

No. 20-2

Supreme Court, U.S.

FILED

JUN 12 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Hector Valentin-PETITIONER

VS.

City of Rochester and Monroe County et al.-RESPONDENTS(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

2nd Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Hector Valentin

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QUESTIONS(S) PRESENTED

FIRST QUESTION PRESENTED. Should the Brady Rule versus a self-decided Judicial ethical issue by a seriously conflicted Federal Judge and involving the same disclosure rule as prosecutors' under Brady, also apply to a presiding Federal Judge who also suppresses exculpatory and damaging material from a Pro Se litigant's civil rights lawsuit that has the unconstitutional potential for bias and denied this Pro Se Petitioner's Constitutional Due Process right to know of this exculpatory information and also his Constitutional Due Process right to receive a fair Federal Civil Court Proceeding?

SECOND QUESTION PRESENTED. For the public good and in the interest of equal justice, should the United States Supreme Court now consider setting a new precedent, similar to the Brady Rule, for all presiding Federal Judges to require them not only ethically but legally, as a matter of written law, to self-reveal any prejudicially damaging or serious conflict of interest issues that is material to the fairness and outcome of any Pro Se litigant's Federal Civil Court proceeding?

THIRD QUESTION PRESENTED For the public good and in the interest of equal justice, should the United States Supreme Court now consider setting a new precedent in order to prevent or deter Brady like Judicial abuse and to also provide a legal recourse, like Brady, against any presiding Federal Judge who also suppresses exculpatory evidence that they know or should have known was material to the fairness and outcome of their civil rights lawsuit as happened to this Pro Se Petitioner in his Section 1983 civil rights lawsuit, Valentin v City of Rochester and Monroe County et al, WDNY 2011?

FOURTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when the presiding Judge's adverse WDNY Summary Judgment Decision (Docket 157) was Judicially inconsistent with this Pro Se Petitioner's grant of a 2011 WDNY Habeas Corpus Grant (Valentin v Mazzuca) where the Habeas Judge also expunged this Pro Se Petitioner's convictions for egregious prosecutorial misconduct and ruled his NYS trial was a "House of Cards" as opposed to the WDNY Summary Judgment decision that not only impugned the other Judge's previous Habeas decision but also failed to take into

consideration that this Pro Se Petitioner's Due Process civil rights were already ruled by the WDNY to have been violated?

FIFTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when a presiding WDNY Federal Judge fails to inform a Pro Se Plaintiff in a Section 1983 civil rights lawsuit that he fired his then Victim Witness Assistant for reporting his Brady violation against a defendant he was prosecuting when he was a former NYS prosecutor and was also was identified as "Subject A" in her WDNY civil rights lawsuit which also included Brady violations issues from the same office where they both worked under then District Attorney Howard Relin who was named as a defendants in this Pro Se Petitioner's Section 1983 civil rights Federal lawsuit?

SIXTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when a presiding Federal Judge who was named as the hidden and unnamed "Subject A" in his Victim Witness Assistant's Federal civil rights lawsuit (Frank v Relin) 2nd Circuit 1993, when this civil rights decision was included by this Pro Se Petitioner in his Amended Complaint (Docket 139) as a major Monel claim against his former superior DA Howard Relin on the grounds that he failed to trained his employees on their Supreme Court mandated Brady obligations?

SEVENTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when a presiding Federal Judge who is now made a fact witness to this Pro Se Petitioner's lawsuit when he informs the presiding WDNY Judge and his Court in an earlier 2014 Docket filing (Docket 67, Exhibit A) that he intended to call Ms. Frank, his former Victim Witness Assistant, as a future trial witness at his civil trial and still be able to remain neutral as a Judge when he had an adverse professional relationship with her and his conflict of interest had a potential and unconstitutional bias against this Pro Se Petitioner's lawsuit proceeding to trial?

EIGHT QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated by a presiding WDNY Federal Judge who fails to reveal his serious conflict of interest problem that he knew or should

have known was prejudicial to this Pro Se Petitioner's civil rights lawsuit also invalidate, as a matter of law, the presiding Judge's adverse decision in his Summary Judgement Decision (Docket 157) as judicially tainted and mandate reversal as a matter of the Rule of Law?

NIGHT QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when the presiding Judge's unrevealed and inherent conflict of interest has the unconstitutional potential or appearance to bias a Pro Se Plaintiff's due process right to receive a fair Federal Civil Court proceeding that would have allowed his lawsuit to proceed to trial after this Pro Se Petitioner proved **smoking gun** police liability evidence against a newly discovered RPD defendant (Investigator Sullivan) but was arbitrarily denied and made a non-issue by the presiding WDNY Judge and his Court when he refused this Pro Se Petitioner's request for good cause to add him as a new defendant in his Motion to Amend Complaint (Docket 138)?

TENTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when this Pro Se Petitioner's conflict of interest efforts including a 59 (e) Motion to Alter Judgment (Docket 162) from his new appeal attorney, John Regan, whom informed this Pro Se Petitioner after the fact that the presiding WDNY was "Subject A" in Frank v Relin and also requested the recusal of the presiding WDNY Judge from this Pro Se Petitioner's lawsuit.

ELEVENTH QUESTION. Is the Due Process Clause of the U.S. Constitution violated when this Pro Se Petitioner written and docket requests that the presiding Judge recuse himself and be turned over to an independent ethics Judge was denied in a self-decided decision in an unjudicial matter where he took no responsibility and instead tried to deflect the blame back on this Pro Se Petitioner by making several written and incendiary statements in Dockets 159, 160, 161 and 165 with unproven and wild allegations that this Pro Se Petitioner somehow knew before the fact he was "Subject A" and was now using it as some kind of ambush tactic or his "Ace in the hole" to overturn his decision.

TWELTH QUESTION PRESENTED. Is the Due Process Clause of the U.S. Constitution violated when this Pro Se Petitioner's conflict of interest efforts were again raised Pro Se in a separate Complaint of Misconduct (02-19-90038-jm) ethical action with 2nd Circuit Chief Judge Katzmann and again in an En Banc ethical Petition to their Judicial Council of five unnamed Judges, who like Chief Judge Katzmann, also declined to answer this Pro Se Petitioner's Due Process ethical contention that he had the right to know the identity of "Subject A" before the fact and should have been told and gave the presiding WDNY Judge a pass when he ruled that it was a judicial issue and not an ethical one and threw it out.

THIRTEENTH AND FINAL QUESTION. Is the Due Process Clause of the U.S. Constitution violated by the ethical question on how can a deciding Federal Judge who fails to inform a Federal Pro Se litigant that he has a profoundly serious conflict of interest problem that might affect the outcome of their case to be either a fair or impartial decider of this Pro Se Petitioner's civil rights lawsuit in the first place.

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 parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HECTOR L. VALENTIN
PLAINTIFF, PRO SE

AMENDED COMPLAINT Docket 139
FILE NO: 11-CV-6238-CJS
Hon. U.S. Magistrate Judge Marian W. Payson
Jury Trial Demanded

V.

CITY OF ROCHESTER, FORMER ROCHESTER POLICE
DEPARTMENT CHIEF OF POLICE ROBERT DUFFY,
ROCHESTER POLICE DEPARTMENT
OFFICER MICHAEL COTSWORTH, INVESTIGATOR
DAVE MACE, INVESTIGATOR JOSEPH MURPHY,

INVESTIGATOR PAUL WALTHER, INVESTIGATOR
BLAHO, INVESTIGATOR GARY SULLIVAN, OFFICER
ADORANTE, OFFICER HOLMES, FORMER RPD
OFFICER HOKE
MONROE COUNTY, MONROE COUNTY DISTRICT
ATTORNEY'S OFFICE, FORMER MONROE COUNTY
DISTRICT ATTORNEY HOWARD RELIN, FORMER
MONROE COUNTY DISTRICT ATTORNEY MICHAEL
GREEN, FORMER MONROE COUNTY ASSISTANT
DISTRICT ATTORNEY DANIEL MAJCHRZAK, FORMER
MONROE COUNTY ASSISTANT DISTRICT ATTORNEYS
PATRICK FIERRO, JOHN MUNRO AND JOHN
MARCHIONI, MONROE COUNTY DISTRICT
ATTORNEY'S OFFICE EMPLOYEES MS. WENDY SISCA,
INVESTIGATOR CASPER CACECI AND INVESTIGATOR
J. RODRIQUEZ DEFENDANTS

RELATED CASES

People v Valentin, NYS 330 Hearing 2001. A-1.

People v Valentin, NYS Appeal 2003. A-3.

People v Valentin, NYS 440 Decision 2005.

Valentin v. Mazzuca, WDNY Habeas Grant with expungement of convictions 2011. B-1.

Valentin v City of Rochester and Monroe County et al, WDNY 11CV6238 Section 1983 civil rights lawsuit 2011. B-5.

Valentin v City of Rochester and Monroe County et al, attorney represented 2nd Circuit Court of Appeals 18-3857-cv 2018.

Valentin v City of Rochester and Monroe County et al, Pro Se Complaint of Misconduct (02-19-90038-jm) 2019.

TABLE OF AUTHORITIES CITED

Please note that this Pro Se Petitioner is a non-attorney and as a result has only quoted limited knowledge of case law to support his civil rights lawsuit.

Brady v. Maryland. Quoted in different sections and pages in Amended Complaint (Docket 139) B-5.
Kyles v. Whitley 514, 419 (1995) was referred to in different sections and pages in Amended Complaint (Docket 139) B-5.

Monel claim against Monroe County. Page 49 to 52 in Amended Complaint (Docket 139) B-5.

Monel claim against City of Rochester. Page 53 to 55 in Amended Complaint (Docket 139) B-5.

Tennison v. City and County of San Francisco, 570 F.3d 1078 (9th Cir., 2008). Page 55 to 57 in Amended Complaint (Docket 139) B-5.

**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 appeal appears at Appendix E-6 to the petition and is

reported at U.S. Court of Appeals 2nd Circuit 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 B-13 to the petition and is

reported at WDNY as 11CV6238 PACER; or,
[] has been designated for publication but is not yet reported: or,
[] is unpublished.

For cases from state courts:

The opinion of highest state court to review the merits appears at Appendix A3 to the petition and is

reported at NYS Supreme Court Fourth Department.
[] has been designated for publication but is not yet reported: or,
[] is unpublished.

The opinion of NYS Supreme Court Fourth Department court appears at Appendix A3 to the petition and is

reported at NYS Supreme Court Fourth Department; or,
[] has been designated for publication but is not yet reported: or,
[] is unpublished.

STATUTES AND RULES

42 U.S.C. 1983. Page 5 in Amended Complaint Amended Complaint Docket 139. B-5.

42 U.S.C. 1985. Page 5 in Amended Complaint Amended Complaint Docket 139. B-5.

42 U.S.C. 1986. Page 5 in Amended Complaint Amended Complaint Docket 139. B.5,

42 U.S.C. 1988. Page 5 in Amended Complaint Amended Complaint Docket 139. B-5.

Brady v. Maryland. (Docket 139) B-5.

Kyles v. Whitley 514, 419 (1995) (Docket 139) B-5.

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INDEX TO APPENDICES

Listed in chronological order are Appendices (A through F) in this Pro Se Petitioner's Petition to the United States Supreme Court and documents the Due Process issues that were raised in the NYS State, the WDNY and the 2nd Circuit Federal Courts of Appeals since 2001 and this Pro Se Petitioner's 20 year effort to seek equal justice for unconstitutional Due Process violations of his rights under the 5th and 14th Amendments. In addition, by equal justice this Pro Se Petitioner felt that his right to a fair Federal Civil Court proceeding were also violated even though he was granted a WDNY Habeas in 2011 that

expunged his convictions and had proven smoking gun police liability but his Section 1983 WDNY 2011 civil rights lawsuit was still summarily dismissed. The following Appendices documents six different Due Process issues that this Pro Se Petitioner respectfully seeks to bring before the United States Supreme Court for their consideration.

APPENDIX A

New York State Court Actions pertinent to the beginning of this Pro Se Petitioner's Due Process violation claims that were raised to the NYS trial Judge in 330 and 440 motions for a new trial.

1. NYS People v Valentin 330 motion hearing Court transcript on March 7, 2001 quoting former NYS Judge Geraci (now WDNY Chief Judge Geraci) about the trial prosecutor's egregious Brady violations and trial tactics: "There was not a truth seeking mission". **A1.**
2. NYS People v Valentin 330 motion decision Court transcript on March 27, 2001. History of the Case and Brady Issues involved. Request for new trial was denied on the grounds that the trial prosecutor was unaware of the heinous criminal history of his key eyewitness John Kemp. Nine pages. **A-2.**
3. People v Valentin New York State Supreme Court, Appellate Division, Fourth Judicial Department decided November 21, 2003 KA 01-01185 ruled there was a Brady violation on Kemp but was harmless error by the NYS trial prosecutor. **A3.**
4. Pro Se Petitioner's NYS 440 motion request for a new trial raising two additional Brady violations against the trial prosecutor and claiming that he hid second trial witness pending criminal charge from his NYS trial defense attorney. Bower was also arrested and arraigned two days before this Pro Se Petitioner's sentence on March 27, 2001 while his 330 motion was still being decided by then NYS Judge Geraci. April 27, 2004. **A-4.**
5. Affidavit of Mr. Richard Rolfe (Advocate) who submitted a supporting Affidavit to this Pro Se Petitioner's 440 motion reporting that the second trial witness, Sarah Bower, had a previously undisclosed pending criminal charge against her six days before this Pro Se Petitioner's NYS 2001 trial. Mr. Rolfe in his Affidavit also severely contradicted her trial testimony and reported his December 2003 phone conversations with her former boss, Mr. Cordello, and former RPD Officer Hoke who wrote her accusatory instrument. Mr. Cordello and Officer Hoke both gave back negative answers on Sarah Bower's credibility as a truthful person to Mr. Rolfe. Four pages. **A5.**
6. 440 Decision and Order on February 4, 2005 by former NYS Judge Frank Geraci denying Pro Se Petitioner's 440 motion for a new trial on the grounds that the trial prosecutor committed no new Brady violations because Bower had not been arrested or arranged yet before his 2001 NYS trial. NYS Judge Geraci also impugned Mr. Rolfe's statements of his documented facts in his sworn Affidavit and granted no evidentiary hearing for witnesses to called. **A-6.**
7. Pro Se Petitioner's Leave to Appeal was denied with no comment by NYS Justice Kehoe, NYS Supreme Court on August 2, 2005 ending Pro Se Petitioner's legal recourse in the NYS criminal justice system. Six pages. **A-7 and A-8.**

APPENDIX B

Pro Se Petitioner's WDNY Federal Court actions pertinent to his Habeas Grant and Section 1983 civil rights lawsuit (Valentin v the City of Rochester and Monroe County et al, WDNY 2011) that were raised in a Section 1983 civil rights lawsuit 11CV6238 to the WDNY Federal District Court for the sole purpose in seeking a grant for a civil trial by jury to prove his Due Process violation claims and the legal merits of his lawsuit.

1. WDNY District Court Decision and Order granting Petition for Habeas Corpus decided January 11, 2011 by WDNY Magistrate Judge Victor Bianchini who called this Pro Se Petitioner's NYS 2001 trial a "House of Cards". **B-1.**
2. WDNY District PACER Docket Court Report (Dockets 1 to 169). **B-2.**
3. Pro Se Petitioner's first letter request to Magistrate Judge Payson to add Sullivan January 26, 2016 (Docket 137) including her handwritten instructions on letter on how to proceed with permission to amend Complaint to Court. **B-3.**
4. Pro Se Petitioner's motion for permission to amend original Complaint (Docket 1) and add Investigator Sullivan as new defendant (Docket 138) February 29, 2016 (55 pages including nine new exhibits from discovery). **B-4.**
5. Pro Se Petitioner's pending Amended Complaint adding Investigator Sullivan as a defendant (Docket 139) February 29, 2016 (112 pages with 28 exhibits including nine new exhibits from discovery). **B-5.**
6. Magistrate Judge Payson's **Order and Motion Scheduling Order** (Docket 140) to amend Complaint March 4, 2016 granting Pro Se Petitioner's request to withdraw his previous pending Amended Complaint under consideration (Docket 124) and permission to amend Complaint (Docket 138). **B-6.**
7. Monroe County Law Department's Affidavit in Opposition to Amend Complaint (Docket 141) March 29, 2016. (Two pages). **B-7.**
8. City of Rochester Law Department's Memorandum in Opposition to Amend Complaint (Docket 142) March 30, 2016. (31 pages). **B-8.**
9. Pro Se Petitioner's 2nd complaint and protest letter to Magistrate Judge Payson requesting again permission to add Investigator Sullivan to his proposed Amended Complaint. April 3, 2016 and filed April 7, 2016 as (Docket 144). **B9.**
10. Magistrate Judge Payson's Decision and Order (Docket 146) arbitrarily denying Investigator Sullivan as time barred despite repeated protests letters and motions from this Pro Se Petitioner requesting that he be added as a defendant to his lawsuit. September 30, 2016. (23 pages). **B10.**
11. Judge Siragusa's Further Amended Motion Scheduling Order (Docket 150) April 27, 2017. **B-11.**
12. Pro Se Petitioner's protest letter to Magistrate Judge Payson on April 3, 2017 (Docket 149) ending discovery under protest and raising the issue for the record that the City of Rochester municipal lawyer engaged in a deliberate obstruction of justice tactics to deny this Pro Se Petitioner Due Process rights

under The Federal Rules of Discovery when they played an elaborate game under a false guise to deny this Pro Se Petitioner of any criminal records on the key eyewitness Kemp which unlawfully hid the police involvement of Investigator Sullivan and lawsuit defendant Officer Holmes and prejudiced this Pro Se Plaintiffs civil rights lawsuit. **B-12.**

13. WDNY Summary Judgment Decision and Order (Docket 157) that there were no open issues in Pro Se Petitioner's civil rights lawsuit and granting summary judgment to defendants. Decided October 24, 2018. **B-13.**

14. (Docket 159) Pro Se Petitioner's complaint letter to Judge Siragusa on October 27, 2018 protesting his Court's unfair treatment of this Pro Se Petitioner's lawsuit after was granted a WDNY Habeas that already ruled his civil rights were violated. Furthermore, this Po Se Petitioner was also very disconcerted when he read in the Summary Judgment that RPD Investigator Sullivan was left out of his Amended Complaint (Docket 139) as a defendant and unfairly eliminating him as an open issue that should have allowed this Pro Se Plaintiff Section 1983 lawsuit to go to jury trial. **B-14.**

APPENDIX C

Pro Se Petitioner's WDNY Court actions concerning his conflict of interest and recusal claims against WDNY Judge Charles Siragusa:

1. Pro Se Petitioner's (Docket 67) with Exhibit A informing WDNY Judge Charles Siragusa, his Court and the defendant's municipal lawyers that this Pro Se Petitioner intended to call his former Victim Witness Assistance, Ms. Frank, as a future civil trial witness. At the time, Judge Siragusa identity as "Subject A" in her civil rights lawsuit Frank v Relin 2nd Circuit 1993 was unknow to this Pro Se Petitioner until after the fact because Judge Siragusa or his Court failed to notify this Pro Se Petitioner of his serious conflict of interest. June 5, 2014. **C-1.**

2. Pro Se Petitioner's first complaint letter on the discovery of the identity of "Subject A" after the fact to WDNY Judge Siragusa on November 6, 2018 raising a serious conflict of interest on his identity as "Subject A" in Frank v Relin and questioning him on his ability to be the presiding Judge on this Pro Se Petitioner's Section 1983 civil rights lawsuit. Filed as (Docket 161-1). November 15, 2018. **C-2.**

3. Motion to Alter Judgement (Docket 162) November 21, 2018 filed by Pro Se Petitioner's new appeal attorney (John Regan) also requesting the recusal of Judge Siragusa from lawsuit and raising Inconsistent Prosecutor's Theory at Plaintiff's 2001 NYS trial. **C-3**

4. Judge Siragusa's WDNY Court Order (Docket 164) denying Plaintiff's appeal attorney FRCP 59(e) request (Docket 162) for Judge Siragusa's recusal and his Inconsistent Prosecutor's Theory on the unsupported grounds that it was not raised in Pro Se Petitioner's Amended Complaint (November 21, 2018). **C-4.**

5. Pro Se Petitioner's second follow up letter, filed as (Docket 165-1) on December 6, 2018, to his previous first letter to Judge Siragusa on November 6, 2018 again requesting for him to recuse himself and refer this Plaintiff's Section 1983 lawsuit to an non conflicted Judge because of his Brady like failure to inform this Pro Se Plaintiff of his serious ethical conflict as "Subject A" in the Frank v. Relin 2nd Circuit decision 1993. **C-5.**

6. Judge Siragusa's WDNY Court Order on December 13, 2018 (Docket 165) denying Plaintiff's recusal letter and refused to answer this Pro Se Plaintiff's assertion that he had a right to know and should have been told before the fact. In addition, Judge Siragusa tried to deflect the blame back on this Pro Se Plaintiff and made false and unfounded accusations that this Pro Se Petitioner was trying to set him up while ignoring the fact that this Pro Se Petitioner didn't know at the time of his conflict of interest with Ms. Frank. **C-6.**

7. Pro Se Petitioner's Advocate, Mr. Rolfe, December 21, 2018 personal letter to Judge Siragusa concerning the "Subject A" ethics matter was ignored and returned to him as not accepted. **C-7.**

8. Pro Se Petitioner's Advocate, Mr. Rolfe, December 30, 2018 personal letter to WDNY Chief Judge Geraci (was also the NYS Judge at Pro Se Petitioner's 2001 trial, 330 and 440 hearings and also expunged his convictions) requesting his intervention as Chief Judge at the WDNY to look into this ethics matter. Chief Judge Geraci ignored the letter and did not take any action. **C-8.**

APPENDIX D

Pro Se Petitioner's Docket 92 Question of Law Motion raising two additional Brady violations against the NYS trial prosecutor' second trial witness, Bower, and the question if her pending criminal charge was admissible at his NYS trial if it had been revealed to his trial defense.

1. Pro Se Petitioner's Question of Law motion (Docket 92) raised the question to the WDNY Court if the material trial witness Sarah Bower's pending criminal charge was permissible under the NYS People v Sorge precedent to prove his previous contentions that an additional two Brady violations claims were committed by the trial prosecutor at his 2001 NYS trial August 8, 2014 (Note: Docket 92 was answered by the city and county municipal lawyers, Magistrate Judge Payson ignored it making it a non-issue in this Pro Se Petitioner's Section 1983 civil rights lawsuit. **D-1.**

2. City of Rochester's (Docket 98) opposing Pro Se Petitioner's Question of Law (Docket 92) and ignoring any mention of the NYS People v Sorge but conceding under Richardson that she could have been questioned on her bad act at this Pro Se Petitioner's 2001 NYS trial if it had been revealed by the trial prosecutor to his NYS trial defense attorney. **D-2.**

3. Monroe County's (Docket 99) opposing Pro Se Petitioner's Question of Law (Docket 92) and also ignoring any mention of the NYS People v Sorge but conceding like the city that under Richardson, Bower could have been questioned on her bad act at this Pro Se Petitioner's 2001 NYS trial if it had been revealed by the trial prosecutor to his NYS trial defense attorney. **D-3.**

4. Pro Se Petitioner's Answer Motion (Docket 100) to city's (Docket 98) and county's (Docket 99) opposition motions to his (Docket 92) Question of Law Motion. In his Answer Motion, this Pro Se Petitioner contested their arguments that former NYS Judge Geraci legal reason not to accept this Pro Se Petitioner 440 claims of a second and third Brady violation against the second trial witness was in error. In addition, with all due respect to Magistrate Judge Bianchini this Pro Se Petitioner who made the correct Rule of Law decision when he expunged this Pro Se Petitioner's NYS convictions because of the egregious prosecutorial misconduct and Due Process violations committed against him at his 2001 NYS trial, accepted NYS Judge Geraci's 440 reasoning that no Brady violation happened because Bower had not been arraigned or arrested yet before this Pro Se Petitioner's NYS trial because being a California based WDNY Magistrate Judge Bianchini was unfamiliar with Richardson Rule of Law that this Pro Se

Petitioner used to state his 440 motion claim that it was admissible and later in his Question of Law Motion (Docket 92) used the People v Sorge ruling as another legal justification why this second and third Brady Violation on Bower should be allowed in his civil rights lawsuit as a matter of law. Although the city and county opposed this Pro Se Petition, they did concede it was permissible but the WDNY basically ignored this important Pro Se Brady claim by not answering it. September 19, 2014. **D4.**

APPENDIX E

Attorney represented 2nd Circuit appeal to the United States Court of Appeal.

1. General Docket for 2nd Circuit appeal (18-3857). **E1.**
2. Notice of 2nd Circuit Civil Appeal January 4, 2019 (Docket 1). **E2.**
3. Appeal attorney's brief on 4-10-29 (Docket 26). **E-3.**
4. Monroe County Opposition Brief to Appeal (Docket 44) April 30, 2019 77 Pages. **E-4.**
5. City of Rochester Opposition Brief to Appeal (Docket 52) July 17, 2019 34 Pages. **E-5.**
6. Appeal Attorney's Docket 59 Reply Brief. July 30, 2019. **E-6.**
7. U.S. Court of Appeals 2nd Circuit Decision (Docket 66-1) on Valentin v City of Rochester and Monroe County et al (Docket 1) decided November 7, 2019. **E-7.**
8. U.S. Court of Appeals 2nd Circuit Decision En Banc Petition (Docket 72) decided November 25, 2019. **E-8.**

APPENDIX F

Pro Se Petitioner's 2nd Circuit Complaint of Misconduct against WDNY Judge Siragusa on his conflict of interest as "Subject A" that were raised in several Pro Se letters to his Court but were denied by Judge Siragusa in a self-decided decision instead of being referred to a nonconflicted ethics Judge for a determination on its merits as was requested by this Pro Se Petitioner. After this Pro Se Petitioner's efforts for equal justice ended in the WDNY, he requested that his conflict of interest Due Process claims be included in his 2nd Circuit appeal. However, he was advised by his appeal attorney that this was an ethical issue and non-appealable and did not include it in his second Circuit appeal. Therefore, this Pro Se Petitioner had no other choice then to again raised the same Due Process ethical conflict of interest claims to the 2nd Circuit Judicial Ethics Council that he previously raised in the WDNY for a reconsideration on this Pro Se Petitioner's important Due Process Judicial ethics claims and his request that his lawsuit be remanded back to the WDNY for a civil trial by jury.

1. Pro Se Petitioner's first Complaint of Misconduct letter on March 25, 2019 to the 2nd Circuit Judicial Ethics Council on a serious conflict of interest ethics claim against WDNY Judge Siragusa. **F1.**
2. Pro Se Petitioner's second Complaint of Misconduct letter to the 2nd Circuit regarding the Investigator Sullivan matter November 8, 2019. **F-2.**

3. 2nd Circuit Chief Judge Katzmann Order on January 9, 2020 denying Pro Se Petitioner's Complaint of Misconduct against WDNY Judge Siragusa on the grounds it was a Judicial issue and not an ethical one. In addition, Chief Judge Katzaann failed to answer this Pro Se Petitioner's contention that he had a right to know of this exculpatory and material information on the identity of "Subject A". Furthermore, this Pro Se Petitioner also raised his concern that WDNY Judge Siragusa's tried to intimidate him when he made an unjudicial and unprofessional conspiracy attack on this Pro Se Petitioner's integrity that this Pro Se Petitioner's felt was used by Judge Siragusa as an unethical tactic to deflect the blame away and back on this Pro Se Petitioner which only further biased his Due Process right to receive a fair Federal civil Court proceeding. **F-3.**

4. Pro Se Petitioner's final En Banc Ethics Complaint Petition to the 2nd Circuit Judicial Council (eight pages) decided on February 26, 2020. **F-4.**

5. Pro Se Petitioner's final letter informing Chief Judge Katzmann of his intention to appeal his decision to the United States Supreme Court on the grounds that this Pro Se Petitioner had the Due Process right to know of the identity of "Subject A" and should have been told before the fact and nobody involved in the litigation of his civil rights lawsuit including himself has answered this question March 5, 2020. **F-5.**

6. Final letter from 2nd Circuit Clerk closing Pro Se Petitioner's Complaint of Misconduct Action May 5, 2020. **F-6.**

JURISDICTION

[X] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was January 23, 2020.

[] No petition for rehearing was timely filed in my case.

[X] 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 A-32

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process violations under the Fifth and Fourteenth Amendments of the United States Constitution
and 42 U.S.C. Section 1983.

STATEMENT OF THE CASE

1. This PRO Se Petitioner's Statement of his Case in his Pro Se Petition to the United States Supreme Court, concerns two main Due Process ethical issues that were left unresolved at the WDNY and the 2nd Circuit Court of Appeals. This unresolved conflict of interest ethics matter against the presiding WDNY concerns his ethics failure to reveal his identity as "Subject A" in the Frank v Relin Brady violation scandal and being implicated in a subsequent WDNY civil rights lawsuit that also involved his former supervisor, then Monroe County DA Howard Relin, when he was employed as a former prosecutor at the Monroe County District Attorney's Office.
2. Upon discovery of this information and shortly after the fact, this Pro Se Petitioner filed an ethics complaint against the presiding WDNY Judge requesting his recusal and that his conflict of interest Judicial claim be referred to another unconflicted Judge. In addition, this Pro Se Petitioner's complaint on this ethics matter were raised to his Court in several letters of protest and two of these Pro Se Petitioner letters are attached as part of the Court record in Dockets 160 and 161.
3. Furthermore, this Pro Se Petitioner also stated in his protest letters that he had the Due Process right to know of the identity of "Subject A" in the Frank v Relin scandal and should have been told before the fact by the presiding WDNY Judge or his Court.
4. However, the presiding WDNY Judge also unethically self-decided his own ethics complaint against himself which was fundamentally unfair to the Rule of Law and this Pro Se Petitioner's Due Process rights when the presiding WDNY Judge denied all his requests for his recusal.
5. Furthermore, in his unjudicial response back in Dockets 160 and 161, he tried to deflect away his inherent and serious conflict of interest problem, that he caused himself by his own ethics lapse, back on this Pro Se Petitioner in an unjudicial attack where he made several unfounded, derogatory and conspiracy like accusations against this Pro Se Petitioner that were completely unsupported by the facts.

6. In addition, a final letter of protest was sent to now Chief WDNY Judge Geraci (former NYS trial judge for Petitioner) requesting his intervention in this matter. However, Chief Judge Geraci never responded back to this Pro Se Petitioner's conflict of interest ethics complaint against the presiding WDNY Judge and thereby ended this Pro Se Petitioner's ethics actions at the WDNY under a cloud of controversy and protest.

7. In 2019 and 2020, this Pro Se Petitioner then raised the same unresolved WDNY Judicial conflict of interest issues with the 2nd Circuit Judicial Ethics Council in three separate Complaint of Misconduct letters, that were in a separate Pro Se ethics action that was apart from his attorney represented 2nd Circuit appeal.

8. Therefore, this Pro Se Petitioner's Judicial conflict of interest complaint letters in late 2018 and 2019 that were raised to the presiding WDNY Judge and the 2nd Circuit Judicial Ethics Council and the resulting Judicial decisions and its aftermath are the subject for consideration in this Pro Se Petition now before the United States Supreme Court and presents the constitutional question, if this Pro Se Petitioner received a fair federal Court proceeding based on the following two unanswered ethics questions:

1. Ethics Contention One. Conflict of interest contention against the presiding WDNY Judge and his role as "Subject A" and as a former NYS prosecutor in the 2nd Circuit Frank v. Relin scandal at the Monroe County District Attorney's Office including his professional involvement with his then Victim Witness Assistant, Ms. Melinda Frank, who he fired for reporting his Brady violation against a defendant he was prosecuting and the presiding WDNY Judge's conflict of interest involves the following Judicial ethical and Due Process violations:

a.) The first and main ethical argument that this Pro Se Petitioner raised to the WDNY and the 2nd Circuit judicial Ethics Council was his contention that this WDNY Pro Se Plaintiff had the Due Process right to know about the identity of "Subject A" and should have been told before the fact and his argument that the WDNY presiding Judge failed to honor his ethical duties and obligations and inform this Pro Se

Petitioner of his conflict of interest that had the unconstitutional potential to denied him of his due process right to a fair Federal Court proceeding and his right to request the recusal of the presiding WDNY Judge.

b.) In addition, this Pro Se Petitioner did not know about his role as "Subject A", before the fact or before Summary Judgment, because he was not privy to the local Legal System and because he was Pro Se and an outsider, this Pro Se Petitioner had to be told by his new appeal attorney, John Regan, shortly after the fact or the Summary Judgment, when he informed this Pro Se Petitioner of the identity of "Subject A" in his initial appeal consultation for his services. The subject of the Frank v. Relin 2nd Circuit decision came up as it was included in Section VII of this Pro Se Petitioner's Amended Complaint (Docket 139) as Frank v Relin 1993 U.S. Court of Appeals 2nd Circuit, Page 42 through 49 and was used to support this Pro Se Petitioner's Monel claim against former defendant DA Howard Relin that he failed to train his employees on their mandated Brady obligations. Both the NYS trial prosecutor at my 2001 trial and the presiding WDNY Judge (Subject A) that decided this Pro Se Petitioner's Section 1983 civil rights lawsuit including another prosecutor identified as "Subject B" were employed by then DA Relin were implicated in committing Brady violations against their defendants'.

c.) Furthermore, this Pro Se Petitioner notified his Court including, Magistrate Judge Payson, the City and County Law Departments in 2014 that he intended to call Ms. Frank as a future trial witness (Docket 67, Exhibit A) and this Pro Se Petitioner respectfully contend now made the presiding WDNY Judge a fact witness to this Pro Se Petitioner's civil rights lawsuit that created a serious conflict of interest on the grounds that a Judge cannot be a fact witness to a Court proceeding and the presiding Judge at the same time. This Pro Se Petitioner's contention has never been answered by the presiding WDNY Judge, 2nd Circuit Chief Judge Katzmann and their Judicial Ethics Council in any of their decisions.

2. Ethics Contention Two. Denial of this Pro Se Petitioner's request for good cause in (Docket 138) to include RPD Investigator Sullivan as a police defendant to his Amended Complaint (Docket 139). On

January 26, 2016 and April 13, 2016. this Pro Se Petitioner wrote two letters (B-5 and B-6) to Magistrate Judge Payson requesting permission to add Investigator Sullivan as a defendant to his proposed Amended Complaint (Docket 139).

a.) January 26, 2016

Re: Letter to Court Requesting Amending Complaint and Trial Date Guidance

Dear Judge Payson, Presently I have a pending motion (Docket 123) before your Court to amend my original complaint (Docket 1). My Motion to Amend was filed on March 12, 2015. Since this date new information and facts that were unknown to me at that time has come to my attention. This new information concerns Investigator Gary Sullivan and his police involvement with John Kemp in my case and the related Arroyo case and is based on two documents involving Kemp's 2000 court transcript and Sullivan's 2000 RPD arrest/interview report. Both these documents show that Investigator Sullivan was a member of former ADA Majchrzak's police team, a fact that was recently unknown to me. Likewise Investigator Sullivan with the assistance of Officer Holmes arrested Kemp in 1992 on a sodomy charge and when these three documents are cross referenced with each other, it can be shown that it was more likely than not that a conspiracy of silence existed between himself, former ADA Majchrzak and his RPD Maple Section partners (Officer Holmes, Investigators Mace and Murphy) to suppress exculpatory information from my defense that was material to the outcome of my trial. As a result I am respectfully requesting permission for good cause to submit another amended complaint that adds Investigator Sullivan as a defendant to my lawsuit with additional exhibits to support my contentions that he and the other defendants previously named in my lawsuit displayed a reckless disregard to my Constitutional due process civil rights to a fair trial.

b.) In an April 13, 2016 letter (Docket 144) that was sent to Magistrate Judge Payson, this Pro Se Petitioner strongly protested his unfair treatment by her Court regarding the Investigator Sullivan matter and also by the City and County Law Departments unethical tactics that they used in an illegal effort to prevent Sullivan from being added for good cause as a defendant to this Pro Se Petitioner's Amended Complaint (Docket 139).

The pertinent excerpted information from this Pro Se Petitioner's April 13, 2016 letter (Docket 144) to Magistrate Judge Payson was as follows:

Dear Judge Payson,

"As a result of my concerns regarding this matter, I am requesting that my Motion to Amend Complaint be based on its merits as stated in Docket 138 and not on what the city and county think a Pro Se Complaint should be versus what the Courts have ruled in previous decisions i.e. *Estelle, Corrections Director, et al. v. Gample* 29 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 stated: "We now consider whether respondent's complaint states a cognizable 1983 claim. The handwritten *pro se* document is to be liberally construed. As the Court unanimously held in *Haines v. Kerner*, 404 U.S. 519 (1972), a *pro se* complaint, "however it artfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him

to relief." *Id.*, at 520 521, quoting *Conley v. Gibson*, 355 U.S. 41,45 46 (1957)." "Finally Your Honor I would like to point out that based on the record, the city has engaged in a blatant obstruction of justice to deny me of any relevant discovery information that is damaging to their case and are now making time barred claims when they have caused this problem in the first place and I respectfully contend that I should not be penalized for their malfeasance. Furthermore, the city has continued their unethical practices to mislead the Court concerning the involvement of Investigator Sullivan with John Kemp and as a matter of law I respectfully petition your Court for permission to add him as a defendant to my Amended Complaint".

c.) This Pro Se Petitioner's request for good cause to add Investigator Sullivan to his Amended Complaint (Docket 139) was denied when WDNY Magistrate Judge Payson Court accepted the City of Rochester Law Department's objection that it was time barred. She also went to great lengths to justify her denial in a 23 page Decision and Order (Docket 146) on her legal reasons why she denied this Pro Se Petitioner's request. In addition, Magistrate Judge Payson also ignored the reasons why this Pro se Petitioner, using her rules, requested in his Permission to Amend Complaint (Docket 138) his reason, for good cause, why he wanted to add Investigator Sullivan and gave Magistrate Judge Payson a detailed explanation on how this liability information on Sullivan was found.

d.) This Pro Se Petitioner also raised a serious obstruction of justice concern with her Court against the NYS trial prosecutor for hiding evidence when he gave this pro se petitioner's NYS trial attorney through discovery in 2001, a copy of Kemp's Suppression Hearing Transcript. However, the trial prosecutor's copy he released in 2001 was missing the first five pages that reported Investigator Sullivan being in another Courtroom with himself and Kemp.

e.) Inexplicability, the suppression transcript copy that this Pros Se Petitioner obtained through discovery from the Monroe County District Attorney's Office in 2015 included the missing first five pages that reported Sullivan's Court involvement with Kemp and the trial prosecutor and was therefore unbeknownst to this Pro Se Petitioner until he discovered it by happenstance from the Monroe County Law Department discovery CD. In addition, their discovery CD contained a large number of electronic files that had to be tediously opened and read. This Pro Se Petitioner's contention regarding how this happened were ignored like many other valid contentions that he made in his 112 page Amended

Complaint (Docket 139) with 28 Exhibits. For additional information, please see Reasons 18 and 19 in the Section, Reasons for Granting the Petition.

f.) Furthermore, Magistrate Judge Payson did not take into consideration that he was acting Pro Se without a lawyer when she impugned his motives that he was somehow doing something wrong when the only thing this Pro Se Petitioner wanted, based on facts and for good cause, was to add Investigator Sullivan to his Amended Complaint as an open issue. However, Magistrate Judge adverse decision in (Docket 146) allowed the presiding WDNY Judge in his Summary Judgment Decision (Docket 157) to make it a non-issue and easily dismissible with no discussion on its merits.

g.) This April 13, 2016 letter (Docket 144) was also briefly mentioned in a one line sentence in the presiding WDNY Judge's Summary Judgment decision (Docket 157) confirming that this Pro Se Petitioner did in fact raised an previous objection to Magistrate Judge Payson time barred ruling before her final Decision in (Docket 146) that this Pro Se Petitioner felt he was being penalized by her for the intransigence of the defendant's municipal lawyers to honored their discovery obligations. However, neither the presiding WDNY Judge or his Magistrate Judge gave this Pro Se Petitioner any Rule of the Law consideration that he was a Pro Se Plaintiff and should be held to a lower standard. Instead, Magistrate Judge Payson did the opposite and held this Pro Se Petitioner to the same standard as a lawyer and penalize him unfairly for inadvertent mistakes due to his inexperience with the law.

h.) In addition, as a non-lawyer this Pro Se Petitioner did not understand why his request to add Sullivan was time barred in the first place since he only recently discovered Sullivan's involvement from a complete NYS Suppression Hearing transcript on Kemp that the Monroe County District Attorney's Office supplied to him from their prosecutor's own office file after five years of a very contentious discovery process with the City of Rochester and the Monroe County Laws Departments that delayed the release of this smoking gun NYS Court transcript to this Pro Se Petitioner on Kemp's NYS Court Hearing with Investigator Sullivan who arrested Kemp with his partner (defendant) Officer Holmes on a

sodomy charge against a 14 year old female. Furthermore, this Pro Se Petitioner's request to add Sullivan was his first attempt (Docket 139) because Magistrate Judge Payson did not accept this Pro Se Petitioner previous attempt to amend because it did not meet her Court Rules and was rendered legally mute. Therefore, per her Court Rules this Pro Se Petitioner then submitted for good cause a Motion for Permission to Amend (Docket 138) and gave her detailed and valid reasons why he wanted to add Investigator Sullivan to his Amended Complaint (Docket 139).

i.) Therefore, for the above forgoing reasons in this second ethics contention to the United States Supreme Court, it is respectfully contended that the presiding WDNY Judge's denial to add this Pro Se Petitioner's smoking gun liability evidence against RPD Investigator Gary Sullivan to his amended complaint (Docket 139) was unfair on the Due Process grounds that it basically eviscerated this Pro Se Petitioner's lawsuit and strongest police liability claim making it a non-issue and easily dismissible. In addition, the presiding WDNY Judge's denial to add Sullivan as a police defendant to his Amended Complaint (Docket 139) when it unfairly allowed the presiding WDNY Judge to state in his Summary Judgment Decision (Docket 157) that there were no open issues at dispute in this Pro Se Petitioner's civil rights lawsuit that would prevent summary judgment being granted to the defendants.

j.) As a result of the presiding WDNY Judge's biased Judicial decisions on Sullivan, the unnamed 2nd Circuit law clerk ruled in his 2nd Circuit decision and also stated that Investigator Sullivan "was not in the Complaint" thereby making it a non-issue as well with no discussion on why or why not it was not in this Pro Se Petitioner's Amended Complaint (Docket 139) as a valid Due Process issue although it was listed by this Pro Se Petitioner's appeal attorney, John Regan, as one of his three 2nd Circuit appeal points.

3. Therefore, in order to seek further Due Process recourse on the two ethics issues at the 2nd Circuit that were ignored in the WDNY, this Pro Se Petitioner was forced to raise the presiding WDNY Judge's denial of Investigator Sullivan as an additional ethics issue in his third Complaint of Misconduct letter on December 29, 2019 with Exhibit A on the grounds that the presiding WDNY Judge's fairness and

impartiality to decide his civil lawsuit was fatally compromised by his conflict of interest in the Frank v Relin scandal and created an unconstitutional potential for bias that affected the presiding WDNY Judge fairness and impartially to be neutral.

a.) On January 9, 2020, the ethics issue in this Pro Se Petitioner's Complaint of Misconduct (02-19-90038) were improperly decided against him by 2nd Circuit Chief Judge Katzmann on the grounds that he did not answer the serious Judicial ethical issues that this Pro Se Petitioner raised to him in his three Complaint of Misconduct letters that his most important contention and ethical question that this Pro Se Petitioner had the Due Process right to know and should have been told by the presiding WDNY Judge.

b.) Shortly after Chief Judge Katzmann's adverse decision, this Pro Se Petitioner then filed an En Banc Petition per 28 U.S.C. 28 352(c) under the Federal Rules of Judicial Conduct to the 2nd Circuit Judicial Ethics Council. However, this Pro Se Petitioner's En banc Petition was also denied with little comment on March 4, 2020 by a panel of five unnamed Judges that per their ethics rules were assigned to review it.

4. In addition, Judge Siragusa's lack of candor and transparency to reveal his identity as "Subject A" parallels the actions of this Pro Se Petitioner's former NYS trial prosecutor who hid everything favorable from this Pro Se Petitioner's defense including the criminal records of his key eyewitness (John Kemp) who was a twice convicted child molester and also the pending criminal charge against his second trial witness Bower. Both of these hidden and suppressed Brady violations were also found by this Pro Se Petitioner and his Advocate **after the fact**.

5. One blatant Brady violation by the NYS trial prosecutor on Kemp was self-discovered by this Pro Se Petitioner himself while he was locked up at the Monroe County Jail awaiting sentence. Another inmate among the hundreds there said he knew Kemp from their time in Attica and reported he was a child molester. Inexplicably, this one inmate that this Pro Se Petitioner met on a chance encounter by happenstance while awaiting sentence, knew Kemp's criminal history, while every named defendant who completed an Interrogatory and were asked if they knew Kemp have all denied any knowledge of

him or his extensive criminal record that included two separate felonies for child sexual abuse. (See Exhibit 1, Kemp's Probation Record).

6. In addition, Officer Holmes who personally assisted Kemp in a photo ID array of the suspects was also named as a defendant in this Pro Se Petitioner's Amended Complaint (Docket 139). Officer Holmes was also a member of the trial prosecutor's police team like Sullivan and they both worked together at the same Maple Police Section where Kemp committed most of his crimes. However, the WDNY Court gave the City of Rochester a pass and accepted their explanation that Holmes only had a **20 minute encounter** driving Kemp from arrest to lockup and did not remember him and therefore he was not liable for knowing Kemp. This decision unfairly ignored this Pro Se Petitioner's Section VI. Statement of Arguments and Contentions against the City of Rochester Police Defendants (page 6 to 28) that documented the smoking gun facts that Holmes had written in Kemp's criminal report (Exhibit 6) and that he assisted Investigator Sullivan in his criminal investigation of Kemp and was also listed as a police witness in Kemp's Grand Jury witness list (Exhibit 7).

7. The unnamed 2nd Circuit Appeal Judge or law clerk also agreed with the presiding WDNY Judge in his Summary Judgment decision (Docket 157) and gave the City of Rochester Law Department a pass thereby making this Pro Se Petitioner's second strongest **smoking gun** proof (Holmes) like (Sullivan) a dismissible and non-police liability issue in this Pro Se Petitioner's 2nd Circuit Appeal.

8. After this Pro Se Petitioner's legal efforts ended under protest in the WDNY, he requested that his ethical contentions and conflict of interest issues be included in his 2nd Circuit appeal. However, John Regan, his new appeal attorney informed him that WDNY Judge Charles Siragusa conflict of interest issue as "Subject A" was non appealable and therefore was not included by him as an issue in his 2nd circuit appeal.

9. As a result, this Pro Se Petitioner was given no other legal choice than to raise his serious conflict of interest ethics claim against the presiding WDNY Judge to the 2nd Circuit Judicial Ethics Council in a

separate Pro Se Complaint of Misconduct ethics action. In addition, this Pro SE Petitioner heavily documented his ethics contentions in three previous Complaints of Misconduct letters to the 2nd Circuit that were mailed on March 29, 2019 (Conflict of Interest), November 8, 2019 (Conflict of Interest with Exhibit A) and December 29, 2019, the (Investigator Sullivan matter with Exhibit A) and was assigned reference complaint number 02-19-90038-jm.

REASONS FOR GRANTING THE PETITION

This Pro Se Petitioner to the United States Supreme Court is personally representing himself Pro Se and respectfully request that he be allowed as a non-lawyer and receive all due consideration as a Pro Se litigant based on the following facts and contentions in this Section of the Petition that supports his reasons why, the Supreme Court should grant his Writ of Certiorari to be heard on these important Due Process ethical issues that not only affected this Pro Se Petitioner's Due Process Rights, but his ability to fairly participate in the American System of Justice that offers in reality, especially to a Pro Se litigant, little or no recourse for them to fairly address, ethical and Judicial Due Process issues or to fairly seek legal recourse to correct Judicial bias that occurred specifically in this Pro Se Petitioner's Section 1983 WDNY civil rights lawsuit.

In addition, this Pro Se Petitioner has previously raised the same ethical and Judicial issues with the WDNY and the 2nd Circuit Federal Courts in several separate Pro Se ethical actions that questioned, if the presiding WDNY Judge was likely to be a fair and impartial decider of this Pro Se Petitioner's lawsuit and if his bias had the unconstitutional potential to Judicially prejudiced this Pro Se Petitioner's Section 1983 civil rights lawsuit and his Due Process right to a receive a fair Federal Civil Court proceeding. However, these Pro Se Petitioner concerns that he raised in his numerous legal and ethical actions to the WDNY and the 2nd Circuit were basically ignored by not being answered.

1. The first reason why the United States Supreme Court should issue a Grant of Certiorari and let this Petition be heard on this important Due Process ethical issue now before the Court for consideration is

based on the Due Process Clause of the U.S. Constitution and this Pro Se Petitioner's Due Process right to know was violated when the presiding WDNY Judge failed to informed this Pro Se Petitioner of his identity as "Subject A" in the Frank v. Relin scandal after this Pro Se Petitioner filed a notice with his Court in Docket 67 (Exhibit A, C-1) that he intended to call Ms. Frank (who was his former Victim Witness Assistant that he fired) as a future civil trial witness to testified about Brady violation abuse she witnessed at the Monroe County District Attorney's Office. This Pro Se Petitioner's question that has been raised to the presiding WDNY Judge and the 2nd Circuit Judicial in Complaint of Misconduct letters and no person involved in this Pro Se Petitioner's lawsuit has answered it.

2. The second reason, if this Pro Se Petitioner had been told before the fact of the identity of "Subject A", he would have immediately requested the presiding WDNY Judge's recusal because no reasonable or rational Federal Pro Se litigant would be able to trust a seriously conflicted Federal Judge to be either a fair or impartial arbitrator of the facts after the presiding WDNY Judge fired his former Victim Witness Assistant for reporting his Brady violation as a former NYS Prosecutor to a NYS Supreme Court Judge. Furthermore, the presiding WDNY Judge was also implicated and identified as "Subject A" with another prosecutor as "Subject B" in his former Victim Witness Assistant civil rights lawsuit, Frank v Relin 2nd Circuit 1993. However, Ms. Frank's lawsuit was first thrown out by the WDNY but she later prevailed in a successful 2nd Circuit appeal and was granted a WDNY Jury trial in 1994 where the Jury awarded her a substantial sum of money from her former supervisor, DA Relin, for the violation of her 1st Amendment right to speak out about the prosecutorial Brady abuse that she witnessed at her former place of employment.

3. The third reason pertains to the fact that this Pro Se Petitioner was granted a WDNY Habeas Corpus in Valentin v. Mazzuca 2011 by then WDNY Magistrate Judge Victor Bianchini who ruled in his decision that the NYS trial prosecutor had committed egregious prosecutorial misconduct involving Brady violations against this Pro Se Petitioner at his 2001 NYS Trial and incredibly, the Habeas Judge, also expunged this

Pro Se Petitioner's convictions instead of granting him a new trial. In addition, the Monroe County District Attorney's Office did not appeal his Habeas decision to the 2nd Circuit Court of Appeals.

4. The fourth reason addresses the fact that despite presenting compelling and documented evidence regarding prosecutorial Brady misconduct, no disciplinary action was taken against the NYS trial prosecutor after Mr. Richard Rolfe, also referred to as this Pro Se Petitioner's Advocate in this Petition, also filed with his permission, a local ethics complaint in 2001 against the trial prosecutor with both the NYS Attorney Grievance Committee and his former supervisor DA Howard Relin. The grounds for this NYS ethics complaint action were based on NYS Judge Geraci's Judicial transcript comments in his 2001, 330 Court hearing (Exhibits 11 and 12) on the trial prosecutor's egregious prosecutorial misconduct in suppressing the heinous criminal history from this Pro Se Petitioner's trial defense and allowing Kemp to change his previous Court testimony that was in contradiction to the Grand Jury testimony of another missing witness named McLaurin who was unresponsive to service and was unable to be located.

However, McLaurin's testimony on page 38 in his Grand Jury transcript made several Court admissions under cross examination that supported this Pro Se Petitioner NYS trial defense claim that he acted under duress and had no criminal intent to participate in a robbery that he did not know would happen. Furthermore, NYS Judge Geraci threatened this Pro Se Petitioner with 25 years if he decided to go to trial instead of a two year plea deal sentence to plead guilty. Although, Judge Geraci knew of and should have known of McLaurin's Grand Jury testimony, he refused this Pro Se Petitioner's NYS defense attorney's request to have the first eyewitness Grand Jury testimony McLaurin entered into his NYS trial as evidence and he also refused this Pro Se Petitioner's NYS defense attorney's request for Judge Geraci to read duress instructions for the Jury to consider.

a.) Unfortunately for equal justice, Mr. Drake at the NYS Grievance Committee (Exhibit 17) refused with no investigation or even a valid reason why to take any disciplinary action against the trial prosecutor

while District Attorney Howard Relin sent Mr. Rolfe a letter (Exhibit 15) confirming in writing their previous phone conversation on this matter.

b.) In Relin's response letter back to my advocate, he defended the integrity of his trial prosecutor and stated to Mr. Rolfe in writing (Exhibit 15) that the trial participation of John Kemp was not important in this Pro Se Petitioner's NYS prosecution. However, DA Relin's response was disingenuous because without the involvement of their key eyewitness, Kemp, there would have been no trial, no conviction or six year sentence for this Pro Se Petitioner and his case would have been also dismissed.

5. The fifth reason also concerns the official MCDA's Office letter this Pro Se petitioner received back from DA Howard Relin (Exhibit 15) where he vouched for the credibility of the second NYS trial and material witness Bower while at the same time, Relin knew or should have known of facts of this Pro Se Petitioner's NYS trial from Mr. Rolfe's complaint that his office just recently prosecuted Bower for petit larceny and had arrested and arraigned her just three days before this Pro Se Petitioner's sentence while his 330 motion was still being decided by NYS Judge Geraci for a new trial.

a.) However, DA Relin never told this Pro Se Petitioner or his Advocate about Bower's pending criminal charge until it was discovered two and a half years later by happenstance after the fact and three months after this Pro Se Petitioner's lost his NYS Appeal in 2003 for a new trial. In addition, the second and third Brady violations on Bower were also unknown before the fact by this Pro Se Petitioner because of the suppression by the trial prosecutor of her pending criminal charge from his NYS trial defense attorney. This additional Brady violation on Bower was therefore unknown at the time of this Pro Se Petitioner's NYS trial, 330 motion, NYS Stay and NYS Appeal and was unable to be used in these NYS Court proceedings for a new trial.

6. The sixth reason concerns this Pro Se Petitioner's contentions in his Amended Complaint (Docket 139) that he raised on defendant DA Howard Relin's Brady like violations and obstruction of justice tactics that he used against this Pro se Petitioner and his Advocate in an attempt to cover up his trial

prosecutor's Brady malfeasance on Bower. However, this Pro Se Petitioner ethics contentions on Relin were never answered by the presiding WDNY Judge in his Summary Judgment Decision (Docket 157) even though it was heavily documented in this Pro Se Amended Complaint in Section XXIII, page 83 through 88.

a.) In addition, Howard Relin's Brady like violation was also used by this Pro Se Petitioner in his Amended Complaint (Docket 139) to support his Monel contention against Relin that he failed to train his employees on their Brady obligations. This contention was also supported by the fact that DA Howard Relin did the same thing as his trial prosecutor and suppress exculpatory Brady information on Bower that was crucial to the outcome of this Pro Se Petitioner's NYS 330 motion hearing, NYS Stay and Appeal efforts to win a new NYS trial.

b.) Furthermore, Relin's and his trial prosecutor's Brady suppression information on Bower's pending criminal charge, had it been known, would have severely damaged her credibility as a truthful person at this Pro Se Petitioner's NYS trial. Furthermore, my NYS defense attorney specifically demanded in his Discovery motion to the trial prosecutor that he turn over any pending criminal charge on any trial witness that he intended to call to testify as a trial witness. In addition, a pending criminal charge in the New York State Justice System is a violation of NYS discovery rule 240.45 (c) which states: The existence of any pending criminal charge against a witness the people intend to call at trial, if the pending criminal action is known by the prosecutor to exist. In addition, under the NYS People v Sorge ruling, a trial witness can be impeached on any bad act that affects their ability to testify as a truthful person.

7. The seventh reason concerns the ethics complaint that were raised to Mr. Drake at the NYS Attorney Grievance Committee who flatly refused without any investigation to look at the merits of this Pro Se Petitioner's Due Process claims on the trial prosecutor's misconduct that included serious allegations of perjury, subornation of perjury and obstruction of Justice tactics as well as numerous other Brady violations and were also supported by Judge Geraci's 330 motion hearing Court transcript and the

critical comments he made to the trial prosecutor about his inconsistent trial theory on who was the 1st suspect and why the trial prosecutor was not aware of Kemp's extensive criminal history.

8. The eight reason was the fact that DA Howard Relin failed in his official capacity to do the right thing when he took no disciplinary action against his trial prosecutor, then committed a Brady like violation himself against this Pro Se Petitioner and his Advocate when he suppressed and covered up his Office's prosecution of the material and fugitive Bower in an attempt to deflect away his trial prosecutor's Brady malfeasance involvement in two more additional Brady violations on Bower that were later raised in this Pro Se Petitioner's Question of Law Motion (Docket 92).

9. The ninth reason concerns this Pro Se Petitioner's separate 2nd Circuit Complaint of Misconduct ethical action that was decided by 2nd Circuit Chief Judge Katzmann whose decision to deny this Pro Se Petitioner's Complaint of Misconduct was in error on the grounds that Chief Judge Katzmann did not answer this Pro se Petitioner's ethics contentions in his decision and failed to directly address the two ethical contentions that this Pro Se Petitioner raised in his Complaint of Misconduct letters on **Ethics Contention One and Two** and are also listed in this Pro Se Petitioner's Statement of the Case to the Supreme Court as his main WDNY and 2nd Circuit Due Process issues.

10. The tenth reason and with all due respect to 2nd Circuit Chief Judge Katzmann, it is respectfully contended that his decision or lack thereof basically gave the presiding WDNY Judge a pass on this serious Judicial ethics matter when it was raised to him in this Pro Se Petitioner's three separate Complaint of Misconduct letters including a final eight page En banc Petition to the 2nd Circuit Judicial Council. In addition, the 2nd Circuit Judicial Council, like Chief Judge Katzmann also refused to answer without any discussion this Pro se Petitioner's En banc Petition which was finally denied on March 4, 2020 and thereby ended this Pro Se Petitioner's and his Advocate's efforts to seek any Pro Se Judicial recourse in the 2nd Circuit on this very serious Judicial ethics matter.

a.) Furthermore, this ethics situation with the WDNY and the 2nd Circuit Judicial Council also relates back to this Pro Se Petitioner's ethics complaint to the NYS Attorney Grievance Committee and to DA Howard Relin who both failed in 2000 and 2001 to take any disciplinary action against his NYS trial prosecutor and gave him a pass and this lack of action to correct abuses in the justice system indicates that that legal justice system is unable to clean up their own judicial and prosecutorial ethical problems and issues and prefers to ignore the problem as this Pro Se Petitioner also discovered when he tried to seek equal justice about this Due Process abuse.

11. The eleventh reason concerns a Pro Se letter to Chief Judge Katzmann after this Pro Se Petitioner's Complaint of Misconduct efforts ended in the 2nd Circuit. In his final letter to 2nd Circuit Chief Judge Katzmann, this Pro Se Petitioner and his Advocate protested his decision and questioned him on his one sided decision that had no rational relation to this Pro Se Petitioner's original Complaint Of Misconduct ethics action on his two main contentions when Chief Judge Katzmann failed to answer this Pro Se Petitioner's two main ethics contention, on why this Pro Se Petitioner's Due Process claim lacked merit on his ethics contentions. However, this Pro Se Petitioner's letter to Chief Judge Katzmann was stamped as received but was recently returned unanswered to this Pro Se Petitioner and further supports this Pro Se Petitioner's **Questions One and Two** contention in his Petition to the United States Supreme Court that there is little or no recourse in the American System of Justice to fairly address an ethics complaint against a Judge, prosecutor or any other well connected individual who are also employed in the State or Federal Court Systems and when the legal system fails to correct their serious ethic problems and issues, it results in a system of unequal justice for any Pro Se litigant who faces this same prejudicial and biased dilemma in their efforts to seek justice.

12. The twelfth reason presents another perspective on why the Supreme Court should grant this Pro Se Petitioner's Petition to be heard and concerns his Due Process contention that if the presiding WDNY Judge was indeed a fair and impartial Judge of this Pro Se Petitioner's civil rights lawsuit, he should have

done the right ethical thing and informed this Pro Se Petitioner before the fact. However, the presiding WDNY Judge's blatant omission of this exculpatory and material fact that he was "Subject A" violated this Pro Se Petitioner's Constitutional Due process right to know and Judicially biased the fairness of this Pro Se Petitioner to receive a fair Federal Civil Court proceeding on his Section 1983 civil rights lawsuit.

13. The thirteenth reason why the U.S. Supreme Court should grant a Writ of Certiorari to this Pro Se Petitioner pertains to his Amended Complaint (Docket 139) that included 28 Exhibits, with 9 new Exhibits from discovery, that supported his documented police liability claims. In addition, this Pro Se Petitioner's discovery process took over five years due to the City of Rochester and Monroe County municipal lawyer's intransigence and obstruction of justice tactics that were illegally used against this Pro Se Petitioner in their blatant and unethical attempt to deny this Pro Se Petitioner of their criminal records on John Kemp that they knew was very damaging to their liability defense. In addition, none of the defendants' including the police claim they were aware of the long and heinous criminal history of their key NYS trial eyewitness, John Kemp, in spite of the fact that it was their jobs to know what was happening in their own police sections or they just did not care due to their lack of Brady training which the City of Rochester has admitted in writing that they provided **no Brady training** to their Rochester, New York police officers in 2000-2001 at the time of this Pro Se Petitioner's NYS trial proceeding.

14. The fourteenth reason concerns the obstruction of Justice tactics that were illegally used against this Pro Se Petitioner and his Advocate by the City of Rochester Law Department who mostly litigated in bad faith by hiding Kemp's criminal records under a fake guise that this Pro Se Petitioner was telepathically required to know the criminal record numbers or the CR numbers of Kemp or they were unable to give him any new discovery which they successfully did and got away with, despite this Pro Se Petitioner's many motions and letters of protest to the WDNY Court complaining about it. **B-11.** The city municipal lawyer prejudicially prevented this Pro Se Petitioner from obtaining Kemp's criminal records many years earlier, if he had been honest instead of falsely claiming that yes we have Kemp's criminal records but

you cannot have them unless you can tell us the combination numbers to our John Kemp safe. This serious obstruction of justice issue was raised in numerous letters and motions to the WDNY Federal Court and later in this Pro Se Petitioner's 2nd Circuit Complaint of Misconduct in 2019 and 2020 on the Due Process claim that it unfairly placed this Pro Se Petitioner in a catch 22 situation that he couldn't win and just added more prejudicial damage to the fairness of his civil rights lawsuit. **B-11.**

16. The sixteenth reason concerns this Pro Se Petitioner most important police liability claim that was raised with the presiding WDNY Judge and was also included in his 2nd Circuit appeal. However, the unnamed 2nd Circuit person who decided this Pro se Petitioner's appeal stated that Sullivan was not in his Amended Complaint (**B-5**) and therefore ignored this important police liability issue. In addition, many of this Pro Se Petitioner's most important Due Process contentions that he raised in his 112 page Amended Complaint (Docket 139 **B-5**) were also supported by twenty-eight documented Exhibits.

a.) Furthermore, the City of Rochester Law Department has never denied this Pro Se Petitioner's smoking gun claim against RPD Investigator Sullivan's police involvement with Kemp who he arrested (in conjunction with his partner and RPD lawsuit defendant Officer Holmes) on a sodomy charge against a 14 year old female in 1992 and Investigator Sullivan's scheduled court appearance with Kemp and the NYS trial prosecutor for a Wade and Huntley hearing before NYS Justice Kenneth Fisher on August 24, 2000. However, due to a conflict the first defendant could not attend the Wade hearing and it had to be cancelled. Therefore, with the other defendant's Wade hearing having to be rescheduled, Public Defender Mary Davison (1st defendant defense attorney) requested that a suppression hearing on Kemp's credibility be held instead.

b.) On September 20, 2000 (Exhibit 10), NYS Justice Fisher ruled in his decision that Kemp was not credible, should not be allowed to testify at trial and dismissed the charges against the first suspect. However, this Pro Se Petitioner's case and prosecution should have also been thrown out as well and never allowed to go to trial.

17. The seventeenth reason concerns the malicious prosecution of the trial prosecutor after the other related case was dismissed under the Justice Fisher suppression decision. Undeterred, the trial prosecutor continued on his prosecution with a more compliant NYS Judge that allowed Kemp to testify even though he knew or should have known about the Justice Fisher ruling on Kemp's lack of credibility. This unfair admission by the NYS trial Judge to allowed Kemp in as a credible witness and to also change his testimony subsequently led to this Pro Se Petitioner's egregiously unfair NYS trial that resulted in his unfair six year sentence serving hard time in some of the most violent prisons in New York State. In addition, this Pro Se Petitioner found it was almost impossible to find any gainful employment until his criminal records were expunged in 2011 with his Habeas grant.

18. The eighteenth reason pertains to this Pro Se Petitioner's smoking gun police liability claim that was unknown to him until 2015 until he discovered it from a complete copy of Kemp's suppression hearing transcript that was released to him on a discovery request from the Monroe County District Attorney's Office. Inexplicably, the MCDA's Office discovery copy of Kemp's suppression hearing contained the first five pages that were missing from the copy that the trial prosecutor gave to his NYS Court assigned defense attorney in 2001.

a.) In addition, this Pro Se Petitioner's statement of fact on the missing transcript pages can easily be proven upon a review of the scanned copy of Kemp's Suppression Transcript that this Pro Se Petitioner supplied to the presiding WDNY Judge, Magistrate Judge Payson and both the City and County municipal lawyers in his 2013 duplicated CD discovery disk. Kemp's suppression hearing Court transcript on this Pro Se Petitioner's CD are also missing these first five pages because his personal CD copy of the file that it was copied from were also inexplicably missing these first five pages that mentioned Sullivan.

b.) Upon discovering this new Brady/Kyles material on Investigator Sullivan's Court involvement with Kemp in January 2016, this Pro Se Petitioner then wrote a letter to Magistrate Judge Payson on January 26, 2016 informing her of this new police liability evidence and that he would like to request permission

from her Court to add him as a new defendant to his lawsuit (Docket 137). Magistrate Judge responded back with Court instructions on how to proceed and informed him he must first file a Motion for Permission to Amend Complaint with detailed reasons why this Pro Se Petitioner wants to add him.

c.) On February 29, 2016 this Pro Se Petitioner then filed his Motion for Permission to Amend (Docket 138) to add Investigator Sullivan as a defendant. On the same day, he also filed his new Amended Complaint (Docket 139) listing Investigator Sullivan as a new defendant. In addition to Sullivan, nine old Exhibits were replaced with nine more pertinent ones from discovery to further support this Pro Se Petitioner's Due Process claims that he raised in his original Complaint (Docket 1) which was written without the benefit of discovery on what was known by this Pro Se Petitioner at the time in early 2011.

19. The nineteenth reason why the United States Court should grant this Pro Se Petitioner's Writ of Certiorari to be heard concerns an important and relevant Due Process obstruction of justice issue that this Pro Se Petitioner raised with the WDNY in his Pro Se Complaint of Misconduct letters to the 2nd Circuit Judicial Council questioning why these transcript pages from Kemp's suppression hearing were missing in the first place. This important question was also raised to the WDNY and the 2nd Circuit, if this was a deliberate obstruction of justice act on the part of the NYS trial prosecutor to suppressed exculpatory and Brady material that if had been revealed to this Pro Se Petitioner's trial defense attorney, it could have proved this Pro Se Petitioner's claim that the trial prosecutor should have been aware of Kemp's long criminal history of sex abuse from his police team members, Investigator Sullivan and defendant Officer Holmes unless they kept this Brady information to themselves.

a.) However, the NYS trial prosecutor denied any contemporary knowledge of Kemp's criminal history (Exhibit 1) to then Monroe County Judge Geraci at this Pro Se Petitioner's 330 motion hearing. Inexplicably, despite NYS Judge Geraci strong condemnation of the trial prosecutor's illegal tactics in his 330 hearing, he gave the trial prosecutor a pass when he ruled that no Brady violation happened

because the trial prosecutor did not know about Kemp and as a result denied this Pro Se Petitioner's 330 motion request for a new trial.

20. The twentieth reason concerns then Monroe County Court Judge Frank Geraci inexplicably allowing Kemp, after knowing that he was not credible from the Justice Fisher suppression decision, to testified as a credible eyewitness at this Pro Se Petitioner's 2001 NYS trial where he was also permitted to change his previous Justice Fisher's testimony in spite of strong objections from this Pro Se Petitioner's NYS trial defense attorney that was in direct contradiction to the other missing eyewitness's Grand Jury testimony.

21. The twenty first reason concerns this Pro Se Petitioner's former appeal attorney, John Regan, who also brought up this issue as Inconsistent Prosecutor's Theory that he felt was important and included it as one of his 2nd circuit appeal points because then Monroe County Judge Geraci's strong criticism of the NYS trial prosecutor in this Pro Se Petitioner's 330 motion and hearing where he stated:

a.) Judge Geraci to trial prosecutor: "This is not a minor disagreement. This goes to the very heart of this case. This is the significant factor on who walked in the store and possessed the gun, isn't that a significant difference between what you had presented to a grand jury and what you had a trial jury here in this courtroom". (Exhibit 11, page 7) (page 79 to 80 for contention) in Amended Complaint.

b.) In addition, this Pro Se Petitioner's 2nd Circuit appeal lawyer, John Regan, also made the same point in his WDNY FRCP 59 e motion (Docket 162) or Motion to Alter Judgment on his point that the NYS Trial Prosecutor's theory was different than the one he used against the other alleged defendant in another Courtroom but his point was rejected as an issue by the presiding WDNY Judge on the unsupported grounds that it was never brought up before and the 2nd Circuit appeal law clerk agreed. However, if they had read the Amended Complaint (Docket 139) they would have seen in **Section XI. Former ADA Majchrzak's History of Participation and Long Involvement in Prosecution of Plaintiff's Case** on page 57, paragraphs 13 and 14 documenting the trial prosecutor's request to Judge Geraci just before trial

that he intended to call Kemp as his key eyewitness. In addition, this Due process issue was also one of his major documented facts in his Amended Complaint (Docket 139) and was an integral part of the weight of evidence that showed the prejudicial damage it did in the minds of the jury when in fact this Pro Se Petitioner's trial defense was the complete opposite to what he was now being accused of.

c.) Furthermore, in the words of the trial prosecutor to then NYS Judge Geraci just before the start of this Pro Se Petitioner's 2001 NYS trial "as you know Judge, Valentin's police report basically said that he was the unwilling dupe of this other guy, and his intent was innocent". Page 61, point 21, Amended Complaint (Docket 139). Furthermore, this Pro Se Petitioner's trial defense also correlated to his police statement on what happened and showed there was no direct, smoking gun or even any physical evidence that was introduced by the trial prosecutor at this pro Se Petitioner's 2001 NYS trial.

d.) In fact, the NYS trial prosecutor's entire case was based on the word of an discredited brain damaged child molester eyewitness whose was on brain altering medication to treat his severe brain injury he suffered due to a fall off a roof and required nine months in a rehabilitation hospital to recover and admitted on the stand that he suffered frequent blackouts and seizures while under stress. The other witness was a material witness and fugitive from the law with a pending criminal charge that was unresponsive to service.

e.) In addition, this Pro Se Petitioner also contended in his Amended Complaint (B-5) that the trial prosecutor committed two additional Brady violations with the participation of his second trial witness (Sarah Bower) who also committed perjury at his NYS 2001 trial. These additional Brady violation contentions were thoroughly documented in his Amended Complaint (Docket 139) in Sections XXIV Bower's Testimony at Plaintiff's Trial, January 10, 2001, (Page 88 to 91) and also in the History and Suppression of Bower's Pending Criminal Charge (Page 92 to 97) and Section XXVI (Second Brady Violation-Suppression of Bower's Pending Criminal Charge and Prejudicial Harm to Plaintiff's Due Process Civil Rights (Page 97 through 99). These sections in the Amended Complaint were also

supported by this Pro Se Petitioner's Question of Law motion (Docket 92) and (Exhibit 2) MCDA's Office Investigator Casper Caceci's log reporting his five days search trying to tracked down Bower's whereabouts to serve her a material witness warrant because she unresponsive to service.

f.) In particular, a couple of log entries (Exhibit 2) showed that MCDA's Investigator Caceci enlisted the assistance of two entire RPD Police Sections (Clinton and Highland) to find and serve Bower a Material Witness Warrant. However, at the same time the searching Highland Police and Clinton Police Sections ignored Bower's fugitive from the law status, Bower's pending criminal charge and Bower's arrest warrant from the same Highland Police Section that wanted to arrest Bower on her in store theft of money from the cash register of her former employer, Mr. Cordello, who had previously fired her two weeks before for dishonesty.

g.) Furthermore, Mr. Cordello also informed this Pro Se Petitioner's Advocate, Mr. Rolfe, who documented his 2003 phone call in a 440 Affidavit (Exhibit 27, A-5) that when he had fired Bower two weeks before her store theft, Bower went into a fit of rage and started throwing store objects around which resulted in a call to the Highland Police Section to have her removed from his Pizza Store. Please see, Rolfe's 440 Motion Affidavit (Exhibit 27, A-5) that documents his call with Mr. Cordello and former RPD Officer Hoke who wrote the RPD Highland Police Section accusatory instrument on her theft.

22. The twenty second reason pertains to (Exhibit 23) and Bower's RPD accusatory instrument that documents Bower's propensity for being an inherently dishonest person and reports that after she was fired and six days before this Pro Se Petitioner's NYS 2001 trial, that she entered her former place of employment, then opened the store's cash register without permission and removed all the cash from it. A store employee who had his back to her making pizzas then caught Bower in the actual act and filed a criminal complaint with former Highland Section RPD Officer Hoke. In his phone conversation, Officer Hoke recalled knowing Bower before and that he went out later to arrest on the pending criminal charge but was unable to locate Bower in his police section area and told Mr. Rolfe he believed she knew and

was trying to avoid arrest. Please see this Pro Se Petitioner's Amended Complaint (Docket 139, Exhibit 27, A-5) with the attached Affidavit of his Advocate Mr. Rolfe for more information.

23. The twenty third reason pertains to the fact that the NYS trial prosecutor also hid Bower's pending criminal charge from this Pro Petitioner NYS trial defense attorney that then allowed Bower to testified as a credible witness with impunity and without the fear she might be impeached on her bad act. In addition, it was later revealed through discovery from the entries in MCDA's Office Investigator Caceci's log (Exhibit 2) that an additional two Brady violations were also committed against this Pro Se Petitioner by the NYS trial prosecutor at his 2001 NYS trial.

a.) Caceci's Log (Exhibit 2) documents the involvement of her boyfriend and mother with the NYS trial prosecutor and MCDA's Office employees, Investigator Caceci and Victim Witness Assistant Wendy Sisca and clearly shows that a deal was made with Bower in exchange for her perjured trial testimony. In addition, Exhibit 26 in this Pro Se Petitioner's Amended Complaint (Docket 139) (Regenstrief's claim voucher and log) also reports the involvement of her boyfriend and mother in Bower's status as a material witness while they also knew at this time of her pending criminal charge. However, like the criminal records of Kemp, this exculpatory and material information that could have affected the outcome of this Pro Se Petitioner's NYS trial was also suppressed from his defense by the trial prosecutor and his RPD police team.

24. The twenty fourth reason concerns this Pro Se Petitioner's second and third Brady violation claim against the NYS trial prosecutor regarding Bower's pending criminal charge was raised as an open issue because it was disputed in this Pro Se Petitioner's WDNY Question of Law Motion (Docket 92) under the NYS People v. Sorge ruling that allows a pending criminal charge or bad act against a witness to be cross examined by the defense. This issue was also addressed by the City and County municipal lawyers in their separate counter motions (Dockets 98 and 99, D2 and D3) who confirmed) that Bower could have been questioned and impeached on her bad act. This admission in their opposing motions confirms this

Pro Se Petitioner's contention that if this pending criminal charge were known, it would have severely impeached Bower's credibility of being an honest trial witness and her propensity to tell the truth.

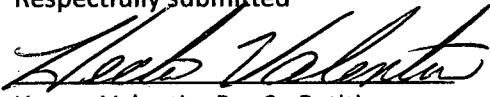
25. The twenty fifth and final reason why the United States Supreme Court should grant this Pro Se Petitioner a Writ of Certiorari is based on the facts and merits in his Petition now before the Supreme Court and in the interest of the Rule of Law and equal justice, this Pro Se Petitioner respectfully requests that he be granted relief and that his Section 1983 lawsuit be remanded back to the lower Courts for trial by jury in order to fairly ascertained its merits.

CONCLUSION

In conclusion, this Pro Se Petitioner has respectfully raised in his Petition to the United States Supreme Court, serious Judicial ethical concerns requiring recusal including other egregious prosecutorial Brady violation issues and respectfully request a Grant of Certiorari to be heard on these Constitutional Due Process violations that are now before your Court. In addition, this Pro Se Petitioner respectfully request that his civil rights lawsuit be sent back to the lower Courts for a trial by jury in order to determine the real facts and merits of his lawsuit and Constitutional claim that his Due Process right to a fair NYS trial were violated under the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution.

The petition for a writ of certiorari should be granted.

Respectfully submitted



Hector Valentin, Pro Se Petitioner

Date: June 12, 2020