the park with my mother – you do not know my mother · you gave my wallet to a stranger. Also stating why did you not ask. . . if I was here with any family. The petitioner again, stated where is my property. Officer Wenkman then went to retrieve the property. The officer came back with just the wallet. Then I ask – where is my weapon and the officer stated your family has it. The petitioner then asked to speak with the supervisor in charge. Officer Conely then spoke to the petitioner and the petitioner ask why did you all give my property to a stranger without asking me. . . I never told you who family was. And the officer stated, because you where being suicidal. The petitioner then stated · suicide · I was not being suicidal –

I never tried to commit suicide. Immediately, the petitioner tried to explain what happen to the officer, and again – the officer stated you where being suicidal, and we are not giving you anything. Right here the supervisor in charge of the scene pressed a libel act that he did not view . . . alerting and ruining the reputation of the petitioner to a crowd of people and family members that showed up in fear of their relative trying to kill himself. Family and officers where called to the scene for a terroristic threat of suicide in progress of the petitioner in Cameron park - pecan bottom, stating the petitioner is trying to commit suicide. For the supervisors' thoughts' and not his sights' - the officer according to the United States has violated the first constitutional amendment – freedom to speech and press for stating the libel act of suicide towards the petitioner that he did not see. In addition to that the officer committed official oppression of the Texas penal code 39.03 for not letting the petitioner resolve the issue at hand and depriving the petitioners' freedom. Following what he voiced to the petitioner and the public - the petitioner then ask who stated I tried to commit suicide. Conely, told the petitioner - I cannot tell you that and I have to leave. For the supervisor officer Conely actions on this night, the petitioners weapon ended up in the hands of a stranger. This stranger was respondent Hines who the petitioner does not know. . . and he received the weapon of the petitioner because he told officers that he was the petitioner's uncle in ROA.13. If the officer would have verified who family was to the petitioner . . . the petitioners' weapon would have not gone into the hands of a stranger. And according to family, a few days later, respondent Hines gave the petitioners weapon to the petitioners' family . . . As the

sergeant was leaving the scene on the night of this incident . . . the petitioner then asked the officers for their names and badge numbers to file a complaint. A officer gave me their information. Following that, the petitioner - filed a citizens' compliant on the 25th of April 2018 in ROA.6. After the compliant - sergeant Vaughn of the Internal Affairs/ Professional Standards Unit submitted a comprised frivolous revocation charging affidavit application of the officers' statements involved and submitted it to the Texas Department of Public Safety - violating the first amendment of the United States Constitution - rights to freedom of speech and press without assurance - pressing the libel acts - check in ROA.17-19. That states: To Whom it may concern, on 4-24-18 Waco Police Officers were called to a local park on a drowning/ attempted suicide. When officers arrived, they found Victor Edney still in the water. Family and friends of Edney were trying to talk him into getting out of the water but he did not get out until the officers talked him into getting out of the water . . . Edney told officers he did not think they were really the police even though they were in full police uniforms and identified themselves to him as being the police. Edney also did not recognize his friends and family and told officers that he didn't think his mother was really his mother. He said that his mother was someone wearing a woman suit . . . Once Edney was secured officers they found him to have a .45 caliber derringer in the front of his pants. The weapon was unloaded but he had numerous rounds in his pant pockets. Edney did not tell officers he was armed nor did he tell them had a concealed carry permit . . . Family members told officers that Edney was a schizophrenic and has PTSD and he has not been taking his

medicine for his mental condition. Family also told officers that Edney was in the marines . . . . With frivolous statements like these pressed from Sergeant Vaughn - who does not know of any family or friends of the petitioner nor was he on the scene, he deserves the violation of the Texas penal code 37.02 of perjury for submitting the charging affidavit in bad faith that charged the petitioner with the frivolous and unreasonable crime of suicide that was falsely reported to WPD. . . . After reviewing the revocation affidavit, the petitioner arranged a meeting with the chief of police, Vaughan, and himself - to try and resolve this frivolous matter at hand. But Vaughan refused to resolve the matter or talk to family - instead, he continued to allow the pressed libel acts to commence. With that stated, the petitioner filed a lawsuit against the defendants in federal district court alleging violations of his civil rights. The case was assigned to a magistrate judge. In response to the lawsuit - the defendant officers filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) that states, a federal court is authorized to dismiss a compliant that fails "to state a claim upon which relief can be granted." Within their response the officers stated they are entitled to qualified immunity - replying, qualified immunity involves a step-two analysis to overcome. Following, the plaintiff in his first pro se lawsuit - tried to defend against the motion to dismiss by applying the Civil Practice and Remedies: Title 5. Government Liability Ch. 101.025 - Wavier of governmental immunity; permission to sue. . . stating the officers violated his constitutional rights but was not specific. At the time, the petitioner did not have any

knowledge of any legible statutes to press. In the course of the proceedings - the magistrate judge determined that references in the petitioners' pleadings to several sections of the Texas Civil Practices and Remedies Code, the Texas Tort Claims Act, the Texas Code of Criminal Procedure, and a Fifth Circuit case were all inapplicable to his claim that the officers violated his constitutional rights. The magistrate judge also determined that the petitioner failed to provide facts showing that the officers clearly violated his established rights under the amendments used, so the officers were entitled to qualified immunity. And besides the defendants that appeared in court – but for - the defendant that did not appear in court - the petitioner filed for: sanction under the federal rule of civil procedure 11(C)(2) for respondent Hines.

Following the petitioner filed a timely objection to the magistrate judge's report and recommendation. The district court overruled the objection, accepted and adopted the magistrate judge's report and recommendation, and entered an order dismissing the petitioners' claim against the officers with prejudice. . .The report and recommendations of the U.S. Magistrate Judge was entered on the petitioners – motion to sanction: Hines that was denied for recommended reasons. . .so with recommended reasons stated, the petitioner replied with a proper motion of default judgement for respondent Hines. . . that has not been answered yet.

Subsequently, the petitioner filed a motion for reconsideration of the district court's order and a motion for miscellaneous relief that was improper. Following the respondent officers filed a motion for entry of final judgement. A response by the

petitioner to the motion for entry of judgment under rule 54(b) was filed by the petitioner – too delay for the sake of frivolous claims. Following the petitioner found and filed a proper motion of frivolous claims to recover from Texas civil practice and remedies section 105.003 to defend against the motion to dismiss for failure to state a claim upon which relief could be granted under Federal Rule of Civil Procedure 12(b)(6) to withstand against the respondents. In addition, the respondents filed a response motion, then the petitioner filed a response, the respondents filed another response, and the petitioner filed the last response. During the proceedings of the motion of frivolous claims, the respondents never raise their question of qualified immunity for the claim of relief – check in ROA.156-183. Later, the petitioner filed a motion of modification for consideration. But no answer from the court. And finally, the district court appeared, recommended, adopted, and granted the defendants motion for entry of final judgment and declined to exercise jurisdiction over the petitioners' state law claim of default judgment against respondent Hines. The court entered an order of final judgment in ROA.204 - in accordance with the court's ruling on the motion to dismiss the petitioners' complaint pursuant to Rule 12(b)(6) . . . Again, the petitioners' motion of frivolous claims was denied although it should have overcome the federal rule 12(b)(6) that states; a motion to dismiss for failure to state a claim upon relief could be granted. And for the court, the motion of frivolous claims is a stated claim upon which relief can be granted – but for the districts court recommended reasons stated in ROA.189-197 the petitioner did not prevail over the defendants.

Following the denial of the petitioners' motion of frivolous claims that is relevant according to the district court – the petitioner filed a timely appeal with the United States Court of Appeals the Fifth Circuit. The respondents then filed their brief and raised their question of qualified immunity for the first time during the motion of frivolous claims in appellate court. The petitioner did not reply to the question of qualified immunity because it deviated from the grounds of denial towards the motion of frivolous claims that is appealed on part thereof the decision of the United States District Court of the Western District the Waco Division.

Later the Fifth Circuit court stated, they reviewed the district court's granted motion to dismiss de novo. In re Katrina Canal Breaches Litig., 495 F.3d 191, 205 (5th Cir. 2007). Under Federal Rule of Civil Procedure 12(b)(6), a federal court may dismiss a complaint that fails "to state a claim upon which relief can be granted." Stating: a court must accept as true all well-pleaded, non-conclusory allegations in the complaint and liberally construe the complaint in favor of the plaintiff. Kaiser Aluminum & Chem. Sales v. Avondale Shipyards, Inc., 677 F. 2d 1045, 1050 (5th Cir. 1982). "Although we liberally construe briefs of pro se litigants and apply less stringent standards to parties proceeding pro se than to parties represented by counsel, pro se parties must still brief the issues and reasonably comply with the standards of Federal Rule of Appellate Procedure 28" Grant v. Cuellar, 59 F.3d 523, 524 (5th Cir. 1995).

The Fifth Circuit also stated, the petitioner argues that the district court erred when it found that he failed to state a claim upon which relief could be granted, and

dismissed his lawsuit with prejudice, and denied his motion of frivolous claims. When a "motion of frivolous claims" is a method of recovery under Texas state law. See Tex. Cv. Prac. & Rem. Code Ann. Section 105.002 ('A party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party . . . is entitled to recover.") Stating the district court's dismissal of the petitioners' motion was therefore improper after he finally presenting a relevant claim.

Next, the Fifth Circuits' court stated reasons for denial in their opinion. Replying, once qualified immunity has been properly raised, the burden is on the plaintiff to negate it. Collier v. Montgomery, 569 F.3d 214, 217 (5th Cir. 2009). The petitioner failed to meet this burden. In the petitioners' reply brief, he states only that the district court's decision to qualified immunity was "irrelevant and not applicable to the state of Texas Constitution." Stating the petitioner does not seek to show that the officers violated any of his clearly established constitutional rights or that the officers' conduct was objectively unreasonable. See Wyatt v. Fletcher, 718 F.3rd 496, 502-03 (5th Cir. 2013). Because the petitioner failed to raise any legal argument or identify any error in the district court judge's legal analysis or application, his claim regarding violation of his constitutional rights is deemed "abandoned." Davis v. Maggio, 706 F. 2d 568, 571 (5th Cir. 1983); see also Brinkmann v. Dallas city Deputy Sheriff Abner, 813 F. 2d 744, 748 (5th Cir. 1987).

And for the court, the petitioner would have negated the qualified immunity question but according to the districts' court final recommendations and the requirements of the motion of frivolous claims - the petitioner did not negate it. The

petitioner at time wishes he knew about the federal question jurisdiction. Now the petitioner understands the qualifications for judicial discretion. And the petitioner would now like to argue the conflict - if he could towards the officers' constitutional violations of the first and fourth amendments of the United States Constitution.

And last the Fifth Circuit states, the petitioner contends that the district court erred when it declined to exercise jurisdiction over the motion for default judgment against appellee Hines. The Fifth Circuit holds that the district court did not err in declining to exercise jurisdiction over the state law claims without emphasis. With that stated, the petitioner is now stating - that a discretionary error has occurred – because respondent Hines' sanction should have been granted under the federal rule 55 default judgement for not appearing . . . because respondent Hines should have to answer for his frivolous statements of defamation or libel acts given to WPD officers that has the petitioner pleading in this present court. Respondent Hines violated the first amendment of the United States constitution – freedom to speech and press: the claim of error for the state lawed claim is - from the police witness statements in ROA.12-15. That states Hines identified himself as Uncle Hines of the petitioner. The petitioner is now stating Hines is no uncle to the petitioner or of any relation to him or family. In addition, respondent Hines the false uncle and accomplice the false cousin that is unidentified by WPD in ROA.14-15 – made up the libel that compelled WPD to . . . assumed . . . and arrested the petitioner for trying to commit suicide. The respondents also stated the petitioner was suffering from PTSD and schizophrenia and was not taking his

medication in ROA.11-19 . . . these comments are all frivolous and they belong to the respondents and not the petitioner. Respondent Hines the special agent of the (FBI) stated the false statements that are libel acts to W.P.D... violating the first amendment of the United States Constitution. In addition to that the officer violated the fourth amendment of the United States constitution by taking the weapon of the petitioner without permission . . . the petitioner never made an agreement about his belongings with respondent Hines – the stranger seized and later returned the weapon – as if he was family, look in ROA.12-13. With the presented facts and constitutional violations raised against the respondent - this court should grant the petitioners' sanction of default judge and allow the petitioner to proceed with court.

As the petitioners' statement of the case closes, he will reiterate that his motion of frivolous claims and request for oral argument has been denied by both the district and appellate court of the federal court system for two different reasons. In district court the petitioners' motion was denied for recommended reasons stated. When the civil suit transition to the appellate court - the discretionary view change about the motion although it was denied. It was denied for not negating the respondents' question of qualified immunity. Throughout this statement of the case, the petitioner has answered the respondents raised question of qualified immunity that differed from what the petitioner though he was supposed to answer for instance, just the districts court final judgment recommendations that lead the petitioner to the Fifth Circuit.

After the Fifth Circuits' – opinion has been answered: this timely petition to the

Supreme Court of United States followed, alleging this civil suit that started from a perpetrator that called in a terroristic threat of suicide to WPD. . . WPD who knew nothing of the frivolous claims assumed without viewing the physical or verbal manner of suicide from the petitioner – arrested the petitioner and violated the fourth amendment of U.S. constitution without assurance. Following WPD violated the first amendment of the United States Constitution many times by stating false statements about the petitioner being engaged in libel acts that where not true - compelling the petitioner to file a Texas statute to try and recover under the motion of frivolous claims that has not been fulfilled because this frivolous lawsuit requires immediate determination in this court to clear the reputation and identity of the petitioner that is now ruined from the libel acts of the respondents officers.

REASONS FOR GRANTING THE PETITION

The Supreme Court of the United States should grant this petition for the motion of frivolous claim from the Texas Civil Practice and Remedies section 105.003 that has been denied based on the judicial discretion from both of the lower levels of the federal court systems for two different reasons: one in district and the other in appellate court. Whereas the United States District Court of the Western District the Waco Division has denied the motion of frivolous claim - for recommended reasons stated prior. And following the United States Court of Appeals the Fifth Circuit denied the petitioners' motion of frivolous claim - for just not negating the respondents raised question of qualified immunity. And again, for the court; the petitioner did not answer the

respondents raised question of qualified immunity because he was under discretionary influence to only correct exactly the reasons of denial from the district court for his motion to overcome the respondents in this civil lawsuit. The petitioner in his first pro se suit never knew his motion could be denied for not answering the respondents raised question. . . The petitioner now asks the court to excuse how he entered federal court with the lack of knowledge of opposing or defending the raised qualified immunity question by the respondents. And from the petitioners' assumption the Fifth Circuit decided the case - based on the respondents interpreted qualified immunity question towards the federal question jurisdiction law that has not been, but should be, settled by this court . . . Pardon the petitioner – but now through trial and error the motion of frivolous claims has met the requirements of the federal question jurisdiction and requires immediately determination in this court.

Now with the district and appellate courts recommendations and opinion being fulfilled prior in this petition the petitioner will now restate why this court should grant this motion for frivolous claims. The court should grant this petition because we are here for the respondents who are licensed under the Texas Commission on Law Enforcement agency (TCOLE) who has violated the petitioners' civil rights by disobeying the first and fourth constitutional amendments of the United States that will be elaborated shortly. The respondents' violations are now asserted through appealed facts presented within this motion of frivolous claims to recover. And for the court that has not seen the requirements to the motion of frivolous claims from the Texas civil practice and remedies

section 105.003 it states: (a) to recover under this chapter, the party must file a written motion alleging that the agency's claim is frivolous, unreasonable, or without foundation. The motion may be filed at any time after the filing of the pleadings in which the agency's cause is alleged. (b) The motion must set forth the facts that justify, the party's claim. (c) The motion must state that if the action is dismissed or judgment is awarded to the party, the party intends to submit a motion to the court to recover fees, expenses, and reasonable attorney's fees.

With that stated, the petitioner will also apply the Texas statute under "Governmental Liability" Ch. 101.025: Wavier of Governmental Immunity; Permission to Sue - for the respondents' frivolous actions and to defend against the respondents qualified immunity question or sovereign immunity as the statute intitles so his civil suit can be granted . . . That statute states two exception: (A) Sovereign immunity to suit is waived and abolished to the extent of liability created by this chapter. (B) A person having a claim under this chapter may sue a government unit for damages allowed by this chapter. It notes in: NOTE 1, if a plaintiff fails to prove the existence violation of legal duty sufficient to impose liability under the Texas Tort Claims Act (TTCA), sovereign immunity remains intact (Corbin v. City of Keller). With the valid statute explained verbatim the petitioner will now exemplify on the existent - constitutional violations of the officers. . . scene by scene so the court will have knowledge of the respondent's frivolous actions to grant this petitioners' "Wavier of Governmental Immunity; Permission to Sue".

On the night of April 24, 2018 officer King and Wenkman disobeyed the fourth amendment of the United States Constitution by tackling and arresting the petitioner who has been accused of drowning and suicide as he stood calm and compliant · answering questions of the officers. While the petitioner answered questions of the respondents they suddenly seized and searched the petitioner in that order – for nothing violating his rights. With that said, the petitioner will apply the plain view doctrine for the unreasonableness of seizure, because the officers in the witness statements stated – they only seen a man at the riverbanks edge. The officers viewed no ill-manner actions from the petitioner but they attacked and assaulted the plaintiff based on hearsay · violating the Texas penal code section 22.01 for assault by arresting the plaintiff for suicide without proof beyond a reasonable doubt – look at ROA.137. This incident started because some perpetrator called in a terroristic threat of suicide, but initially · they called in a drowning to the emergency services dispatch look in ROA.119-120 (the perpetrator caller stated she doesn't know her cousin, so she stepped back – words of the emergency dispatch). In ROA.123 officer Wenkman in a witness statement · stated after determining that Edney was neither a threat to himself or others they had no other reason but to release him from custody. For the reasons stated, the officers do not deserve qualified immunity and sovereign immunity should not stay intact and this case should be heard in this court.

After being released from custody the petitioner asked the sergeant on duty at the scene about his property taken and about what was going on . . . like being arrested · and

investigating this incident of assumed suicide – because the petitioner did not try to commit suicide nor did the petitioners' family inform the police about him being suicidal in any way. WPD officers in witness statements did not even report they scene the petitioner trying to commit suicide nor did they hear the petitioner state he was going to commit suicide . . . with that said, why would Vaughn present those frivolous facts in a charging affidavit. After viewing the affidavit, the petitioner arranged a meeting with the chief of police, Vaughan, and himself - to try and resolve this frivolous matter at hand. But Vaughan refused to resolve the matter or talk to family - instead, he continued to allow the pressed libel acts to commence. He violated the first amendment of the United States Constitution - rights of freedom of speech and press without assurance, committing perjury in the Texas penal code 37.02. Vaughan allowed: the Waco police department (WPD), officers and the "Internal Affairs Unit" to charge the plaintiff with the frivolous and unreasonable crime of suicide that was falsely reported to WPD officers in which has been submitted in bad faith to the Texas department of public safety's regulatory services division in a revocation affidavit in the ROA.17-19. For the stated, Vaughan and officers do not deserve qualified immunity and according to the applicable Texas statute under "Governmental Liability" Title 5 Ch. 101.025: Wavier of Governmental Immunity; Permission to Sue – the respondents' sovereign immunity should not remain intact (Corbin v. City of Keller). This case should be heard in this court. With that said, the petitioner will now reinstate the courts federal question jurisdiction to succeed. We are here because the respondents violated the first and fourth

constitutional amendments of the United States - and the petitioner further contested the respondents who are TCOLE licensed officers with their asserted causes of action through the legible Texas Practice and Remedies statute: motion of frivolous claims – that is on appeal in the United States Court of Appeals the Fifth Circuit. On appeal in the Fifth Circuit its opinion stated the petitioner has an applicable motion to recover but since the petitioner fail to negate the respondents qualified immunity question. . .the panel has denied his oral argument and affirmed the district court's decision. Now the respondents qualified immunity question has been answered and the federal question jurisdictional trust fulfilled - the petitioner will again ask the court to grant this petition.

And for the stated above, the petitioners' motion of frivolous claims should be granted. If the petitioners' motion is awarded - the petitioner will submit a motion to the court to recover under Ch. 105.002 of the Texas Civil Practices and Remedies for fees, expenses: for "Governmental Liability" - in the Texas Tort claims, because the respondents committed libelous acts (defined in Ch. 73 under Liability of Tort) towards the petitioner ruining his reputation locally and statewide exposing him to public hatred based on hearsay.

As the petitioner concludes, again this petition should be granted by the court based on respondent Hines frivolous actions - who is a special agent - look at ROA.122. Hines failed to appear in the United States District Court of Texas the Waco Division even though he initiated this suit by stating the defamatory (Libel Ch. 73) statements

about the petitioner like he was trying to commit suicide, or he is the uncle of the petitioner. He was summons and served by a process server on the 9th of January 2019. Hines pressed the non-true statements – ruining the reputation of the petitioner to WPD. WPD thought Hines was family - look at ROA.123. Although Hines is of no relation to the petitioner. Hines also has a motion of default judgment under federal rule civil procedure 55 filed on him, but it has not yet been granted - he violated the first amendment of the United States Constitution ROA.116. His frivolous acts where pressed to WPD and in return - WPD followed him with libel statements about the incident to the Texas Department of Public Safety in a charging affidavit. With all that has been said, the petitioners' – petition for the motion of frivolous claims that should be heard and granted by this court.

Respectfully submitted,

On the 25th of April 2021

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PETITION CONCLUSION

As the petition concludes the petitioner will again ask the Supreme Court of United States to grant this motion of frivolous claims against the respondents that has ruined the identity and reputation of the petitioner locally and statewide based upon hearsay.

Respectfully submitted,

On the 25th of April 2021

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